

TEOTIMO GIL, COMPLAINANT, VS. JUDGE EUFRONIO SON, RESPONDENT.

A.M. No. MTJ-93-741. February 21, 1995

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PER CURIAM:

In a complaint to the Court Administrator dated December 3, 1992, [1] Teotimo L. Gil, a retired Process Server of the Municipal Trial Court of Sibonga, Cebu, accused respondent Judge Eufonio T. Son of the Municipal Trial Court of Argao, Cebu, of "gross misconduct and oppression," for refusing to acknowledge and repay a loan of P 15,000.00.

Required by the Court to comment on the complaint, the respondent did so under date of April 14, 1993. [2] To his comment he annexed the affidavits of Mrs. Romualda Son and Leah Alberca. The case was then referred to Judge Epifanio C. Llanos of Br. 26 of the RTC in Argao, for investigation, report and recommendation within ninety (90) days. [3]

According to complainant Teotimo Gil's testimony, he went to see Judge Eufonio Son in his chambers at Argao on August 5, 1992, to inquire about a vacant job item (Staff Assistant II) for his son, Roel Gil. Judge Son confirmed the existence of the vacancy and showed Gil a copy of the notice thereof, published as required by RA 7041. [4] Judge Son apparently knew of Teotimo's recent retirement as process server, and asked him how much money he had received. Teotimo told him he had gotten P 109,000.00 as retirement benefits. [5]

Teotimo Gil said that if Judge Son would endorse his son's appointment to the vacant position, he would personally follow up the matter in the Supreme Court. [6] The Judge thereupon had Teotimo type out a draft certification to the effect that he (Judge Son) had already published notice of the vacant position in a local newspaper. [7] Apparently on second thought, however, he stopped Teotimo from completing the draft, saying that he would instead just have his clerk type it. [8] (The unfinished draft certification, bearing Judge Son's name, was later submitted in evidence by Teotimo. [9])

At that point, and out of the blue as it were, Judge Son told Teotimo he was badly in need of money, and wished to borrow P 15,000.00 from him, to be repaid with interest in a month. [10] Surprised, but unable to refuse, Teotimo declined the offered interest, imposing only as sole condition that the money be indeed repaid in a month. The Judge asked that Teotimo deliver the money at 5:00 p. m. the following day at the Goldie Restaurant in Cebu City. [11]

After leaving Judge Son's chambers, Teotimo Gil proceeded to the Civil Service Field Office, Cebu City to inquire about his son's eligibility for the position of Staff Assistant II. He learned from a Mr. Tangpos of that office that a Police Officer Third Class like his son, Roel, was eligible only for the position of sheriff. [12]

The following day, August 6, 1992, Teotimo arrived in Cebu City at about 2:30 p.m. From the house of a friend, Rudy Regidor, [13] he telephoned his son, Roel at the Cebu Provincial Detention and Rehabilitation Center and asked the latter to accompany him when he delivered the money to Judge Son. Teotimo wished Roel to come along to witness the transaction and also because Judge Son had said he wanted to meet Roel personally. Roel

agreed, and father and son met at the house of Regidor. [14]

At Regidor's house and in his presence, Roel counted the money to be loaned to Judge Son. Teotimo Gil personally carried the money, thirty (30) five-hundred peso bills, in a plain brown envelope. There were a few customers when they arrived shortly after 4:00 p.m at Goldie's Restaurant. They ordered snacks while waiting for Judge Son, who arrived with his wife (Romualda) some 20 minutes later. [15]

Teotimo Gil claims there were no other persons at the meeting; they occupied a square table seating only four. Only Roel and Mrs. Romualda Son were present when he handed the envelope to Judge Son. He said, "Judge, here is the P15,000.00, but be sure to pay this after the lapse of one month because I do not have a job any more." [16] Son counted the money under the table and held on to the envelope until they left the restaurant. Teotimo said he did not ask Judge Son to sign a receipt, because he was a "former boss, superior, aside from the fact that he is a judge" and when the Judge had been assigned in Sibonga, Cebu, Teotimo had worked under his supervision. [17]

On September 15, 1992, Teotimo Gil went to Judge Son at Argao to collect payment of the loan. Mrs. Son was the only other person present in the Judge's chambers. When Teotimo asked for the return of his money, Son replied vaguely that he would first "settle his indebtedness." Thus rebuffed, Gil went home. [18] He made a second and final attempt to collect the debt personally during the first week of October 1992. He pleaded for payment stating that he no longer had a job. Judge Son made the same vague response, however, that he would first "settle his indebtedness." [19] He never made clear what indebtedness he was referring to.

