

ALFONSO L. VELASCO (ON BEHALF OF HIS WIFE ERLINDA VELASCO), COMPLAINANT, VS. MA. LOURDES C. PASCUAL, STENOGRAPHIC REPORTER III, AND JOSEPHINE G. CRUZ, CLERK III, BOTH FROM THE R...

A.M. No. P-94-1056. June 29, 1995

Ponente: PUNO, J.

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PUNO, J.:

At bench is an administrative complaint,[1] dated March 1, 1994, filed by ALFONSO L. VELASCO, on behalf of his wife Erlinda C. Velasco, against respondents MA. LOURDES C. PASCUAL, Stenographic Reporter III, and JOSEPHINE G. CRUZ, Clerk III, both from the Regional Trial Court, Branch 74, Malabon, Metro Manila, for gross misconduct and dishonesty.

It appears that ERLINDA C. VELASCO, the wife of complainant Alfonso Velasco, was a stenographic reporter at Branch 74 of the Malabon Regional Trial Court (RTC). On December 6, 1993, Erlinda went on sick leave. Earlier, however, she applied for a salary loan with the Government Service Insurance System (GSIS) to finance her medical operation. Complainant charged that while his wife Erlinda was on leave, respondent MA. LOURDES PASCUAL, stenographic reporter and colleague of Erlinda in said court, conspired with another court employee, JOSEPHINE G. CRUZ, forged Erlinda's signature and encashed her GSIS salary loan check in the amount of five thousand pesos (P5,000.00).

As Erlinda was still indisposed, her husband Alfonso Velasco followed-up the release of Erlinda's salary loan check with the GSIS. He was informed that the check was already dispatched to the payee and received by respondent Josephine Cruz, Clerk III, Branch 74, Malabon RTC, on January 4, 1994.[2] He then proceeded to Malabon RTC to inquire about the check. Respondent Cruz admitted that she gave the GSIS check to respondent Pascual who was able to encash it by forging Erlinda's signature.

Complainant also charged that the same respondent Josephine Cruz also forged, encashed and misappropriated Erlinda's 1993 Christmas bonus (13th month pay) check in the amount of two thousand two hundred seventy pesos (P2,270.00).

Deputy Court Administrator Juanito A. Bernad directed respondents to comment on the charges.[3] In compliance therewith, respondents submitted their respective comments.

Respondent Pascual denied the charge. She claimed that on December 2, 1993, at about 12:00 noon, Erlinda told her that she would be leaving the office that day to meet her husband and they would fetch her mother-in-law that afternoon. Erlinda allegedly left instructions, saying: "Bahala ka na ulit dito, ha. Kung hindi ako makabalik agad, bahala ka na. `Yung mga utang ko, alam mo naman lahat iyon, saka kilala mo naman kung sino sila, bahala ka na." Since that day, however, Erlinda has not reported back to their office.

On December 15, 1993, the creditors of Erlinda went to their office looking for her. Pascual informed them that

Erlinda was still on leave but told them that Erlinda instructed her to take care of the loans. However, she could not apply Erlinda's weekly salary for payment of the loans for the check representing Erlinda's weekly salary was in the possession of the branch clerk of court.

From December 15, 1993 to January 18, 1994, Erlinda's creditors frequented their office and pressured Pascual, who acted as guarantor for said loans, to pay for Erlinda's debts.

In January 1994, while Pascual was going through a bunch of letters, she came upon the GSIS salary loan check of Erlinda. She encashed the check and used its proceeds to pay the obligations of Erlinda. Thus, on January 18, 1994, she paid Erlinda's loan to Aling Soly in the amount of P300.00. She then went to Super Jeans store where Erlinda was indebted in the amount of P1,363.00 and made an initial payment in the amount of P300.00.[4] She promised Super Jeans store that she would pay the balance of P1,063.00 after she has talked with Erlinda. Three (3) other creditors of Erlinda were yet to be paid hence, Pascual set aside the money due to them, including the P1,063.00 due to Super Jeans and placed them in her drawer. She then deposited the balance of the proceeds in her bank account pending Erlinda's return.

Days later, Pascual allegedly saw Erlinda's husband, Alfonso, outside their office. She claimed that she approached Alfonso and inquired about Erlinda's condition. She learned that Erlinda was in the hospital. She went back to her office to get the receipts for the payments she made and her automatic teller machine (ATM) card but when she went out of the office, Alfonso had left.

She then reported the matter to her supervisor, Judge Bienvenido Reyes, who advised her to inform Alfonso Velasco about the payments she made. She allegedly tried to call up Alfonso but failed to contact him.

On February 25, 1994, Imelda Isig, a niece of Erlinda, went to their office inquiring about the proceeds of the GSIS check. Pascual and a co-employee, Julieta C. Montevilla,[5] accompanied Isig to the bank where Pascual withdrew the amount of P2,337.00, representing the balance of the proceeds, and handed this money to Isig to be turned over to Erlinda.

On March 2, 1994, when Pascual learned that Alfonso Velasco paid Erlinda's outstanding debt at Super Jeans, Pascual asked the court's process server, Josefino L. Cebuma, to pass by Erlinda's house and give her the money in the amount of P2,100.00. However, when Cebuma went to the house, Erlinda and her husband were not around. So, Cebuma left the money with Erlinda's maid.[6]

Upon the other hand, respondent JOSEPHINE G. CRUZ, Clerk III, denied complicity in the encashment of Erlinda's GSIS check. She explained that as clerk, her function was to receive mail matters addressed to the court. Upon receipt, she deposits these papers on a table inside their office where the court employees themselves sort out which mail belongs to them. She followed this procedure when she received the GSIS check of Erlinda. She denied giving the check to Pascual. She pointed out that Pascual herself admitted in her Answer that she chanced upon the check on top of the table while checking on her mail.

