

## EN BANC

[ A.M. No. 2010-21-SC, September 30, 2014 ]

**Re: ANONYMOUS LETTER-COMPLAINT ON THE ALLEGED INVOLVEMENT AND FOR ENGAGING IN THE BUSINESS OF LENDING MONEY AT USURIOUS RATES OF INTEREST OF MS. DOLORES T. LOPEZ, SC CHIEF JUDICIAL STAFF OFFICER, AND MR. FERNANDO M. MONTALVO, SC SUPERVISING JUDICIAL STAFF OFFICER, CHECKS DISBURSEMENT DIVISION, FISCAL MANAGEMENT AND BUDGET OFFICE.**

### D E C I S I O N

**BERSAMIN, J.:**

We hereby resolve the anonymous complaint denouncing the moonlighting activities of the respondents by engaging in onerous money lending activities targeting the low-income workers of the Court.

#### **Antecedents**

An undated letter-complaint<sup>[1]</sup> addressed to the Complaints and Investigation Division (CID) of the Office of Administrative Services (OAS) of the Supreme Court triggered this administrative matter. The letter-complaint, purportedly sent by a concerned employee who chose to remain anonymous, assailed the profitable money-lending with usurious interest scheme engaged in by respondents Dolores T. Lopez, an SC Chief Judicial Staff Officer, and Fernando M. Montalvo, an SC Supervising Judicial Staff Officer, both of the Checks Disbursement Division of the Court's Fiscal Management and Budget Office (FMBO). It stated that the respondents had been involved in the money-lending activities targeting the low-salaried employees of the Court like the drivers and employees of the janitorial services; that such money-lending had been going on with the help of the personnel of the Checks Disbursement Division of FMBO by enticing employees of the Court to pledge forthcoming benefits at a discounted rate; and that around 300 Automated Teller Machine (ATM) cards were surrendered by the borrowers to the respondents as collateral for the individual borrowings.<sup>[2]</sup>

On September 29, 2010, the OAS directed the respondents to comment on the letter-complaint,<sup>[3]</sup> to which they respectively complied.

In her memorandum dated September 30, 2010,<sup>[4]</sup> Lopez neither denied nor admitted the allegations against her. She dared the OAS instead to allow her to confront the complainant head on and to openly address each issue, and, in turn, she would waive the filing of the comment because the comment would be unnecessary due to anonymous complaints being a dime a dozen.<sup>[5]</sup> She insinuated that despite anonymous complaints of more serious nature against employees,

officials, and even the Justices of the Court having abounded, the OAS did not pay attention to, and did not dignify such complaints by requiring the individuals complained against to comment.<sup>[6]</sup>

In his memorandum dated September 30, 2010,<sup>[7]</sup> Montalvo dismissed the letter-complaint as maliciously sent for the purpose of tarnishing his reputation and the reputation of his office. He denied being engaged in the lending business in the Court. Like Lopez, he insinuated that the OAS had not required any comments from other employees and officials of the Court against whom more serious accusations had been raised.<sup>[8]</sup>

Lopez and Montalvo appeared before the CID on December 1, 2010 and December 8, 2010 for the clarificatory hearing.<sup>[9]</sup>

During the hearing, Lopez requested the CID to identify the anonymous complainant and to allow her to confront the latter.<sup>[10]</sup> However, the CID denied her request, explaining that there was no need to identify the complainant because she herself could either confirm or repudiate the allegations of the letter-complaint against her.<sup>[11]</sup> Being thereafter reminded of her oath to tell the truth, she relented and revised her earlier statements by clarifying that she was not denying all the allegations against her.

Specifically, Lopez denied the allegation that she had lent money to around 300 court employees, and that she had held their ATM cards in her custody as collateral;<sup>[12]</sup> but admitted having lent money to only about 20 personnel of the janitorial agency and to some low-ranking employees of the Court, like the utility workers and messengers for a period of two years,<sup>[13]</sup> with the amounts lent ranging from P500.00 to P2,000.00<sup>[14]</sup> depending upon the amounts needed and the availability of money. She said that she would receive only P10.00 for every P100.00 borrowed that she did not consider as interest.<sup>[15]</sup> She insisted that she did not require her borrowers to pay her the P10.00 for every P100.00 borrowed because they voluntarily gave her the amount; and that she did not engage in money lending because she did not offer to lend money to anyone.

