

SOL M. SIPIN, COMPLAINANT, VS-. GLORIA GIRONELLA, RESPONDENT.

Adm. Matter No. 2758-P. June 29, 1982

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

In a sworn complaint dated January 27, 1982, Sol M. Sipin charges Gloria Gironella an employee in the Criminal Section, Docket Division, Court of First Instance of Manila, the respondent in this administrative matter with "conduct prejudicial to the best interest of the service and for un-lawful failure to pay just debt." Complainant alleges that on February 1, 1978, respondent received from her several pieces of jewelry amounting to P4,900.00 with the agreement to sell the same for cash and for her to receive a commission if able to sell, or to return the said pieces of jewelry immediately or upon demand; that when she demanded from re-spondent the proceeds of the sale and for the return of the several pieces of jewelry taken by her, the latter said that she will return them as soon as possible; that notwithstanding the lapse of about two (2) months, and despite repeated demands, respondent failed and refused, and still fails and refuses, to return the said pieces of jewelry and instead, she kept on hiding whenever complainant went and visited her at home or in her office; and that up to the present, respondent has not yet paid or returned the aforesaid pieces of jewelry.

In her counter-affidavit [1]respondent admitted having incurred the obligation for which reason, a estafa case was filed against her before the City Court of Manila. However, she claimed that she was not given the chance to defend herself, or to present any evidence to support her innocence; that the persons to whom she sold the jewelries on credit have failed to pay her, which is the reason why she is now shouldering the burden of paying for the jewelries; that she and complainant have agreed before the Court that she will pay the amount in installment; and that she has already paid complainant the amount of P1,630.00, leaving a balance of P3,270.00, con-trary to the allegation that she wilfully refuses to pay her just debts.

The Court Administrator, now Associate Justice Lorenzo Relova, in his memorandum states thus:

"Considering respondent's admission of her failure to return the pieces of jewelry or their value despite complainant's repeated demands, we respectfully submit that her lia-bility is sufficiently established and no further investigation is necessary.

"Section 36 (b) (22) of Presidential Decree No. 807 provides as one of the grounds for disciplinary action

"(22) Wilful failure to pay just debts x x x;

"x x x x x x x x"

"Section 19(n), Rule XVIII, B, of the Civil Service Rules reiterates the foregoing provisions and defines the term "just debts" as follows:

"The term 'just debts' shall apply only to:

- (1) claims adjudicated by a court of law, or
- (2) claims the existence and justness of which are admitted by the debtor."

In Administrative Matter No. P-1808, entitled: Aurora Flores vs. Rosario Tatad, Assistant Librarian, Court of Agrarian Relations, Quezon City, the First Division of this Court in its decision promulgated on March 31, 1980, said:

"With the respondent's admission of the existence and justness of her indebtedness and her failure to pay the same, disciplinary administrative action is proper. Her submission that her failure to pay 'is not deliberate but due to force of circumstances' will not exclude her from the scope of the aforequoted provisions. Neither would the pendency of a civil case against respondent for collection of her debt bar this administrative suit, the thrust of which is directed at respondent's actions unbecoming of a public official.

"Under Civil Service Commission Memorandum Circular No. 8, series 1970, the administrative offense of wilful failure to pay just debts is classified as a light offense calling for a fine or suspension from one (1) day to thirty (30) days. The Court Administrator has recommended suspension of fifteen (15) days without pay, which we find reasonable.

"WHEREFORE, respondent Rosario Tatad is hereby suspended from office for fifteen (15) days without pay for wilful failure to pay just debts, an act unbecoming of a public official."

"In instant case, respondent also admitted having received the jewelries in question which she claimed sold on credit to persons who failed to pay her and for which reason "I am now shouldering the responsibility of paying for the amount of the jewelries these persons got and the complainant and I have agreed before said court that I will pay the amount in installment for said jewelries and which I am now doing."

"In line with the decision of this Honorable Court in the aforesaid Administrative Matter No. P-1808, the undersigned respectfully recommends that respondent Gloria Gironella be suspended from office for fifteen (15) days without pay for wilful failure to pay just debts, an act unbecoming of a public official."

We find the recommendation reasonable and fair under the attendant circumstances and hereby adopt the same.

Accordingly, respondent Gloria Gironella is hereby **SUSPENDED** from office for fifteen (15) days, without pay for wilful failure to pay just debts.

SO ORDERED.

Barredo, (Chairman), Aquino, Guerrero, and Escolin, JJ., concur.

Concepcion, Jr., J., joined J. Abad Santos in his dissent.

Abad Santos, J., dissent. What is punished by statute is wilful failure to pay just debts. Accordingly, the debt must not only be a just one, there must also be a wilful failure to pay it. In the instant case while there is admittedly a just debt, the failure to pay it is not wilful. In fact, the respondent is now paying her debt albeit in installments in accordance with her agreement with the complainant. I vote for exoneration.

[1] p. 7, Rollo.

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