

SECOND DIVISION

[A.M. No. P-20-4055 (formerly OCA IPI No. 16-4544-P), September 14, 2020]

**FERDINAND VALDEZ, COMPLAINANT, VS. COURT
STENOGRAPHER I ESTRELLA B. SORIANO, 1ST MUNICIPAL
CIRCUIT TRIAL COURT (MCTC), BAGABAG-DIADI, NUEVA
VIZCAYA, RESPONDENT.**

R E S O L U T I O N

PERLAS-BERNABE, J.:

For the Court's resolution is the administrative complaint filed by Ferdinand Valdez (Valdez) against Estrella B. Soriano (Soriano), Court Stenographer I, 1st Municipal Circuit Trial Court, Bagabag-Diadi, Nueva Vizcaya (MCTC), for violation of Republic Act No. 6713 (RA 6713) or the Code of Conduct and Ethical Standards for Public Officials and Employees.^[1]

The Facts

In his Affidavit-Complaint,^[2] Valdez claimed that he is one of the defendants in a civil case for Collection of Sum of Money filed by Rural Bank of Bagabag (NV), Inc. (bank) before the MCTC, docketed as Civil Case No. 1163, entitled "*Rural Bank of Bagabag (NV), Inc. v. Ferdinand Valdez and Rose Calip.*" On April 2, 2013, the MCTC rendered its Judgment,^[3] ordering them, among others, to pay the principal loan of P16,000.00, plus 21% interest per annum, computed until the date of payment.^[4] Thus, on August 8, 2013, Valdez went to the court to inquire where he could pay the amount stated in the judgment. Soriano managed to convince him to hand over to her the amount of P16,000.00 representing the payment of the judgment obligation with a promise to deliver the same to the bank, as evidenced by the Acknowledgment Receipt^[5] signed by the former. However, Valdez was surprised when he was summoned by the bank about his unpaid judgment obligation, as shown by the Certification^[6] from the bank dated August 7, 2014.^[7] Consequently, he immediately went to the MCTC to confront Soriano but the latter did not give an adequate explanation. Further, he alleged that because of Soriano's action, his obligation incurred penalties and interests and that it was only with the help of Atty. Celerino Jandoc (Atty. Jandoc) that he managed to recover his money from Soriano, who, for fear of an administrative case, hastily went to the bank and paid the amount of P16,000.00 for and in behalf of his wife, Amelia Valdez.^[8]

In her Comment^[9] dated April 6, 2016, Soriano denied the allegations, and instead asserted that on August 8, 2013, Valdez went to the court to inquire as to where he could pay the judgment obligation in Civil Case No. 1163. In response, she told him that he could either pay directly to the bank or leave the payment with the court so that the bank could claim the amount upon notice. She also argued that Valdez

opted to leave the amount of P16,000.00 with her since she was the only employee available to receive it. Upon receipt thereof, she immediately notified the bank, through its then President and General Manager Pura C. Romero (Romero), who assured her that a collector would be sent to the court to collect the payment. Meanwhile, she kept the money inside a sealed office drawer for safekeeping. She likewise averred that she consistently reminded Romero who, in turn, repeatedly assured her that the bank would be sending someone to collect the payment. Thereafter, Atty. Jandoc came to the court on behalf of Valdez informing her that his client received a letter from the bank regarding the unsettled obligation. She informed him that the payment was never received by the bank despite repeated notices to its President and General Manager. She further alleged that out of goodwill and without waiting for the bank representative, she personally delivered the money to the bank and even paid the interests and penalties thereon^[10] as a gesture that she has no ulterior motive in keeping the money.^[11]

Replying^[12] to Soriano's Comment, Valdez belied the former's claim and pointed out that in an Affidavit^[13] dated April 29, 2016, Romero, in fact, stated among others, that since August 8, 2013, she was never notified by Soriano about the payment he made to the court. Moreover, he stressed that since the bank is a mere walking distance from the court, Soriano could have easily delivered the payment without any difficulty. Valdez also stressed that it took Soriano more than a year to do so and it was only after she was confronted and threatened with an administrative case that she hastily delivered the payment to the bank.^[14]

