

CHITO VALENTON AND BANING ANG, COMPLAINANTS, VS. ALFONSO MELGAR, DEPUTY SHERIFF, RTC, BRANCH 6. BAGUIO CITY, RESPONDENT.

A.M. No. P-92-698. March 03, 1993

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PER CURIAM:

These are two (2) separate administrative complaints for misconduct filed against respondent Alfonso Melgar, in his capacity as Deputy Sheriff of the Regional Trial Court of Baguio City, Branch 6.

In a letter[1] dated 20 January 1992, complainant Chito Valenton alleged that respondent failed to return to him, despite verbal demands, the amount of P17,290.00 which he gave to the respondent. The said amount represents the purchase price of various items sold to the complainant and his partner Renato Pagdanganan, in a public auction sale conducted on 3 October 1991, in connection with the execution proceedings in Civil Cases Nos. 284-R and 300-R both of the RTC of Baguio City, Branch 6. Complainant also claimed that the reason they (he and his partner) participated in the auction sale and bought the items sold therein consisting of wooden beds, foam pillows and mattresses was because respondent gave them an assurance that they would be allowed to take over the management of the hotel being operated by the defendant in the afore-mentioned cases.

Another complaint[2] was also lodged by Baning Ang against respondent, for failure to return the amount of P5,000.00 entrusted to respondent by the complainant, to be used as payment for the publication expenses of the auction sale of the property of the defendants in Civil Case No. 1440-R, RTC of Baguio City, Branch 6, to satisfy the judgment debt. Complainant alleged that the money given by her to respondent was not used to pay the publication expenses, for the same was shouldered by the defendants in the said case. Despite verbal demands, respondent failed to return the money entrusted to him by the complainant.

Judge Ruben C. Ayson, Executive Judge of the RTC, Baguio City and presiding Judge of Branch 6 ordered respondent to submit his explanation to the charges filed against him.[3] In compliance with said directive, respondent explained that out of the P17,290 allegedly given to him by Chito Valenton, only P12,290.00 were actually received by him as payment for the items bought at public auction. Respondent claimed that said amount was already remitted to the prevailing party to satisfy the judgment of the trial court. Respondent likewise denied having given any assurance to the complainant and his partner that they would be allowed to take over the management of the hotel being operated by the defendant in Civil Case Nos. 284-R and 300-R, as well as having received an additional amount of P5,000.00 claimed by the complainant as part of the purchase price of the items sold.[4]

Respondent, however, admitted having received the amount of P5,000.00 from complainant Baning Ang and his failure to immediately return the same upon demand. He raised as a defense the fact that he had already returned the amount of P3,000.00 to the complainant, leaving a balance of only P2,000.00; that his financial condition prevented him from returning the said balance upon demand.[5]

On 25 February 1992, the Executive Judge of Baguio City forwarded the complaints filed against respondent to

the Office of the Court Administrator, for appropriate administrative action.[6]

In a resolution[7] dated 15 June 1992, this Court ordered herein respondent to file his consolidated answer to the separate charges filed against him. In his answer,[8] respondent reiterated his denial of the allegations in the complaint filed by Chito Valenton. However, he admitted that there was delay on his part in returning the money he received from Baning Ang. As his defense, respondent claimed that his failure to return said amount was not predicated on bad faith nor tainted with dishonesty, and that the money has already been fully paid or returned to the complainant.

The Sheriff's Return of Service in connection with Civil Cases Nos. 284-R and 300-R,[9] specifically states that the amount of P12,290.00 received by respondent from the complainant's partner Renato Pagdanganan, as the highest bidder, was remitted by respondent to the prevailing party in the case, as proceeds of the auction sale. In the absence of any evidence to the contrary, we find no reason to doubt the veracity of said sheriff's return. Complainant Valenton's demand for the return of the price he paid for the items he bought at the auction sale is no longer feasible. The sale of said items has already been concluded and the same may no longer be rescinded.

No evidence was presented by complainant Chito Valenton to prove his allegations regarding the additional amount of P5,000.00 he supposedly gave to respondent as part of the purchase price. He failed to show any receipt to prove that respondent received from him the said amount in addition to the P12,290.00. Likewise, the complainant failed to substantiate his claim that respondent assured him and his partner that they would be allowed to take over the management of the hotel operated by the defendant in the case. Mere allegations without any evidence to support the same will not prevail.

As to the charges filed by Baning Ang, the fact that respondent subsequently paid back on installment basis the money entrusted to him in his capacity as sheriff, is no defense. Said money was given to him in his official capacity by virtue of his office as deputy sheriff, for the specific purpose of paying the publication expenses in the sale of defendant's property to satisfy the judgment debt. The undue delay in the return of the P5,000.00 entrusted to respondent by the complainant leads to only one conclusion and that is, that respondent had misappropriated said amount for his own personal use. Such act constitutes grave misconduct and/or gross dishonesty. His financial problems do not justify his act of appropriating for his personal use the money entrusted to him by the complainant.

The Court notes that this is not the first time that a complaint for misconduct has been filed against herein respondent. In Administrative Matter No. P-90418,[10] respondent was found guilty for misconduct by this Court, for using, for his personal benefit, a vehicle owned by the defendant in Civil Case No. 909-R ordered attached by the trial court. As a result, respondent was suspended from office for three (3) months without pay with a warning that the commission of a similar or grave offenses in the future would be dealt with more severely.

This Court has emphasized time and time again that the conduct and behavior of every one connected with an office charged with the dispensation of justice, from the presiding judge to the sheriff and to the lowliest clerk should be circumscribed with the heavy burden of responsibility. Their conduct, at all times, must be characterized with propriety and decorum, but above all else, must be above and beyond suspicion. For every employee of the judiciary should be an example of integrity, uprightness and honesty.[11]

In the performance of his functions as deputy sheriff, records show that respondent has a propensity for dishonesty and unduly enriching himself by taking advantage of his position, for this is not the first infraction of the same nature which he has committed. His previous suspension from office for three (3) months meted out by this Court with a warning that the commission of a similar or grave offenses in the future would be dealt with more severely has failed to serve as a deterrent from committing further acts of dishonesty. Therefore, to allow

him to continue in office would be prejudicial to the administration of justice and the best interest of the public service.

WHEREFORE, respondent is declared guilty of grave misconduct prejudicial to the best interest of the service and is hereby DISMISSED from office, with prejudice to re-employment in any branch of the government, including government-owned or controlled corporations.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Campos, Jr., and Quiason, JJ., concur.

[1] Rollo, p. 5

[2] Rollo, p. 9

[3] Rollo, p. 9

[4] Ibid., p. 8

[5] Ibid., p. 13

[6] Ibid., pp. 3-4

[7] Rollo, p. 18

[8] Ibid., pp. 19-20

[9] Ibid., p. 26

[10] Natividad vs. Melgar, Third Division, promulgated on 3 September 1992, Rollo, pp. 31-40

[11] Llanes v. Borja, Adm. Matter No. P-86-32, 10 December 1990, 192 SCRA 288; Annang v. Vda de Blas, Adm. Matter No. 91-602, 15 October 1991, 202 SCRA 635.

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