

ESTHER MONTEMAYOR, PETITIONER, VS. JUDGE FRANCISCO COLLADO, RESPONDENT.

A.M. No. 2519-MJ. September 10, 1981

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

Municipal Judge Francisco Collado of San Fernando, La Union is charged administratively for his unjust refusal to deposit with the Municipal Treasurer of the same municipality the amount of P42, 000.00 representing the accrued rentals deposited by the defendant in an ejectment case pending in his court.

The administrative case was misfiled with the Court of First Instance of La Union instead of with this Court. The Court Administrator Lorenzo Relova, upon the Court's being furnished with a copy of the charges by complainant, and seeing the seriousness of the charges, forthwith sent a telegram to Executive Judge Angel A. Daquigan directing that the records of the case be forwarded to this Court.

It appears that on November 16, 1979, complainant, representing Sylvia Montemayor de Leon as plaintiff, filed with the Municipal Court of San Fernando, La Union, Branch II, presided by herein respondent judge, an ejectment case against one William Go, docketed therein as Civil Case No. 1298.

During the pendency of the ejectment case, defendant William Go had been depositing with respondent judge the accrued monthly rentals from January 1980 totalling P42,000.00. When complainant discovered that the rentals consigned with respondent's court had not been deposited with the Municipal Treasurer of San Fernando, La Union, pursuant to the provisions of section 93 of Republic Act No. 296 but instead were in the personal possession of respondent judge, she sent a letter to respondent judge, dated February 24, 1981, requesting that the deposited rentals be transferred to the custody of the Municipal Treasurer.

When no action was taken by respondent judge on the letter-request of complainant, her counsel filed on March 19, 1981 a motion requesting the court to order the defendant to furnish plaintiff with an itemized statement of the deposited rentals. Complainant's counsel likewise reiterated his client's request that the deposited rentals "be transferred immediately to the office of the Municipal Treasurer for safekeeping as the office of the Clerk of Court is without the necessary safe-deposit boxes which are burglar-proof."

Respondent judge promised complainant that the whole amount would be transferred to the Municipal Treasurer on or before April 15, 1981. On April 27, 1981, when respondent judge failed to deposit the rentals with the Municipal Treasurer, as required by law, she sent respondent judge a telegram giving him up to May 11, 1981 within which to comply with his promise; otherwise, she would be constrained to bring the matter to the Supreme Court. We quote the telegram as follows:

"JUDGE FRANCISCO COLLADO

MUNICIPAL JUDGE SAN FERNANDO LA UNION

"Have been informed by my lawyer that rentals have not yet been deposited with Municipal Treasurer of San Fernando inspite of your promise to deposit said amount on or before April 15, 1981 stop Please be informed that if by May 11 the money has not yet been transferred I shall be forced to report the matter to the Court Administrator of the Supreme Court for proper action and investigation stop Judge I am sorry to do this to you stop

ESTHER Y. MONTEMAYOR"

Instead, respondent judge, acting on the motion dated March 18, 1981, issued an Order disallowing the transfer of the money to the Municipal Treasurer of San Fernando, La Union, reading in part, as follows:

"After a careful evaluation of the motion and the opposition thereto, the Court is of the honest opinion that disposition of the deposit by defendant pending decision of the Court is at the option or prerogative of the party making the deposit. The Court has no power to order its disposition without the conformity of defendant as the party making the deposit. In the incident at bar, the depositing defendant objected to the transfer of the deposit. This opposition was reiterated by defendant's counsel in open court during the hearing of the motion."

This prompted plaintiff and her counsel to file an urgent "Ex-Parte Motion to Withdraw Deposited Rentals." But respondent judge again evaded the issue by issuing an Order, dated June 1, 1981, stating that "the said motion shall be resolved in the decision to be rendered in this case." Inasmuch as the rental is not in dispute and defendant is supposed to pay the rentals as they fall due, it is obvious that respondent's said order raises grave doubts as to what he had done with the deposited rentals which properly pertain to the plaintiff-lessor.