After consulting a lawyer, [20] Gil sent Judge Son a demand letter. [21] In his reply, [22] Judge Son flatly denied borrowing any money from Teotimo or his son, Roel. The Judge declared that while Teotimo had indeed come to see him -- apparently referring to August 10, 1992 -- it was to ask that his niece, a certain Ms. Gemma Seares, be appointed to a vacancy in the MTC of Argao, Cebu, at which time Judge Son had told Teotimo that the position had been promised to another person.

Roel Gil testified at the hearing, and substantially corroborated his father's testimony. Roel also earlier executed an affidavit, a copy of which was appended to the complaint, stating essentially that he counted and prepared the money which was given to Judge Son at the Goldie Restaurant, on August 6, 1992. [23]

Judge Son presented a different version of the two occasions when he admittedly met with complainant Gil in August of 1992.

Judge Son testified that at their first meeting in his chambers in Argao on August 5, 1992, he and Teotimo Gil had discussed the possibility of Roel Gil's being employed as Staff Assistant II of the MTC of Argao, Cebu; that Son had said that the vacant position was already promised to a certain John Jennis Trinidad; and that Teotimo had said that he was prepared to ask Trinidad to yield in favor of Roel. Judge Son had suggested that Gil verify Roel's eligibility with the Civil Service Commission, after which they should meet again at 5:00 p. m. the following afternoon at the Goldie Restaurant in Cebu City. [24]

The Judge further testified that he had agreed to travel the following day from Argao to Cebu City to meet Gil, because he wanted to make a personal appraisal of Roel, [25] so that, if he found Roel qualified, he could advise Gil to approach John Jennis Trinidad and ask him to give way to Roel. [26] Son felt that the place of their meeting was appropriate; with so many persons present, nobody would suspect a "secret deal." [27] He did not set the meeting for August 7, 1992 (a later day) because Gil was "very much in a hurry" to secure the favorable recommendation of Son, promising to personally follow it up through a friend in Manila who would take care of it. [28] For these reasons, he intended to spend the evening in Mabolo, Cebu. [29]

According to Son, at the meeting, he asked Teotimo about the Civil Service Commission's opinion on Roel Gil's civil service eligibility. [30] They never talked of Teotimo's retirement benefits, although Gil had really mentioned his recent retirement, and that he had already tried, unsuccessfully, to have his son appointed (in his place) as process server of the MTC in Sibonga, Cebu.

Son denied ever asking Teotimo or his son for a loan, or that Teotimo had demanded or tried to collect P 15,000.00 from him a month later. At that subsequent meeting, he said Teotimo had asked only that his niece, Ms. Seares, be appointed clerk of court, but that Son refused because he felt she did not have the same qualities of a male applicant from Mindanao to whom the position had been promised.

Respondent Judge attributes the complaint for misconduct and oppression to the frustration suffered by Teotimo at his refusal to help Roel Gil and Ms. Seares get appointed as court employees. He argues that it is improbable for him to have borrowed money from Teotimo after he had rejected requests for the appointment of the latter's son and niece. He also attributes the complaint to the family troubles of complainant Gil (who allegedly has two families) claiming that it was a subterfuge to explain to his legitimate family the expenditures he had incurred in maintaining a second family, [31] and brands as "fallacious and fabricated (Teotimo's) charge of misconduct and oppression." [32]

The affidavits of Leah Alberca, stenographer-reporter of the MTC in Argao, and Romualda Son, respondent Judge's wife, were appended to the complaint. Their statements tend to corroborate the claims of Judge Son.

Alberca deposed on Teotimo's visits to Judge Son's chambers. She stated she was present during the first visit and there had been no mention of any loan. Teotimo was there to seek employment for his son; and the Judge had told him to check with the Civil Service if Roel was eligible; and they had agreed to meet at the Goldie Restaurant the next day to further discuss Roel's prospects. Alberca also confirmed that Gil returned about a month later, this time to plead for the appointment of his niece. She corroborated Judge Son's statement that he denied Gil's request since he had promised the position to another applicant. [33]

Romualda Son testified that she was with her husband at the Goldie Restaurant when he met Teotimo and Roel Gil. She said that they were accompanied by a "lawyer acquaintance" of Judge Son, who sat with them at the same table. During that meeting, Romualda claims, Judge Son asked Teotimo what the Civil Service had said about Roel's eligibility. Teotimo answered that Roel did not qualify for the position of Staff Assistant II. There was no talk of money, much less an exchange of money between the Gils and Judge Son. [34]

