

MA. VICTORIA C. HIDALGO COMPLAINANT, VS. MORENO L. MAGTIBAY, PROCESS SERVER, REGIONAL TRIAL COURT, BRANCH 83, TANAUAN CITY, BATANGAS, RESPONDENT.

A.M. No. P-02-1661. October 07, 2004

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PER CURIAM:

For resolution are these consolidated administrative cases, A.M. No. P-02-1661 for violation of RA 3019 (Anti-Graft and Corrupt Practices Act) and A.M. No. P-03-1687 for gross misconduct filed, respectively, by Ma. Victoria C. Hidalgo and Executive Judge Voltaire Y. Rosales of the Regional Trial Court, Branch 83 (RTC-Br. 83) of Tanauan City, Batangas against process server Moreno L. Magtibay and, in the second case, against Niño R. Metrillo, Clerk III of the same office.

The NBI of Batangas City received a request from Ms. Aida Gonzales of “Mission X,” a program of ABS-CBN, for the investigation of an alleged extortion being committed against complainant Hidalgo, an agent of Great Domestic Insurance Company. Process server Magtibay and a certain Bienvenido Precilla, a jail officer detailed at RTC-Br. 83, were allegedly asking Hidalgo for grease money of P2,000 to facilitate the release from detention of a certain Dionisio Catimbang who had a pending case in the RTC, Branch 6 (RTC-Br. 6), Tanauan City.

The entrapment operation was conducted as follows: [1]

On October 16, 2001 at around 12:00 o’clock noon, NBI Regional Director Edward Villarta and NBI Special Investigator Adrian Feudo had a meeting with Aida Gonzales, staff of ABS-CBN Mission X, a TV program aired over Channel 2, and Ma. Victoria Hidalgo inside the Jollibee Restaurant, Tanauan City. After the meeting, NBI Regional Director Edward Villarta and NBI Special Investigator Adrian Feudo briefed the other NBI Investigators Jonathan George Atienza, Joselito Guillen, Chester V. Gans II, Edgardo N. Vicedo and Larry Dominguez, who were waiting outside the Jollibee Restaurant, about the entrapment operation to be conducted on Moreno Magtibay and Bienvenido Precilla, who reportedly were extorting money from Ma. Victoria Hidalgo. Special Investigator Feudo prepared two (2) pieces of P1,000.00 peso bill as marked monies with Serial numbers DB735649 and CW393061 (Exhibits “C” and “D”). He put a shade in one of the eyes of the three (3) persons in the said peso bills. Thereafter, they proceeded to the Hall of Justice, Tanauan City.

At around 1:00 o’clock in the afternoon, they reached the Hall of Justice. Ma. Victoria Hidalgo went inside the Hall of Justice. Before going inside, she talked first with the NBI Investigators about the planned entrapment relative to the demand for money of the two (2) accused in connection with the bail bond application of a certain accused Dionisio Catimbang. It was their agreement that whoever will receive the money will be the one to be arrested. NBI Special Investigators Jonathan George Atienza and Adrian Feudo likewise went inside and positioned themselves near the guard’s table and the entrance gate while the rest of the group strategically positioned themselves just outside the Hall of Justice.

On that date and time, Ma. Victoria Hidalgo had an appointment with accused Bienvenido Precilla relative to the documents of the bail or surety application of two (2) accused one of whom is of accused Dionisio Catimbang. These documents were given by her to accused Precilla before October 16, 2001. She, however, had no appointment with the other accused Moreno Magtibay.

When Ma. Victoria Hidalgo arrived at the Hall of Justice, only accused Bienvenido Precilla was there who at around 2:00 o'clock in the afternoon was already asking from her the money. She, however, did not yet give the money to him as it was the instruction that the money should not be given within the view of others and that it should be placed in an envelope.

At around 3:00 o'clock in the afternoon, accused Moreno Magtibay arrived. He went inside the office in RTC, Branch 83. He was followed by Ma. Victoria Hidalgo. While inside, he asked her about the money and instructed her to give it to accused Bienvenido Precilla. Thereafter, he and Ma. Victoria Hidalgo went out. He pointed to her accused Bienvenido Precilla who was seated on the bench just outside Branch 83. He then walked away towards the entrance gate of the Hall of Justice.

Ma. Victoria Hidalgo handed the marked money to accused Bienvenido Precilla who accepted the same. As a pre-arranged signal to the NBI Investigators, she scratched her head. NBI Investigator Adrian Feudo approached and arrested accused Bienvenido Precilla. He was brought and ordered to sit down on a bench just outside the public prosecutor's office. The two (2) marked monies (Exhibits "C" and "D"), a caliber 45 firearm, a copy of a firearm license, and his identification card issued by the Provincial Jail were recovered from him.