Lopez acknowledged that she was the only person in the Checks Disbursement Division of FMBO who had lent money, absolving Montalvo and the other members of the staff of that office by saying that they had nothing to do with her transactions.<sup>[16]</sup> She stressed that her transactions did not result in any conflict of interest, and did not compromise the integrity of her office because her transactions had been done during break times or outside of office hours.<sup>[17]</sup>

On his part, Montalvo denied the charges against him, maintaining that the anonymous letter-complaint was a malicious attempt to damage his reputation and the reputation of his office.<sup>[18]</sup> He declared that he lent money only to closest acquaintances as was customary among friends.<sup>[19]</sup>

After completing its investigation, the CID received a second undated but still anonymous letter-complaint,<sup>[20]</sup> which alleged that Lopez had continued her lending activities at usurious rates of interest despite the pendency of the first complaint.

In her memorandum dated June 6, 2011,<sup>[21]</sup> Atty. Eden Candelaria, the Chief Administrative Officer of the OAS, directed Lopez to comment on the second complaint within five days from receipt.<sup>[22]</sup>

In response, Lopez requested for the transcripts of her testimony, and to be allowed to submit an omnibus manifestation to address the second anonymous letter-complaint.<sup>[23]</sup> On his part, Montalvo filed a motion for the immediate resolution of the letter-complaint concerning him.<sup>[24]</sup> In the resolution promulgated on October 4, 2011,<sup>[25]</sup> the Court granted Lopez's request but merely noted Montalvo's motion. It is pointed out, however, that Lopez ultimately did not file the omnibus manifestation.

### **Report & Recommendation of the OAS**

On March 24, 2011, the OAS submitted its report and recommendations,<sup>[26]</sup> whereby it recommended the dismissal of the letter-complaint against Montalvo for lack of merit;<sup>[27]</sup> but endorsed Lopez's suspension "for thirty (30) days for lending money with interest to a number of economically challenged employees and janitors; and directed her to immediately cease and desist from engaging in any form of personal business and other financial transactions, with a warning that a repetition of the same or similar act in the future will be dealt with more severely."<sup>[28]</sup>

### **Ruling of the Court**

An anonymous complaint is always received with great caution, originating as it does from a source unwilling to identify himself or herself. It is suspect for that reason. But the mere anonymity of the source should not call for the outright dismissal of the complaint on the ground of its being baseless or unfounded provided its allegations can be reliably verified and properly substantiated by competent evidence,<sup>[29]</sup> like public records of indubitable integrity, "thus needing no corroboration by evidence to be offered by the complainant, whose identity and integrity could hardly be material where the matter involved is of public interest,"<sup>[30]</sup> or the declarations by the respondents themselves in reaction to the allegations, where such declarations are, properly speaking, admissions worthy of consideration for not being self-serving.

Here, therefore, the anonymous complaint has to be dealt with, and its veracity tested with utmost care, for it points the finger of accusation at two employees of the Court for engaging in money-lending activities at unconscionable rates of interest, with low-ranking employees of the Court as their targets. That such a complaint, albeit anonymous, has been made impacts on their reputations as individuals as well as on their integrity as personnel of the Court itself. We cannot ignore the complaint, hoping that it will be forgotten, but must inquire into it and decide it despite the anonymity of the complainant. Any conduct, act or omission on the part of all those involved in the administration of justice that violates the norms of public accountability and diminishes or even just tends to diminish the faith of the people in the Judiciary cannot be countenanced.<sup>[31]</sup> It is for this reason that all anonymous but apparently valid complaints are not quickly dismissed but are justly

heard and fairly investigated and determined by this Court.

The respondents are both responsible fiduciary officers in the FMBO, the office that is in charge of all the financial transactions of the Court, including the preparation and processing of vouchers to cover the payment of salaries, allowances, office supplies, equipment and other sundry expenses, utilities, janitorial, and security services, and maintenance and other operating expenses, and the issuance of corresponding checks therefor. Indeed, the respondents discharge the delicate task of handling the payment of employees' salaries and allowances.

