



Republic of the Philippines
Supreme Court
Manila

EN BANC

ANGELITO P. MIRANDA,
Complainant,

A.M. No. P-14-3270
[formerly OCA IPI No. 11-3579-P]

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,*
BERSAMIN,**
DEL CASTILLO,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN, and
JARDELEZA, JJ.

- versus -

MA. THERESA M. FERNANDEZ,
CLERK III, METROPOLITAN TRIAL
COURT, QUEZON CITY,
Respondent.

Promulgated:

November 18, 2014

X-----

DECISION

PER CURIAM:

We resolve the complaint¹ of Angelito Miranda (*complainant*) dated July 19, 2010 against Ma. Theresa M. Fernandez (*respondent*), Clerk III, Metropolitan Trial Court, Quezon City, for grave misconduct, dishonesty, estafa and other deceits.

The complaint was initially filed with the Office of the Ombudsman, docketed thereat as CPL-C-10-1343. After finding that the

* On leave.

** On leave.

¹ Rollo, pp. 12-13.

respondent is a court employee, the Office of the Ombudsman dismissed² and referred the complaint to this Court, through the Office of the Court Administrator (*OCA*) for appropriate action, pursuant to the Court's ruling in *Maceda v. Hon. Ombudsman Vasquez, et al.*³

The complainant acts as an agent of money lenders Manuel P. Miranda and Josephine Miranda Cabusao (*creditors*). On January 4, 2010, the respondent obtained a loan of ₱124,800.00 from the creditors, through the complainant. The transaction was evidenced by an Agreement⁴ between the respondent and her creditors. The Agreement provided that the amount of loan shall be paid in equal installments of ₱2,600.00 every 15th and 30th day of the month until fully paid; the first payment was to start on January 12, 2010.

As security for the loan, the respondent surrendered her ATM Card No. 1727165289 to her creditors to allow them to withdraw the amount of ₱2,600.00 every payday from her salaries deposited with the Land Bank of the Philippines (*LBP*). She undertook that "filing false Affidavits of Loss or causing any deliberate blocking of my ATM card in any form by myself, the Borrower, during this Agreement shall be a case for Perjury or Estafa." She also executed a waiver of rights⁵ under the "Bank Secrecy Law of the Philippines addressed to the Manager of the LBP, Quezon City Hall, Quezon City. At the time of the filing of the complaint, the respondent's outstanding loan was ₱103,700.00.

On July 15, 2010, the respondent's creditors went to the bank to collect the amount due from her bank account. When the respondent's ATM card was inserted into the ATM machine, it was retained by the ATM machine with the advisory receipt stating "Invalid Card."⁶ This happened because the respondent had blocked her ATM card to prevent withdrawals by her creditors. It appeared that the respondent reported to the LBP that she had lost her ATM card. The report enabled her to withdraw her salary over the counter and led to the issuance of a new ATM card in her favor.

A day after discovery of the fraud, the complainant sent the respondent a demand letter⁷ which she ignored. She continuously failed to comply with her undertaking. The complainant, acting as the representative of the creditors under a Special Power of Attorney dated July 19, 2010,⁸ filed the present administrative complaint against the respondent.

² Order dated September 27, 2010, *id.* at 2-5.

³ G.R. No. 102781, April 22, 1993, 221 SCRA 464, 468.

⁴ *Rollo*, p. 14.

⁵ *Id.* at 15.

⁶ *Id.* at 16.

⁷ *Id.* at 17.

⁸ *Id.* at 18.

In its 1st Indorsement dated January 12, 2011,⁹ the OCA required the respondent to comment on the complaint. The directive was reiterated in a 1st Tracer dated August 5, 2011.¹⁰ The Registry Return Receipts for both communications showed that the respondent had received them but failed to comply.

In a resolution dated June 10, 2013,¹¹ the Court directed the respondent to show cause why she should not be disciplined or held in contempt for her failure to file the required comment despite her receipt of the two (2) directives from the OCA, and to submit the required comment within five (5) days from receipt thereof. The resolution carried the warning, that upon further failure, the Court shall take the necessary action against her and decide the administrative complaint on the basis of the record at hand. The respondent received a copy of the June 10, 2013 resolution on July 30, 2013, but still failed to comply. Thus she is considered to have waived her right to submit controverting evidence.¹²

Executive Order No. 292 (E.O. 292), otherwise known as the Administrative Code of 1987, provides that a public employee's failure to pay just debts is a ground for disciplinary action. Section 22, Rule XIV of the Omnibus Rules Implementing Book V of E.O. 292 and Other Pertinent Civil Service Laws, as modified by the Revised Uniform Rules on Administrative Cases in the Civil Service, defines "just debts" as those (1) claims adjudicated by a court of law or (2) claims the existence and justness of which are admitted by the debtor. By the respondent's failure to file her comment on the complaint despite the OCA's two (2) directives and warning, she is deemed to have admitted the existence and justness of the claim against her. The obligation having remained unpaid since the demand was made upon her conclusively speaks of her willful refusal to settle the same.