On the other hand, accused Moreno Magtibay was accosted by NBI Investigator Jonathan George Atienza while he was on his way out of the Hall of Justice. He was brought to and was made to sit down on the same bench where accused Precilla was. His identification card issued by the Supreme Court was taken and confiscated from him.

Thereafter, Magtibay and Precilla were charged with robbery, docketed as Criminal Case No. 01-10-611 before the RTC-Br. 6 of Tanauan City.[2]

On October 18, 2001, Judge Rosales endorsed the complaint-affidavit against Magtibay to the Office of the Court Administrator (OCA). He also placed him under preventive suspension, pending completion of the administrative investigation, pursuant to par. 7 of Administrative Order No. 6:[3]

IV. Specific Powers, Prerogatives and Duties of the Executive Judge:

xxx xxx xxx

- To recommend to the Supreme Court the imposition upon erring employees of such disciplinary sanctions as may be necessary and proper; and, pending the administrative investigation or its review by the Supreme Court, to place the respondent under preventive suspension in accordance with Civil Service rules and regulations, furnishing the Supreme Court a copy of the order of suspension and the grounds therefor without unnecessary delay.

In his comment dated December 12, 2001, Magtibay vehemently denied the accusations against him. He alleged that:

Immediately after the undersigned arrived in his office [around 4:00 p.m. of October 16, 2001], Ms. Ma. Victoria C. Hidalgo, an agent of Great Domestic Insurance Company, talked to him. Specifically, Ms. Hidalgo sought the undersigned's assistance concerning the bail bond of certain persons with pending cases in Branch 6, Regional Trial Court of Tanauan City. The undersigned declined to give help for the simple reason that he has no access to Ms. Hidalgo's situation which concerns the official business of another branch of the trial court. The undersigned then went outside of his office but Ms. Hidalgo was persistent seeking his help. The undersigned simply referred Ms. Hidalgo to Mr. Bienvenido Precilla for herself to see if Mr. Precilla can assist with her case.

Minutes thereafter, the undersigned was astounded to see Mr. Bienvenido Precilla, then seated on the bench (just outside the Office of the Executive Judge), being surrounded by several men who later introduced

themselves as elements of the National Bureau of Investigation (NBI), Batangas City. A [cameraman] and crewmembers of ABS-CBN's "Mission X" were also there. Much to his surprise, and without any legal basis whatsoever, he was suddenly arrested and implicated by the said elements in the alleged extortion activity committed by Mr. Precilla.[4]

Magtibay likewise declared that the allegations of Hidalgo were a fabrication and concoction of lies. He pointed out that, had the charges been true, he could have taken the money when only the two of them were inside the office, away from the prying eyes of the public, and not outside where there was a possibility of being caught.

In our resolution dated November 18, 2002, we adopted the recommendation of Court Administrator Presbitero J. Velasco, Jr. We re-docketed the above complaint as a regular administrative complaint (A.M. No. P-02-1661) and deferred the evaluation of the complaint pending the final outcome of Criminal Case No. 01-10-611. We likewise directed the branch clerk of court of RTC-Br. 6 to apprise this Court, through the OCA, of the status of the said criminal case. Magtibay's preventive suspension was likewise confirmed.[5]

Magtibay moved for the reconsideration of his preventive suspension contending that he had already served the 90-day preventive suspension. However, said motion was denied because no substantial arguments were raised to warrant a reconsideration.[6]

On February 3, 2004, he submitted a manifestation informing this Court that Criminal Case No. 01-10-611 had already been decided on November 28, 2003. In acquitting him, the trial court stated, among others, that:

As clearly shown by the evidence for the prosecution, the marked monies were not received by the accused-movant. Neither were they recovered from his possession. They were handed to and received by accused Bienvenido Precilla. As in fact, they were recovered from him by the NBI operatives. The fact that accused-movant instructed Ma. Victoria Hidalgo to hand the money to accused Bienvenido Precilla does not necessarily show concert of design. It does not show the element of cooperation with his co-accused. To say the least, it only implies that he acquired knowledge of the offer of money. Settled is the rule, however, that to establish conspiracy, evidence of actual cooperation rather than mere cognizance or approval of an illegal act is required (People vs. Alas, 274 SCRA 310).

Moreover, if he has indeed the intention to extort money and if he has a common criminal design with his co-accused, why did he not accept the money while he and Ma. Victoria Hidalgo were inside the office of RTC, Branch 83, away from the prying eyes of the public. The testimony of Ma. Victoria Hidalgo [on] the matter is as follows:

ATTY. AMORADO

Q

But you recall that only you and Moreno were inside his office. Is that correct?

A

Yes, sir. Only the two of us were talking.