At the investigation conducted by Judge Llanos, complainant Teotimo Gil denied that his complaint is a mere case of "sour-graping" due to the rejection of his recommendees. He also denied that he lent money to Judge Son in consideration of the latter's helping in his son's appointment, because he already knew his son was not qualified for the vacancy even before he gave the money. He had agreed to lend the money because Judge Son, while detailed at Sibonga, Cebu, had been for a brief while, his chief in the office. [35] Gil further denied that he encountered financial difficulties because he had to support 2 families. [36] For his part, respondent Judge stoutly maintained his innocence of the accusation of oppression and misconduct, relying on his witnesses to disprove the claim that he had borrowed money from Teotimo Gil. [37]

In the Report submitted to this Court, Judge Llanos made the finding that the affidavits of Romualda Son and Leah Alberca were most likely prepared by Judge Son himself, conveying in uniform pattern, style and tenor, one message, i.e., that he did not borrow any money from Teotimo Gil.

The Report noted that the testimony of Romualda Son would understandably favor her husband and should be carefully weighed. Similarly, the testimony of Leah Alberca was to be received with caution as she was then

waiting to acquire respondent's favorable recommendation for her permanent status in employment.

As regards respondent's other witness, Doris Cañete (cashier of the Goldie Restaurant), her testimony was branded by the Investigating Judge as "incredible and tailor-made," she not only having candidly admitted to a lack of personal knowledge of the recitals of her affidavit, prepared by one Atty. Gines Abellana for her, but having also been caught lying on material points. [38]

The Investigating Judge stressed the fact that Teotimo Gil had personally gone to Manila to file his complaint against Judge Son, [39] reasoning that Teotimo would not have gone to all that trouble and expense if his complaint were not true; as well as that respondent had failed to controvert with any measure of success the complainant's evidence. The Investigator thus recommended that Judge Son be made to pay the amount of P 15,000.00 and suffer such other penalty as the Court may deem proper to impose.

A review of the case constrains the Court to reject respondent Judge's theory that he went to the extent of traveling 60 kilometers and spending the night at a place other than his home, simply to discuss the prospects of having Roel Gil hired, when he could have easily required the Gils to return to his chambers at Argao the next day for that purpose, considering that it was they, after all, who were seeking a favor, not he. The theory is moreover inconsistent with respondent's claim that not only was Roel Gil not qualified for the position, but also that said position had already been promised to another -- considerations rendering idle any further discussion of Roel's employment for the post in question. Lacking a more cogent — and innocent — reason for that meeting, the Court can only conclude that it was arranged precisely as complainant claims — to consummate an improper loan under such circumstances as would preclude, according to the Judge himself, suspicion of any "secret deal," there being many persons present. [40]

The Judge failed to present any clear or convincing explanation for attending this meeting. His testimony on the matter is sketchy and unworthy of belief. He claimed that some acquaintances of his were there, yet none was presented to corroborate his version of what transpired at the meeting. Little credence is deserved by his proffered argument that the choice of Cebu City for a meeting place precisely precluded any notions about a "secret deal." It would seem that if Judge Son were acting with clear conscience, the meeting could well have been held in his chambers, like other regular business. Neither is the Court favorably impressed by the insidious scheme proposed by Judge Son; advising Gil to persuade Trinidad (to whom the position of Staff Assistant II was promised) to yield in favor of Roel.

Respondent also contends he may not be held liable in this administrative proceeding since the acts complained of do not pertain to his official capacity as judge. The contention has no merit. The Court has ordered the dismissal of judges for serious misconduct which, though not directly related to judicial functions, is prejudicial to the best interest of the service. Thus, the extreme penalty of dismissal has been imposed on a judge for refusing to pay for personal loans and the installation of an air-conditioning unit in his wife's vehicle, [41] or for pistol-whipping an engineer without provocation, [42] or for pointing his gun at a police officer in public while intoxicated. [43]

In these and analogous cases, the judges were deemed unfit to remain in the service. Similarly, Judge Son's acts violate the Canons of Judicial Conduct:

CANON 2, Rule 2.01. — A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.

As this Court ruled in *De la Paz v. Inutan*, [44]

"The judge is the visible representation of the law and, more importantly, of justice. From him, the people draw their will and awareness to obey the law. They see in him an intermediary of justice between two

conflicting interests, specially in the station of municipal judges, like respondent Judge, who have that close and direct contact with the people before anybody else in the judiciary. Thus, for the judge to return that regard, he must be the first to abide by the law and weave an example for others to follow. He should be studiously careful to avoid even the slightest infraction of the law."

