FELICIDAD JACOB, COMPLAINANT, VS. JUDITH T. TAMBO, CLERK II, MUNICIPAL TRIAL COURT, URDANETA, PANGASINAN, RESPONDENT.

A.M. No. P-00-1411 (Formerly OCA IPI No. 98-489-P). November 16, 2001

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For our resolution is the administrative complaint[1] filed on July 15, 1998, by Felicidad Jacob against Judith T. Tambo, Clerk II of the Municipal Trial Court, Urdaneta, Pangasinan, for dishonesty and/or grave misconduct.

Earlier, on February 23, 1998, Jacob filed a criminal complaint for estafa against Tambo. Attached to Jacob's letter-complaint before us is the complaint-affidavit she filed with the prosecutor's office.[2]

Jacob alleged that she and her co-heirs substituted for her deceased father as plaintiffs in Civil Case No. 4145, entitled Julian Jacob v. Domingo Madriaga and Juanita Madriaga, an action for redemption. In connection with the case, she deposited with the trial court the sum of P66,000.00 representing the redemption price. Said amount was received by respondent who issued a receipt therefor.[3] In an order dated November 12, 1997, Civil Case No. 4145 was dismissed by the trial court for lack of jurisdiction.[4] Consequently, on January 27, 1998, complainant, through counsel, filed a motion to withdraw the deposit she had earlier made. The trial court acted favorably on said motion and in two orders, one dated February 3 and the other February 6, 1998, directed respondent to refund the amount to complainant. Respondent, however, failed to do so prompting Judge Aurora A. Gayapa, presiding judge of the MTC, Urdaneta, Pangasinan, to refer the matter to the Office of the Court Administrator for the institution of the proper action against respondent.[5]

Up to the time of the filing of the criminal complaint, respondent still failed and refused to refund the money, despite repeated demands from complainant. According to complainant, respondent had misappropriated the money for her personal benefit, to the prejudice of complainant.

In her comment dated June 28, 1999, respondent admitted receiving the money from complainant. She knew that it was in connection with Civil Case No. 4145 but she did not know what exactly the money was for. She explained, however, that she released the money on May 13, 1997, to one Felicidad Parayno, who allegedly presented to her a letter signed by complainant authorizing Parayno to withdraw the amount. Respondent pointed out that Parayno even signed a receipt acknowledging that she took the money on behalf of complainant.[6] Respondent claimed that she relied in good faith on the authorization letter presented by Parayno. She also claimed that she could not have complied with the orders of Judge Gayapa to return the money since she was on leave at that time.[7]

Respondent stressed that she had never been dishonest or negligent in the performance of her duties. Neither had she taken advantage of her position to defraud any litigant. She denied that she misappropriated the money nor converted it to her personal benefit. She asked that the instant complaint be dismissed for lack of merit.

Attached to respondent's comment was an affidavit executed by Parayno corroborating respondent's claims.

Parayno stated that she indeed received from respondent the amount of P66,000.00, but Parayno added that it was her personal money. Also attached to said comment was an affidavit by Judge Orlando Ana F. Siapno, former presiding judge of the Urdaneta MTC, who appointed respondent as cash collection clerk. Judge Siapno stated in his affidavit that appointment to said position is based on a person's integrity, honesty, loyalty, and faithful dedication in the performance of his duties.

On August 28, 2000, complainant executed an affidavit of desistance relative to the complaint for estafa she filed against respondent, stating that she had already received the money from Parayno.[8] A motion to dismiss the criminal case was filed on August 30, 2000, by the prosecutor[9] and on September 18, 2000, the case was dismissed.[10] Subsequently, in a manifestation dated September 27, 2000, respondent asked that the administrative complaint against her be likewise dismissed.

In a letter received by the Court on October 9, 2000,[11] complainant informed the Court that she was no longer pursuing the charges against respondent. She stated that she was angry at Parayno at the time she filed the complaint and thought that respondent was Parayno's co-conspirator.

We must state at the outset that an affidavit of desistance will not automatically result to the dismissal of an administrative case or to the exoneration of respondent. This is because the complainant is merely a witness in an administrative case. He cannot, by his desistance, divest this Court of its jurisdiction to investigate the truth regarding his complaint.[12] This Court has an interest, apart from complainant's own, in determining the truth and, when necessary, imposing sanctions against erring court employees. In Caseñares v. Almeida, Jr., we held:

> A complaint for misconduct and similar charges against a judicial or other public officer or employee cannot just be withdrawn at any time by the simple expediency of the complainant suddenly claiming a change of mind. To rule otherwise would subvert fair and prompt administration of justice as well as undermine the discipline of court personnel.[13]

In this case, respondent readily admitted that she released the money to Parayno by virtue of an authorization letter purportedly issued by complainant. We note that, per the receipt issued by Parayno, the money was released on May 7, 1997, whereas the civil case for which the money was deposited was dismissed only on November 12, 1997. At the time respondent released the money, it was still under the custody of the court. Thus, only by a court order could the money be released, not through the mere say-so of a litigant. On this point, respondent clearly failed to observe the diligence required of a person in her position. As cash clerk, she should have been more cautious in releasing money under court custody, particularly in this case when there was no court order authorizing such release. Even if there were such an order, respondent would still be required to ensure that the money would be released to the right person.

Also, we note respondent's admission that she did not know what the money was for, just that it was a deposit for a civil case. Obviously, respondent does not keep a proper record of the money being received by her, which could cast doubt on her fitness for the job of cash clerk.

As regards respondent's failure to comply with Judge Gayapa's orders asking her to return the money and to explain her continued failure to do so, we find respondent's explanation that she was on leave at the time unpersuasive. She could have easily complied with said orders when she came back from her leave in the first week of March 1998. Belated compliance, with the proper explanation, is better than ignoring the orders altogether. Respondent stated in her supplemental comment, dated September 27, 2000, that she explained the matter to Judge Gayapa upon her return. However, there is nothing on record that would corroborate this claim.

In all, we find respondent to have been negligent in the performance of her duties as a court employee. The Office of the Court Administrator recommended that she be fined in the amount of P1,000.00 and warned against a

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repetition of the same or similar act. On this recommendation, we are fully in agreement.

WHEREFORE, respondent Judith T. Tambo, Clerk II, Municipal Trial Court, Urdaneta, Pangasinan, is found GUILTY of neglect of duty and is hereby FINED in the amount of P1,000.00, with a warning that a repetition of the same or similar act will be dealt with more severely.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

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[1] Rollo, p. 1.

[2] Id. at 2-3.

[3] Id. at 4.

[4] Id. at 5.

[5] Id. at 6.

[6] Parayno was identified as a co-accused in the Information for estafa filed against respondent. In a counter-affidavit, Parayno stated that the signature in the authorization letter she presented to respondent was complainant's genuine signature.

[7] Rollo, p. 35.

[8] Id. at 49.

[9] Id. at 50.

[10] Id. at 51.

[11] Id. at 52.

[12] Farrales v. Camarista, A. M. No. MTJ-99-1184, 327 SCRA 84, 94 (2000).

[13] Caseñares v. Almeida, Jr., A.M. No. P-00-1359, 324 SCRA 388, 396 (2000).

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