Q

So if only the two of you were talking, but please be explicit, were there other people inside the office of Moreno when you were talking with him on October 16, 2001 at 3:00 o'clock in the afternoon?

A

I did not notice if there were other persons aside from the two of us, sir.

Q

But you were not accompanied by anybody when you entered the office of Moreno to talk to him?

A

None, sir.

Q

You will agree with me that the office of the accused Moreno Magtibay is enclosed x x x?

A

It cannot be seen because it is closed, sir.

With the attending circumstances of the place, the accused-movant could have conveniently received the money. But he did not

Importantly, when Ma. Victoria Hidalgo handed the money to accused Bienvenido Precilla, accused-movant has already walked away towards the direction of the gate of the Hall of Justice. As in fact, when he was accosted by the NBI operatives, he was already on his way out of the Hall of Justice.[7]

A.M. No. P-03-1687 is related to the first case. It was initiated by Judge Voltaire Rosales of RTC-Br. 83 against Moreno L. Magtibay and Niño R. Metrillo of the same branch for gross misconduct. In his sworn complaint dated November 6, 2001, Judge Rosales alleged:

That on October 16, 2001, at around 3:00 o'clock in the afternoon [Niño R. Metrillo and Moreno L. Magtibay] demanded and received from one Ma. Victoria C. Hidalgo, a surety bond agent, the amount of TWO THOUSAND (P2,000.00) PESOS, allegedly to facilitate the processing and approval of the surety bond for the provisional liberty of the accused in a case pending before Branch 6 of the Regional Trial Court, Tanauan City, Batangas.[8]

Magtibay adopted in toto his comment dated December 12, 2001 in A.M. No. P-02-1661.

For his part, Metrillo vehemently denied the accusation against him. He averred that he had never been charged criminally and administratively before any court or investigative or administrative agency of the government prior to the filing of the present complaint. In seeking exoneration, he proffered the following explanation:

In compliance with the directive of the Honorable Executive Judge per letter of authority (Annex "A") addressed to the Chief of the Property Division of the Office of the Court Administrator, Supreme Court, Manila, herein respondent left the court (Regional Trial Court, Branch 83, Tanauan City, Batangas) and proceeded to the Supreme Court in Manila at around 12:30 o'clock in the afternoon of October 16, 2001. Upon reaching the Supreme Court he transacted official business thereat and was able to accomplish his main objective in that afternoon, that was to collect/receive cabinets from the Property Division as shown by memorandum receipt (Please see Annex "E"). He was able to leave the premises of the Supreme Court only on or about 4:30 o'clock in the afternoon of October 16, 2001 as shown by Gate Pass No. OCA-01-0077 issued no less by the Property Division, Office of the Court Administrator, Supreme Court (Please see Annex "F" and "F-1") Herein respondent arrived in Court (RTC-Branch 83, Tanauan City, Batangas) only at around 8:30 o'clock in the evening on October 16, 2001 (Please see Annex "B", "C", "C-1", "D" and "D-1").[9]

In our resolution dated March 5, 2003, we consolidated A.M. No. P-03-1687 with A.M. No. P-02-1661, dismissed the complaint against Metrillo for lack of evidence and directed Judge Rosales to reinstate Metrillo to his former position and to submit a report of compliance on the matter.

On March 5, 2003, the Court received Judge Rosales' compliance with the information that Metrillo was never removed from the service and that he continued to occupy his position.

In a resolution dated February 9, 2004, this Court referred this matter to the OCA for evaluation, report and recommendation.

The OCA, in its memorandum dated August 3, 2004, gave its own assessment and recommendation of the case:

We agree with Presiding Judge Arcadio R. Manigbas, RTC, Branch 6, Tanauan City, Batangas that the prosecution failed to establish that accused Moreno L. Magtibay acted in conspiracy with accused Bienvenido Precilla. The prosecution failed to prove that respondent participated in the commission of the offense as charged. It is a solemn mandate of the Constitution that an accused is presumed innocent until the contrary is proven. In order to overcome that presumption nothing but proof beyond reasonable doubt must be established. That burden is never shifted to the accused or diminished by the weakness of the defense. For indeed, unless the prosecution discharges that burden, the accused need not even offer evidence in his behalf. He would be entitled to an acquittal. (People vs. Garcia, 215 SCRA 349).

Although not criminally liable, respondent may be held administratively liable. Administratively, respondent Magtibay is not entirely without fault. He has himself to blame for his implication in the extortion activity of Bienvenido M. Precilla. If indeed, there was intention on his part to assist complainant Hidalgo, he should have referred her to the Branch clerk of Court of RTC, Branch 6, Tanauan City, and not to Bienvenido Precilla who was merely a jail officer detailed at that branch. Neither he nor accused Precilla has any authority to deal in matters involving the release of an accused.