The provisions of sec. 93, Republic Act No. 296 mandatorily provide that "all moneys accruing to the Government in municipal or city courts, including fees, fines, forfeiture, costs or other miscellaneous receipts, and all trust or depository funds paid into such courts shall be received by the municipal or city treasurer, or in the City of Manila by the city treasurer, for disposition according to law." [1] The allegations of respondent judge that his court has no power to order its disposition without the conformity of the party making the deposit and that he is not duty bound to deposit the money with the Municipal Treasurer because the money is not consigned with his court but it is merely a "private deposit" made by the defendant with the court are patently devious excuses to keep the deposited rentals in his possession, if they have not been actually misused or misapropriated.

Even if the rentals were not consigned in his court (as claimed by respondent judge, because defendant allegedly did not notify the plaintiff-creditor - a baseless claim because notice of deposit of rentals is not required [2]), then respondent had no business accepting the "private deposit" of the defendant - for there is no such thing as a "private deposit" in ejectment cases, or any other court case for that matter. But having accepted the deposit of the rentals, he is bound by the mandate of the cited law to turn over the funds immediately to the custody of the municipal treasurer, who is the official authorized by law (not respondent judge) to receive such trust or depository funds. (Parenthetically, he and defendant will have to answer for the funds, if they have been misappropriated.)

When complainant made demands, through letters and motion, to have the rentals deposited with the Municipal Treasurer of San Fernando, La Union, respondent judge should have immediately done so, to forestall or erase any possible suspicion that he had misused or misappropriated the funds. By his totally unjustified actions, respondent judge placed his honesty and integrity under serious doubt. [3] The conduct and behavior of everyone connected with an office charged with the disposition of justice, like the courts below, from the presiding judge to the lowliest clerk, should be circumscribed with the heavy burden of responsibility. His conduct, at all times, must not only be characterized with propriety and above all must be above suspicion. [4] Although every office in the government service is a public trust, no position exacts a greater demand on moral righteousness and uprightness of an individual than a seat in the judiciary. A magistrate of the law must comport himself at all times in such a

manner that his conduct, official and otherwise, can bear the most searching scrutiny of the public that looks up to him as the epitome of integrity and justice.[5] Respondent's failure to deposit the funds with the municipal treasurer or to produce them despite his pro-mise and the deadline given him amount to grave misfeasance, if not malversation.

Considering that the records of the case sufficiently provide a basis for the determination of respondent's administrative liability, there is no need to conduct a formal investigation of the charges.[6] Respondent judge's unjustified actions constitute serious misconduct or at best gross ignorance which warrant his separation from the service.

ACCORDINGLY, the respondent is ordered to forthwith deposit with the Municipal Treasurer of San Fernando, La Union all amounts deposited with him in Civil Case No. 1298 within a period of forty-eight (48) hours from notice hereof. The Court finds respondent Municipal Judge Francisco Collado guilty of serious misconduct and gross ignorance, prejudicial to the public interest, and as recommended by the Court Administrator, he is hereby dismissed from the service, with forfeiture of all retirement benefits and pay and with prejudice to reinstatement in any branch of the government or any of instrumentalities. This decision is immediately executory.

Fernando, C.J., Barredo, Makasiar, Aquino, Concepcion, Jr., Fernandez, and Melencio-Herrera, JJ., concur.
De Castro, J., concurred with J. Guerrero, who voted for suspension of six months.
Abad Santos, J., on official leave.

[1] Underscoring supplied.

[2] Rule 70, Rules of Court.

[3] *Dia-Añonuevo vs. Bercacio*, 68 SCRA 81.

[4] *Jereos, Jr. vs. Reblando, Sr.*, 71 SCRA 126.

[5] *Dia-Añonuevo vs. Bercacio*, *supra*.

[6] *Aquino vs. Aficial*, 8P SCRA 222; *Lawan vs. Moleta*, 90 SCRA 579; *Flores vs. Tatad*, 96 SCRA 676.

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