Relative to the 1993 Christmas bonus check of Erlinda in the amount of P2,270.00, Cruz admitted encashing said check but alleged that she did it with the knowledge and consent of Erlinda.[7] She claimed that in April 1993, when Erlinda learned that she was looking for a maid, Erlinda offered to give her one of her housemaids whose monthly salary was P700.00. However, Erlinda asked for an advance payment of P700.00 which the maid allegedly owed her. Cruz accepted the offer and gave Erlinda the P700.00. Unfortunately, the maid stayed with her for only a day and returned to Erlinda's house the following day. She asked Erlinda for a refund of the P700.00 she paid. Erlinda begged off and promised she would pay her upon receipt of the checks she was expecting.

On the last week of June 1993, the court employees' checks representing their mid-year Christmas bonus came. Erlinda was then on vacation leave. Cruz sent word to Erlinda inquiring about the payment of her P700.00 debt. Erlinda allegedly gave her permission to encash her check, deduct the P700.00 debt and turn over the balance of the proceeds to Erlinda or to a person authorized by the latter. When Erlinda's husband, Alfonso Velasco, came to the office, she readily gave the balance of the check in the amount of P1,570.00, without asking for a receipt. However, she claims that the transaction was witnessed by one of her officemates, Helen Ramirez. An Affidavit of Ramirez[8] was attached to the Answer.

In a Resolution, dated August 15, 1994,[9] this Court referred the complaint to Acting Executive Judge Benjamin Antonio of the RTC of Malabon for investigation, report and recommendation.

At the hearing, Erlinda Velasco filed her Affidavit[10] corroborating the allegations in the complaint filed by her husband. Respondent Josephine Cruz filed her answer to the complaint, adopting in toto the allegations in her Verified Comment earlier submitted to Court Administrator Bernad.[11] Respondent Pascual failed to appear at the last hearing and did not submit an Answer. By agreement of the parties, the case was deemed submitted for resolution.

In his Report of February 17, 1995, Judge Antonio found the acts of respondents as constitutive of gross misconduct and dishonesty. He recommended their suspension for six (6) months without pay.

We agree.

A review of the records shows that neither of the respondents denied encashing Erlinda's checks. Instead, respondents seek exculpation on the fact that they applied a portion of the proceeds of said checks to Erlinda's monetary obligations and that Erlinda, before going on leave, allegedly gave them permission to do so. Erlinda, however, claimed otherwise. She insists that she did not give respondents any authority, written or verbal, to encash her checks precisely because she has been reserving the proceeds of the checks for her medical operation. We give more credence to the representations of Erlinda. Respondents' stance is bereft of any critical corroboration. Thus, respondent Cruz alleged that before encashing Erlinda's 1993 Christmas bonus check, she allegedly "sent word" to Erlinda reminding the latter about her P700.00 debt. Noticeably, however, respondent Cruz' Answer failed to categorically state how she "sent word" to Erlinda and asked the latter's permission to encash the check and deduct the P700.00 from the proceeds thereof.

Be that as it may, the evidence shows that in her Affidavit, Erlinda did not corroborate the allegation in the complaint filed by her husband that respondents appropriated the proceeds of her checks. In failing to confirm this allegation, Erlinda, in effect, acknowledged that part of the proceeds of her checks was indeed applied in payment of her obligations and that the balance of the proceeds was duly remitted by respondents to Erlinda's representatives. Neither did Erlinda deny that she had outstanding obligations to the alleged creditors to whom respondents made the corresponding payments. Thus, we are unable to conclude from the evidence that respondents misappropriated the proceeds of Erlinda's checks.

We thus concur with the conclusion of the investigating judge that respondents' acts of encashing Erlinda's checks without her knowledge and authority constitute gross misconduct and dishonesty. We add that they are also unjustifiable invasions of and undue interference with Erlinda's private affairs.

IN VIEW WHEREOF, respondents MA. LOURDES PASCUAL, Stenographic Reporter III and JOSEPHINE CRUZ, Clerk III, both from the Regional Trial Court, Branch 74, Malabon, Metro Manila are meted the penalty of SIX (6) MONTHS SUSPENSION WITHOUT PAY. Respondents are likewise admonished that repetition of the same or similar act in the future shall be dealt with more severely by this Court. Let a copy of this Decision be

attached to the personal records of respondents.

SO ORDERED.

Narvasa, (Chairman), Regalado, and Mendoza, JJ., concur.

[1] Rollo, pp. 30-31.

[2] As per records of the Kalookan City postal office.

[3] 1st Indorsement, dated April 11, 1994, Rollo, p. 29.

[4] Official Receipt, dated January 18, 1994, Annex "3", Answer, Rollo, p. 9.

[5] Affidavit of Juliet Montevilla, dated April 27, 1994, Rollo, p. 7.

[6] Affidavit of Cebuma, dated April 27, 1994, Rollo, p. 8.

[7] Comment of respondent Cruz, dated March 15, 1994, Rollo, pp. 10-13.

[8] Rollo, p. 15.

[9] *id.*, p. 24.

[10] *id.*, p. 47.

[11] *id.*, pp. 52-57.

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