The Action and Recommendation of the OCA

In a Report^[15] dated May 16, 2019, the OCA recommended, *inter alia*, that Soriano be found guilty of simple misconduct and be suspended from the service for a period of one (1) month and one (1) day without pay and benefits, with a stern warning that a repetition of the same or similar offense shall be dealt with more severely.^[16]

The OCA found that Soriano indeed received the amount of P16,000.00 from Valdez as payment for the judgment obligation with a promise to deliver the same to the bank and that she kept the same for more than a year, notwithstanding the short walking distance from the court to the bank. Moreover, it noted that accepting money from the losing litigant in Civil Case No. 1163 as payment of the judgment obligation is not part of her duties as a court stenographer since there is nothing that authorizes a stenographer to collect or receive any amount from any party-litigant even during or after the termination of the case. Consequently, the OCA held that her acts of receiving the money and making Valdez believe that she will deliver the payment of the judgment obligation amounted to Conduct Prejudicial to the Best Interest of the Public Service as they tend to create in the minds of the public the impression that she would benefit from the transaction.^[17]

Nonetheless, considering that Soriano's acts were not shown to be of such gravity as to cause gross prejudice or amount to corruption, clear intent to violate the law, or flagrant disregard of an established rule, the OCA recommended that she be found guilty of simple misconduct, and considering that this is her first administrative case, she be suspended from the service for a period of one (1) month and one (1) day,^[18] pursuant to the Revised Rules on Administrative Cases in Civil Service.^[19]

The Court's Ruling

At the outset, the Court notes that while the OCA found that Soriano's acts of receiving the money and making Valdez believe that she will deliver the payment of the judgment obligation constituted Conduct Prejudicial to the Best Interest of the Service,^[20] it nevertheless recommended that she be found administratively liable for Simple Misconduct instead, considering that said acts were not shown to be of such gravity as to cause gross prejudice or amount to corruption, clear intent to violate the law, or flagrant disregard of an established rule.^[21]

After a judicious perusal of the records, the Court hereby adopts the factual findings of the OCA, but modifies Soriano's administrative liability, as will be explained hereunder.

Misconduct is defined as the violation of an established and definite rule of action, a forbidden act, a dereliction from duty, an unlawful behavior, willful in character, improper and wrong.^[22] It is well to clarify, however, that to constitute an administrative offense, misconduct **should relate to or be connected with the performance of the official functions and duties** of a public officer. Without the nexus between the act complained of and the discharge of duty, the charge of misconduct shall necessarily fail.^[23]

In this regard, case law instructs that where the misconduct committed was not in connection with the performance of duty, the proper designation of the offense should not be Misconduct, but rather, Conduct Prejudicial to the Best Interest of the Service.^[24] While there is no hard and fast rule as to what acts or omissions constitute the latter offense, jurisprudence provides that the same "deals with [the] demeanor of a public officer which 'tarnishe[s] the image and integrity of his/her public office.'"^[25] Examples of acts or omissions constituting Conduct Prejudicial to the Best Interest of the Service are as follows: seeking the assistance of an elite police force for a purely personal matter; changing the internet protocol (IP) address on a work computer to gain access to restricted websites; fencing in a litigated property in order to assert ownership;^[26] brandishing a gun and threatening the complainants during a traffic altercation; participating in the execution of a document conveying complainant's property which resulted in a quarrel in the latter's family;^[27] and forging some receipts to avoid the employee's private contractual obligations.^[28]

Here, the Court agrees with the OCA's findings that Soriano received the amount of P16,000.00 from Valdez with the promise that she will promptly deliver the same to the bank in satisfaction of the latter's judgment obligation. However, despite the lapse of more than one (1) year from her receipt thereof and the short walking distance between the court and the bank, she failed to deliver the amount and only did so after she was threatened with an administrative complaint. Notably, she did not proffer any justifiable explanation for her failure to deliver the money and worse, because of the delay in its delivery to the bank, the judgment obligation already earned interests and penalties. Evidently, her actions were not only improper, but also violative of the norm of public accountability for which she should thus be held administratively liable.

Nonetheless, Soriano's foregoing acts could not amount to administrative misconduct, as it is not within her duties as a court stenographer to collect or receive any amount from any party-litigant even during or after the termination of