

ATTY. BARBARA PIOQUINTO, COMPLAINANT, VS. LUCRECIA A. HERNANDEZ, RESPONDENT.

Adm. Matter No. P-2710. September 30, 1982

Ponente: PLANA, J.

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PLANA, J.:

This is an administrative case against Mrs. Lucrecia A. Hernandez, Disbursing Officer in the City Court, Davao City, instituted by Atty. Barbara Pioquinto, Clerk of Court of the same court, for dishonesty.

In her affidavit dated December 8, 1981, Clerk of Court Pioquinto averred -

"That Mrs. Hernandez takes charge of issuing official receipts for all the fees collected in Court and turn them over to the Clerk of Court at the close of office hours every day except the marriage fees which are collected and turned over by Mrs. Ermelinda de Castro of Branch I of this Court; that Mrs. Hernandez also takes charge of the preparation of the Abstract and Daily Statement of Collections and after the same are signed by the Clerk of Court the corresponding amount is delivered to Mrs. Hernandez or to whoever personnel she could entrust to make the deposit in the City Treasurer's Office;

"That on November 16, 1981, when Mrs. Hernandez reported to the Office after being absent the previous week, I gave her the duplicate receipts for marriage fees collected as of November 11, 1981 for her to prepare the abstract and Daily Statement of Collections after which I signed and delivered to her the amount of P250.00 to be deposited with the City Treasurer's Office;

"That yesterday, December 7, 1981, I again gave Mrs. Hernandez the duplicate receipts of marriage fees collected as of December 4, 1981 to be deposited together with our trust fund collections and delivered the amounts corresponding to the two statements to be deposited to Mr. Warfield Duncombe of this Court whom Mrs. Hernandez entrusted to make the deposit; that a few minutes after Mr. Duncombe left, Mrs. Estrella Arguillas, custodian of accountable forms in the City Treasurer's Office called me up by phone asking why the amount appearing in the statement which she already checked and verified on November 25, 1981 was only being deposited now (Dec. 7) when they already reported that it has been turned over to the cashier that same day. Since I have no idea about it I insisted that all my collections for November had been turned over except that marriage fees being turned over part of which is still for November. Then I sent Mrs. Hernandez to the Treasurer's Office to explain the situation;

"That when I verified from Mrs. Hernandez what happened, she admitted having made use of the money and the amount I gave her intended for the statement prepared on December 7 will be used to replace the P250.00 which she failed to turn over last November 25. But because of this discovery she was forced to turn over the full amount;

"That after finding this out, I suspected that this was not the only instance Mrs. Hernandez had done this anomalous act. So I verified the records of deposit for general fund and I found out that starting September 1981,

every time we are supposed to make deposit for marriage fees, Mrs. Hernandez has been withholding the Statement of Collection prepared for that day and substitute it with the previous statement and used the amount to cover up the same as can be shown by the discrepancies in the dates of the statements and the Cashiers receipts, as follows:

O.R. Used

Period Covered

Date of Abstract

Date of turn over to Cashier

4741451-500

Aug. 25-Sept. 7

Sept. 10, 1981

Sept. 17, 1981

4762201-250

Sept. 7-Sept. 16

Sept. 17, 1981

Sept. 30, 1981

4762401-450

Sept. 16-Sept. 25

Sept. 30, 1981

Nov. 6, 1981

2434001-050

Sept. 28-Oct. 8

Oct. 13, 1981

Oct. 14, 1981

2434201-250

Oct. 8-Oct. 19

Oct. 26, 1981

Oct. 27, 1981

2434401-450

Oct. 19-Oct. 28

Nov. 3, 1981

Nov. 16, 1981

2455551-600

Oct. 28-Nov. 11

Nov. 16, 1981

Dec. 7, 1981

2455851-900

Nov. 23-Dec. 4

Dec. 7, 1981

Dec. 7, 1981

"That I also discovered that Mrs. Hernandez withheld the Statement of Collections prepared on November 25, 1981 and when confronted about it, she showed me the same together with the Cashier's receipt dated only today, December 8, 1981."

Asked to comment on the complaint, the respondent admitted the charge, saying that she is not by nature a dishonest person; that the fact that she had done what Atty. Pioquinto stated in her affidavit, did not change her person; that the amount involved was too small to cause the loss of a lifetime livelihood; that she used the money to save her sick child; that it was her intention to return the amount as soon as she had the money, but another family financial problem cropped up; and that the fact that she did pay the full amount even though the money was obtained from some loan sharks, shows that her intention was far from destroying the honor of the office or her own name.

Respondent has been in the government service since 1974 and this appears to be the first offense she has committed. She has voluntarily pleaded guilty to the charge, while asking for another chance.

In an analogous case (Estioko, Sr. vs. Cantos, Adm. Matter No. P-865, September 30, 1977, 79 SCRA 164), this Court said:

"The respondent was appointed as deputy sheriff on November 27, 1967. He is still in the service up to the present. This is the only administrative case filed against him.

"The record discloses that the respondent received the amount of P234.00 from the complainant in the latter's house in the barrio of San Vicente, Urdaneta, Pangasinan; that it was only after two (2) days when said respondent issued his personal typewritten receipt for the amount; that respondent had kept said amount for

about one year and three (3) months; and that respondent returned the same only after Asst. Fiscal Aquino had advised respondent to return the money to the complainant.

"Indeed, if the respondent had no intention of using the amount of P234.00, he should have issued an official receipt to the complainant. The respondent should have informed the complainant what to do to enforce the judgment rendered in his favor; and the respondent should not have kept the money for about one year and three months despite his inability to execute the judgment. x x x"

"This Court, however, takes into consideration that respondent herein has continuously been in the service for almost a decade now, having been appointed as Deputy Sheriff on November 27, 1967 and that this is the first administrative case filed against him. Hence, only suspension from office should be imposed instead of dismissal from the service.

"WHEREFORE, the respondent is hereby found guilty of conduct prejudicial to the best interest of the service and is ordered suspended without pay for a period of six (6) months from office effective upon notice, with a warning that the commission of another offense will be dealt with severely."

Premises considered, respondent Lucrecia A. Hernandez is found guilty of dishonesty and conduct prejudicial to the best interest of the service. She is sentenced to suffer six (6) months' suspension without pay and ordered to be relieved of her present position and given a comparable one not involving money or property accountability. It is understood that respondent's suspension shall not be chargeable against her accumulated leave, if any.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Melencio-Herrera, Vasquez, Relova, and Gutierrez, Jr., JJ., concur.

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