

BENJAMIN DAAG, COMPLAINANT, VS. HONORIO SERRANO, RESPONDENT.

A.M. No. P-1935. November 19, 1982

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

Mr. Honorio Serrano, clerk-stenographer of the municipal court of Minalin, Pampanga was charged with dishonesty by Dr. Benjamin D. Daag, a fishpond owner and employer of an accused person facing charges before the respondent's court.

The verified complaint averred inter alia:

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"4. That on May 19, 1977, in the Municipal Court of Minalin, Pampanga, the respondent having introduced himself to the complainant that he is the Clerk-Stenographer I of the Municipal Court of Minalin, Pampanga, received from complainant in trust the sum of ONE THOUSAND PESOS (P1,000.00), in cash, for him to put up as CASH BAIL for the complainant's fishpond watcher, DOMINGO TIMBOL, and FELIX VIRAY, a fishpond watcher of a nearby fishpond belonging to another person, who were both detained on May 15, 1977 and charged for 'Less Serious Physical Injuries' in the Municipal Court of Minalin, Pampanga with Criminal Case No. 876, entitled 'PP-VS-DOMINGO TIMBOL and FELIX VIRAY' with a recommended bail of P1,000.00 each with Motion to Reduce to P500.00 each;

"5. That on that date, May 19, 1977, Honorio Serrano informed us that the Judge of the Municipal Court of Minalin, Pampanga will come the next day, May 20, 1977 at 2:00 P.M. He promised us that if we cannot come on May 20, 1977, hearing of the Motion, dated May 19, 1977 filed by Atty. Ponciano N. Mercado, for the Reduction of the Bail of both accused from P1,000.00 each to P500.00 each, if granted, by the Honorable Court, respondents has obligation to deposit the P1,000.00 that complainant has entrusted to him for the provisional liberty of the two (2) accused.

"6. That inasmuch as the services of the two (2) accused as fishpond watchers were badly needed in the fishponds, upon request of complainant, Atty. Ponciano N. Mercado appeared in court on May 20, 1977 for the accused and they learned that the accused FELIX VIRAY was already out on bail put up by his employer, and that the Honorable Court granted the reduction of bail of the accused DOMINGO TIMBOL from P1,000.00 to P500.00. At this juncture, respondent is under obligation to put up a cash bail of P500.00 for accused Domingo Timbol only and out of the P1,000.00 that complainant has entrusted to him and to return to complainant the other P500.00;

"7. That respondent was not able to bail out the accused Domingo Timbol as respondent was, not then bringing the money and that only afterwards on May 21, 1977 and several days thereafter, complainant has been travelling from Manila to Minalin, to demand the return of the P500.00, but respondent only promised to pay the P500.00 which was never fulfilled;

"8. That despite of the many repeated verbal and written demands made, the respondent failed and refused and

still fails and refuses to return the aforesaid P500.00 to the complainant."

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Respondent Serrano admits receipt of the P1,000.00 from Dr. Daag although he claims to have entrusted the money to a clerk in the municipal treasurer's office in Minalin, Pampanga. Of the P1,000.00, only P500.00 was applied to the bail bond of Domingo Timbol, complainant's employee because the other accused had been bailed out by his own employer.

The respondent added in his explanation:

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"That on the next hearing of the case was the time when I failed to bring the balance of P500.00 and I have only P250.00 which I was giving to Atty. Mercado which he refused to acknowledge that according to him Dr. Daag will not accept the amount;

"That in the next hearing they were already demanding me the amount of P600.00 which even offered them to execute a power of attorney in favor of Dr. Daag to withdraw my check at the Supreme Court if I have to pay that mount and pay them in installment up to the time the amount are fully paid; and as according to than was referred to the Supreme Court but was not granted;

"That it is not true that I refuse or refuses to pay the corresponding balance of P500.00 to the complainant but could not only pay only once which amount reached to P700.00 as being demanded by the counsel, the truth of the matter I am able and willing to pay the corresponding amount only in installment basis."

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We agree with Deputy Court Administrator Romeo D. Mendoza that "since the allegations in the complaint, the comment thereon and the documents presented pro-vide ample basis for a resolution of complainant's charges, the formal investigation was dispensed with. Following the case of Sta. Maria vs. Ubay (Adm. Matter 595-CFI, December 11, 1978, 87 SCRA 179) 'cumbersome time-consuming procedure of investigation need not be resorted to if the allegations in the complaint, the comments thereon and the documents presented provide ample basis for a resolution of complainant's charges.'"