**1.**

**Re: Montalvo**

The Court concurs with the findings of the OAS that the complaint against Montalvo had no factual basis. His involvement in money lending was not shown to be habitual, going on only as far as accommodating his friends during their personal emergencies without imposing any interests. The statement in the letter-complaint to the effect that both respondents have been in the forefront of syndicated lending activities was not supported by any proof. It is notable that Montalvo firmly denied the allegations against him, and that Lopez corroborated his denial.<sup>[32]</sup> Accordingly, the complaint against Montalvo should be dismissed.

**2.**

**Re: Lopez**

As to Lopez, no witnesses appeared during the investigation to prove the allegations of the complaint. But the complaint should still be assessed on the basis of her several admissions in the course of the December 8, 2010 investigation to the effect that: (a) she had repeatedly<sup>[33]</sup> lent money to about 10 to 20 court employees;<sup>[34]</sup> (b) the borrowers had voluntarily paid about 10% interest on the money borrowed (i.e., P10 for every P100 borrowed);<sup>[35]</sup> (c) the money lent had ranged from P500.00 to P5,000.00;<sup>[36]</sup> (d) her regular borrowers had included the utility workers,<sup>[37]</sup> and the low-salaried court employees,<sup>[38]</sup> like court messengers;<sup>[39]</sup> (e) she had engaged in such activity for more than two years already;<sup>[40]</sup> (f) she had attended to the transactions around 3:30 o'clock in the afternoon and at times during break time;<sup>[41]</sup> (g) she had taken hold of at least 10 but not more than 20 ATM cards of her borrowers as collateral;<sup>[42]</sup> (h) the money she had lent to the borrowers had been proceeds from her Coop or SCSLA personal loans;<sup>[43]</sup> and (i) she had also accommodated her office staff whenever they did not have money in going to and from the office.<sup>[44]</sup>

In its evaluation of the anonymous complaint as to Lopez, the OAS observed and found thusly:

From the foregoing, this Office has established that Ms. Lopez is guilty of lending money with interest which at most would reach up to 10% of the total amount borrowed. While she denied that the loan is somewhat like the famously known "5-6" loan, as she denied charging the employees with usurious interest because she is just accommodating them to lessen

their financial burdens and it is the employees themselves who would insist on paying interest voluntarily, this Office nonetheless finds the act improper. Even if she was motivated solely by her earnest desire to help employees in dire need of money, the fact remains that she lends money for a consideration. It would have been different perhaps if she lends money without any "voluntary" interest as she claimed.

In fact, she is not even obliged to lend money to them. It is beyond her duty to answer every financial difficulties of the employees. While there is no law or rules and regulations which prohibits charity or generosity among court employees, what is unacceptable is her act of lending money for a consideration and within the premises of the Court on official time.

Worse, she is the Chief of the Checks Disbursement Division that handles the preparation and issuance of checks to court employees. It is beyond question that her official functions consist of, among others, the supervision of office staff. This gives us the impression that she took advantage of her position and abused the confidence reposed in her office, thus, placing at risk the integrity of the division and the whole Fiscal Management and Budget Office (FMBO). As an officer of the FMBO she can be privy of the benefits which may be given. From there, employees can borrow and/or advance money from her and where she may easily accede knowing that after all there will be benefits forthcoming.

Thus, this Office concludes that her actuation although not related to her official functions as division chief, has undeniably fell short of the high standards of propriety expected of employees of the Judiciary. It is considered as conduct unbecoming of an official of the Judiciary. It may be true that she may have temporarily helped specific individuals and have a noble intention to help employees by lending them with money, but in one way or the other, she may also have taken advantage of the employees' financial conditions because of the anticipated profit to be generated from the loans. As a result, Court employees incurred uncontrolled debts all year round where she benefits primarily because of the so called "voluntary" interest given.

Moreover, she has demeaned the image of the office which she represents, by the fact that she utilized her office in the conduct of her lending business. Courts are considered temples of justice and should never be utilized for any other purpose. Her claim that she conducts her business during lunch breaks and/or after office hours is of no moment. The fact remains that it is done within the premises of the Court and presumably inside their office where official resources are utilized. This alone is highly reprehensible. By allowing anybody to enter their office solely for the purpose of borrowing money, she has compromised the safety of the Checks Disbursement Division. The Code of Conduct for Court Employees specifically Canon I, Section 5 provides that "Court personnel shall use the resources, property and funds under their official custody in judicious manner and solely in accordance with the prescribed statutory and regulatory guidelines or procedures."