It is of record that this is the third time administrative charges have been brought against respondent. On September 24, 1992, the Court issued a Resolution dismissing a complaint against him for lack of interest on the part of the complainant. [45]

However, on October 17, 1992, in *Spouses Veronico and Remegia Pescadero v. Judge Eufonio T. Son*, [46] he was found guilty of abuse of authority and neglect of duty for first refusing, then unreasonably delaying, the conduct of preliminary examination in a robbery case, despite repeated requests for assistance from the complainants. In the same case, he was adjudged guilty also of grave misconduct for challenging his clerk of court to a fight. The Court imposed a fine of P 10,000.00 with "stern warning that a repetition of similar conduct shall be dealt with more severely." [47]

It is thus evident that Judge Son's conduct has failed to measure up to what is expected of a member of the bench, and has demonstrated his unfitness to remain in office.

WHEREFORE, respondent Judge Eufonio T. Son is hereby **DISMISSED** from the Judiciary with prejudice to reinstatement in the government service in any capacity, and with concomitant forfeiture of all earned or accrued retirement or other benefits. He is **ORDERED** to pay Teotimo L. Gil the amount of P15,000.00, with legal interest computed from the date of the filing of the complaint until actual payment. He is also **ORDERED** to immediately vacate his office and henceforth cease and desist from performing any function or act in connection therewith.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Bellosillo, Melo, Quiason, Puno, Vitug, Kapunan, Mendoza, and Francisco, JJ., concur.
Romero, J., on leave.

[1] Filed with the Office of the Deputy Court Administrator on December 9, 1994, Rollo at p. 3.

[2] Rollo at p 12.

[3] Resolution of June 17, 1993, Rollo at 34, preceded by Resolution dated May 13, 1993, in which the Court referred the case to the Office of the Court Administrator.

[4] Direct testimony of Teotimo Gil, TSN, Sept. 6, 1994, at pp. 15-16.

[5] Id. at p. 17.

[6] Id.

[7] Id. at p. 18.

[8] Id. at p. 19.

[9] Complainant's Exh. "I."

[10] Letter-complaint of Gil, Rollo at p. 3.

[11] TSN, Sept. 6, 1993, at p. 21.

[12] TSN, Sept. 8, 1993, at pp. 9-10.

[13] Mr. Regidor was originally listed among the witnesses of the complainant, but was unable to testify in the proceedings.

[14] TSN, Sept. 8, 1993, at p. 13.

[15] Id. at pp. 20, 24-25.

[16] Id. at pp. 272-8.

[17] Id. at pp. 13-14

[18] Id. at p. 31.

[19] Id. at pp. 31-32

[20] Id.; Atty. Santos Gil.

[21] Exhibit "J"; dated October 15, 1992.

[22] Exhibit "7-M"; Rollo at p. 9; dated October 16, 1992.

[23] Exhibit "H-5"; Rollo at p. 6; dated December 2, 1992.

[24] TSN, October 5, 1993, at p. 7.

[25] Id. at p. 6.

[26] Id. at pp. 7-8.

[27] Id.

[28] Id. at p. 8.

[29] Id.

[30] Id. at pp. 5 to 6.

[31] Comment of Judge Son, Rollo at pp. 13, et seq.

[32] Id., at p. 23.

[33] Annex "A" of the Comment, Rollo at pp. 25-26.

[34] Id. Annex "B" at pp. 272-8

[35] See Investigation Report and Recommendation at pp. 5, et seq.

[36] Id.

[37] Presented as witnesses for the respondent were Romualda Son (wife of respondent); Leah Alberca (Stenographic Reporter of respondent) and Doris Canete (cashier of Goldie Restaurant).

[38] Investigation Report and Recommendation, *supra*, at p. 6

[39] Id. at p. 5.

[40] SEE footnote 27 and related text, *supra*

[41] *Ompoc v. Torres*, A.M. No. MTJ-86-11, 178 SCRA 14, September 27, 1989.

[42] *Arban v. Borja*, A.M. No. R-281-RTJ, 143 SCRA 634, August 26, 1986.

[43] *Saburnido v. Madrono*, A.M. No. MTJ-90-383, 209 SCRA 755, June 15, 1992.

[44] A.M. No. 201 MJ, 64 SCRA 540, June 30, 1975.

[45] *Paulino B. Fuentes v. Judge Eufonio T. Son*, A.M. No. MTJ-92-645.

[46] A.M. No. MTJ-90-436.

[47] *Id.*

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