There is no question that the respondent is guilty of dishonesty. He admits having received P1,000.00 from the complainant and having applied only P500.00 to the purpose for which the money was entrusted. The remainder is with the respondent who now alleges that his offer to pay P250.00, the only amount he had during the second hearing, was rejected; that he cannot pay the entire amount in one payment; and that the complainant's lawyer is allegedly asking for an extra P200.00 from him.

The proper procedure in the handling of cash submitted or given to the municipal court as bail bond is for the court to formally direct the clerk of court to officially receive the cash and to immediately deposit it with the municipal treasurer's office. The transaction must not only be properly receipted for but should also appear in the records of the case. The gratuitous assertion of respondent Serrano that he casually entrusted the money to a clerk, without getting a receipt is not only improbable but irregular and anomalous, if true. The respondent's efforts to pay the P500.00 in installments is a clear admission that he has the money and the obligation to return it.

The inability to pay P500.00 is an indication that the respondent is probably suffering from financial difficulties. However, as pointed out in the report of the Office of the Court Administrator:

"Whatever may have been respondent's dire personal needs and those of his family cannot justify his condemnable act of misappropriation for his personal use funds collected by him in trust on behalf of the

complainants as judgment creditors. His conduct constitutes gross dishonesty which renders him unfit to hold a responsible position in the judicial branch of the government and betrays the people's faith and trust in the courts for the redress of their grievances.'" (Ancheta v. Hilario, 96 SCRA 62, 67).

The following citation from *Abejaron v. Panes* (84 SCRA 494, 498) illustrates the established rule in administrative cases involving acts of dishonesty by court personnel:

"The conduct of respondent Panes constitutes gross dishonesty which renders him unfit to hold a responsible position in the judicial branch of the government. Not only did he misappropriate the amount received by him from the judgment debtor to the damage and prejudice of the judgment creditor, PNB, but he took advantage of the situation by securing sums of money by way of loan from the judgment debtor who was interested in delaying the execution of the judgment against him. Furthermore, his failure to levy on the property of the judgment debtor and the latter's wife to satisfy the judgment against them constitutes a malicious nonfeasance in office.

"In *Abdulwahid vs. Reyes*, (Adm. Matter Nos. P-902 and P-926, January 31, 1978, per Antonio, Felix J.) the Court dismissed from the service the respondent deputy sheriff for serious misconduct, and one of the acts committed by him was the misappropriation of certain amounts he received in his official capacity for which he issued only his private receipts, and which amounts he returned only after the filing of the administrative case.

"In *Ganaden vs. Bolasco*, (Adm. Matter No. P-124, May 16, 1975, 64 SCRA 50) respondent deputy provincial sheriff Gregorio N. Bolasco received certain amounts in connection with the performance of his duties as deputy sheriff without issuing the corresponding official receipts therefor and gave only his private receipt. The Court speaking through Justice Makasiar held that respondent committed illegal exaction penalized by paragraph 2(b) of Article 213 of the Revised Penal Code for failure to issue receipts for money collected by him officially, and violation of Sec. 113 of Art. III, Chapter V of the National Accounting and Auditing Manual. The total amount received by respondent for sheriff's fee for service of complaint and for service of a writ of execution was P62.60. Respondent was found guilty of dishonesty or conduct prejudicial to the best interest of the service and was ordered dismissed from the service.

"It bears repeating what this Court said in *Ganaden vs. Bolasco*:

"The acts and/or omissions of respondent are patent violation of law. They disturb the ethics of public life and vitiate the integrity of the court personnel as well as the court itself. Public service requires utmost integrity and strictest discipline. A public servant must exhibit at all times the highest sense of honesty and integrity. This hard-stick has been imprinted in the New Constitution under Section 1 of Article XIII which stressed that 'Public office is a public trust. Public officers and employees shall observe with the highest degree of responsibility, integrity, loyalty and efficiency and shall remain accountable to the people.' (64 SCRA 50, 53)."

The fact that public attention is at present intently focussed on the implementation of judicial reforms and on the cleansing of misfits from the judiciary indicates the continued necessity for adhering to the established rule.

WHEREFORE, respondent Honorio Serrano, having been found guilty of dishonesty, is hereby dismissed from office with prejudice to reinstatement and forfeiture of benefits.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Vasquez, and Relova, JJ., concur.

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