Magtibay's referral to accused Precilla indicates his intention to connive with the latter in extorting money from complainant. The decision rendered by Judge Manigbas in Criminal Case No. 01-10-611 states that the evidence for the prosecution clearly showed that Magtibay instructed complainant Hidalgo to hand the money to accused Bienvenido Precilla. Although the prosecution failed to establish that there was concert of design or that the element of cooperation was present, still it implied that he had knowledge of the offer of money.

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IN THE LIGHT OF THE FOREGOING, it is respectfully recommended that Process Server Moreno L. Magtibay, Regional Trial Court, Branch 83, Tanauan City, Batangas be **SUSPENDED** for a period of six (6) months. It is further recommended that respondent be **WARNED** that a repetition of the same or similar acts in the future shall be dealt with more severely.[10]

After a thorough review of the records, we agree with the findings of the OCA, except the recommended penalty of a six-month suspension.

The acquittal of Magtibay in the criminal case does not prove his trustworthiness in the discharge of his duties as an employee of the court. In administrative cases, only such amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion is needed.[11] If Magtibay's intention was to assist Hidalgo, why did he accompany her to Precilla, a mere jail officer without authority to release a prisoner, to seek his help, instead of referring her to the branch clerk of court of RTC-Br. 6, the person who could give her the needed assistance? A reasonable mind can easily deduce that Magtibay had less than an honorable intention that was not in keeping with the behavior of an officer of the court who was obliged at all times to avoid the slightest hint of anomaly and corruption.

His pretension that he had no knowledge of the offer of money hardly deserves credence. The NBI agents witnessed how he asked Hidalgo to give the grease money to Precilla. Hidalgo swore that, since January 2001, Magtibay and Precilla had already been asking money from her, in the amount of P3,000 for every bail bond

approved. In PNP Criminal Investigation Command vs. Landicho-Lintao,[12] we held:

The scourge of corruption in office, in any form, must be abated as it is a wasting disease that respects no social class and infects those who are morally weak. Our fundamental law which manifests our collective sentiment in this regard provides that "(t)he state shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption."

Magtibay has clearly demonstrated his failure to observe the standard of conduct and behavior required of an employee in the judiciary and he cannot avoid responsibility for his acts. He has shown beyond doubt his unfitness for public office. The judiciary must be cleansed of corrupt employees like Magtibay or run the risk of eroding the public's confidence.

A public office is a public trust and public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice and lead modest lives.[13] Indeed, the image of the court of justice is necessarily mirrored in the conduct even of minor employees, thus they must preserve the judiciary's good name and standing as a true temple of justice.[14] This Court has often reminded its personnel of the high norm of public service it requires:

[W]e condemn and would never countenance any conduct, act, or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability and diminish or even just tend to diminish the faith of the people in the Judiciary. Every one connected in the task of delivery of justice, from the lowliest employee to the highest official, must at all times be fully aware of the sacramental nature of their function."[15]

WHEREFORE, premises considered, respondent process server MORENO L. MAGTIBAY is hereby DISMISSED from the service with forfeiture of his retirement benefits except earned leaves, if any, and with prejudice to his reinstatement in government service, including government-owned or controlled corporations.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, and Tinga, JJ., concur.

Carpio-Morales, Callejo, Sr., Azcuna, and Chico-Nazario, JJ., on leave.

[1] Lifted from the Order on Magtibay's Demurrer to Evidence dated November 28, 2003, issued by Judge Arcadio R. Manigbas of the RTC-Br. 6 in connection with Crim. Case No. 01-10-611.

[2] Rollo (A.M. No. P-02-1661), p. 12.

[3] Rollo (A.M. No. P-02-1661), p. 13.

[4] Rollo (A.M. No. P-02-1661), pp. 17-18.

[5] Rollo (A.M. No. P-02-1661), p. 37.

[6] Rollo (A.M. No. P-02-1661), p. 70.

[7] Rollo (A.M. No. P-02-1661), pp. 89-90.

[8] Rollo (A.M. No. P-03-1687), p. 2.

[9] Rollo (A.M. No. P-03-1687), pp. 11-12.

[10] Rollo (A.M. No. P-02-1661), pp. 128-129.

[11] Mamba vs. Judge Garcia, 412 Phil. 1. (2001).

[12] 346 Phil. 757 (1997).

[13] Sec. 1, Art. XI of the 1987 Constitution.

[14] Pizarro vs. Villegas, A.M. No. P-97-1243, 20 November 2000, 345 SCRA 42; Marquez vs. Clores-Ramos, 391 Phil. 1 (2000).

[15] Maningas vs. Barcenas, 376 Phil. 69 (1999).

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