

ELSIE U. MAMACLAY, PETITIONER, VS. JOEL FRANCISCO, PROCESS SERVER, RTC-OCC, CABANATUAN CITY, RESPONDENT.

A.M. No. P-02-1607. March 17, 2003

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Complainant Elsa U. Mamaclay filed a sworn letter-complaint dated April 6, 2000, charging Joel Francisco, a process server of the Office of the Clerk of Court of the Regional Trial Court of Cabanatuan City, with deceitful and fraudulent acts in violation of the Civil Service Law. Complainant claims that respondent issued postdated check no. 1062219 in the amount of P30,000.00 knowing fully well that at the time of its issuance, he had no funds in the bank, and respondent continuously failed and refused to deposit funds or redeem the check.[1]

Respondent filed his Comment, admitting that he borrowed from complainant P30,000.00 at 5 percent monthly interest to finance his balut dealership, and as guarantee, he issued an undated check.[2] His business, however, suffered a loss and he was unable to settle his obligation with complainant. Complainant then filed a criminal case against him for violation of Batas Pambansa Blg. 22 in May 1999. Thereafter, complainant agreed to have his obligation paid in installments and he was able to make a partial payment in the amount of P10,000.00.[3] On August 2, 2000, complainant filed an Affidavit of Desistance, requesting for the dismissal of the administrative case against respondent.[4]

The Office of the Court Administrator (OCA) opined that (1) complainant's desistance does not divest the Court of its jurisdiction nor strip it of its power to determine the veracity of the charges, (2) complainant should be warned not to use the Court as a collection agency, and (3) respondent committed an act unbecoming a government employee when he issued a post-dated which was dishonored upon presentment for lack of funds.[5] The OCA recommended that respondent be fined in the amount of P3,000.00 for conduct unbecoming a government employee with warning that repetition of the same or similar acts in the future shall be dealt with more severely.[6]

We fully agree with the findings and recommendations of the OCA but we modify its recommendation as to the penalty.

The Court has the duty to root out misconduct among its employees, regardless of the parties' desistance.[7] Administrative proceedings do not depend on the whims and caprices of the concerned employees for the aggrieved party is the court system. The issue in administrative cases is not whether the complainant has a cause of action against the respondent, but whether the employees have breached the norms and standards of the judiciary.[8]

Government officials and employees, especially those employed in the Judiciary, are bound by the highest standards of propriety and decorum to maintain the people's respect and faith in the Judiciary.[9] They are expected to be models of uprightness, fairness and honesty not only in all official conduct but also in personal actuations, including business and commercial transactions, and avoid any act or conduct that would be a bane to,

and an emasculation of, the public trust and confidence reposed on the Judiciary.[10]

In the present case, respondent admitted that he was unable to pay his debt to complainant. He also does not refute complainant's allegation that he issued a check without sufficient funds therefor. Respondent's issuance of a bouncing check constitutes misconduct which is a ground for disciplinary action.[11] The conduct of every personnel connected with the courts should at all times be circumspect to preserve the integrity and dignity of the courts of justice.[12]

WHEREFORE, respondent Joel Francisco, Process Server of the Office of the Clerk of Court of the Regional Trial Court of Cabanatuan City is hereby found GUILTY of MISCONDUCT and is accordingly FINED the amount of Three Thousand Pesos (P3,000.00) which he should pay withing sixty (60) days from date of notice of herein Resolution with WARNING that a repetition of the same or similar acts in the future will be dealt with more severely.

Let a copy of this Resolution be attached to the 201 Files of respondent Joel Francisco.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing and Callejo, Sr., JJ., concur.

[1] Rollo, p. 1.

[2] Id., p. 14.

[3] Ibid.

[4] Id., p. 19.

[5] Id., p. 20.

[6] Id., p. 21.

[7] *Dionisio v. Gilera*, A.M. No. P-99-1330, August 12, 1990, 312 SCRA 287, 295.

[8] Ibid.

[9] *Re: Disciplinary Action against Antonio Lamano, Jr., of the Judgment Division, Supreme Court*, A.M. No. 99-10-10-SC, November 29, 1999, 319 SCRA 350, 352.

[10] *Manalo v. Hon. Demaala*, Adm. Matter No. 1906-MJ, 191 Phil. 640, 645 (1981).

[11] *Abergas v. Bagolbagol*, 330 Phil. 74, 77-78 (1996).

[12] *Gaña v. Santos*, 234 SCRA 17 (1994).

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