The respondent's liability does not end there. To guaranty the monthly payments due on her loan, the respondent surrendered her ATM card to her creditors to allow the latter to withdraw her payments from her salary. However, when the payments became due, the complainant could not withdraw from the respondent's account because the ATM machine "swallowed" and retained the ATM card. The ATM machine released an advisory receipt stating "Invalid Card."

The respondent made false representations to the LBP declaring that she lost her ATM card so she could directly withdraw her salary over the bank's counter and cause the issuance of a new ATM card in her favor. She did this in violation of her undertaking that she will not

⁹ Id. at 19.

¹⁰ Id. at 20.

¹¹ Id. at 23.

¹² Id.

block her ATM card to avoid withdrawal by her creditors of the amounts due on her loan. The blocking of the ATM card she surrendered to her creditors and her act of securing a new ATM card from the LBP to avoid payment of her indebtedness constitute dishonesty and conduct unbecoming of a court employee. Dishonesty refers to the disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.¹³

The respondent has failed to file her comment on the letter-complaint despite receipt of the two (2) directives sent to her and the show cause resolution of June 10, 2013. The respondent's failure to comply with the Court's directives constitutes gross misconduct and insubordination. Misconduct is a transgression of some established and definite rule of action, or an unlawful behavior or gross negligence by a public officer; misconduct is grave if it involves any of the additional elements of corruption, such as willful intent to violate the law or to disregard established rules, as established by substantial evidence.¹⁴

CSC Memorandum Circular No. 19, s. 1999 classifies willful failure to pay just debts as a light offense punishable by reprimand for the first offense. Dishonesty and grave misconduct are both classified as grave offenses punishable by dismissal for the first offense.

It is clear that the respondent is guilty of the offenses charged. As an employee of the judiciary, the respondent is held to the highest ethical standards to preserve the integrity of the courts. These standards include the moral and legal duty to settle contractual obligations when they become due.¹⁵ To preserve decency in the judiciary, court employees must comply with just contractual obligations and act fairly and adhere to high ethical standards.¹⁶ The respondent's actions, although arising from a private transaction, stained the image of her public office. Like any other member of the judiciary, the respondent is expected to be a model of fairness and honesty not only in all her official conduct but also in her personal actuations, involving business and commercial transactions.¹⁷

The Court finds the respondent separately liable for three administrative offenses of willful failure to pay just debts, gross misconduct and insubordination and dishonesty. She has demonstrated her unfitness to be in the judiciary service, thus warranting her dismissal from the service.

¹³ *Estando-Teodoro v. Segismundo*, A.M. No. P-08-2523, April 7, 2009, 584 SCRA 18, 30.

¹⁴ *Rojas, Jr. v. Mina*, A.M. No. P-10-2867, June 19, 2012, 673 SCRA 592, 598-599.

¹⁵ *Campomanes v. Violon*, A.M. No. P-11-2983, July 25, 2012, 677 SCRA 433, 436.

¹⁶ *Re: Complaint filed by Paz De Vera Lazaro against Edna Magallanes, Court Stenographer III, Regional Trial Court, Branch 28; and Bonifacio G. Magallanes, Process Server, Regional Trial Court, Branch 30, Bayombong, Nueva Vizcaya*, A.M. No. P-11-3003, April 25, 2012, 671 SCRA 1, 5.

¹⁷ *Id.*; *In Re: Complaint for Failure to Pay Just Debts Against Esther T. Andres*, A.M. No. 2004-40-SC, March 1, 2005, 452 SCRA 654, 663-664.


Under Section 55, Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service, when the respondent is found guilty of two or more charges or counts, the penalty to be imposed should be that which corresponds to the most serious charge or count and the rest shall be considered as aggravating circumstances.

WHEREFORE, the Court finds respondent Ma. Theresa M. Fernandez, Clerk III, Metropolitan Trial Court, Quezon City, **GUILTY** of willful failure to pay just debts, gross misconduct and insubordination, and dishonesty, and accordingly orders her **DISMISSAL** from the service, with forfeiture of all benefits, except accrued leaves. She is further disqualified from holding any position in the government or in any government-owned or controlled corporation.

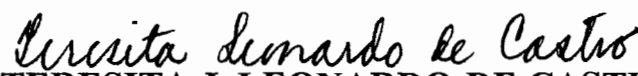
This is without prejudice to any criminal action which the complainant may pursue against the respondent.

SO ORDERED.


MARIA LOURDES P. A. SERENO
Chief Justice


ANTONIO T. CARPIO
Associate Justice


PRESBITERO J. VELASCO, JR.
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



ARTURO D. BRION
Associate Justice

(On leave)
DIOSDADO M. PERALTA
Associate Justice

(On leave)
LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice

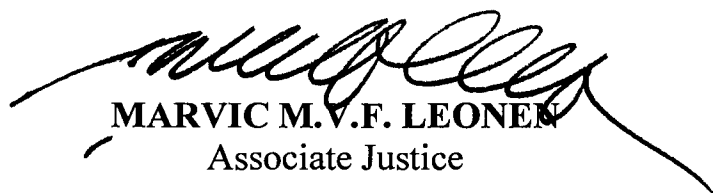




JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


BIENVENIDO L. REYES
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M. V. F. LEONEN
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice

