

THIRD DIVISION

[A.M. No. P-13-3160 [Formerly OCA I.P.I. No. 11-3639-P], November 10, 2014]

LOLITA RAYALA VELASCO, COMPLAINANT, VS. GERALDO C. OBISPO, UTILITY WORKER I, REGIONAL TRIAL COURT, BRANCH 113, PASAY CITY, RESPONDENT.

DECISION

REYES, J.:

This administrative case concerns the liability of a court personnel charged with allegedly soliciting and receiving money in consideration for a favorable decision in the Petition for Declaration of Nullity of Marriage filed before the trial court.

Lolita Rayala Velasco (complainant) charged respondent Geraldo Obispo (Obispo), Utility Worker of the Regional Trial Court (RTC) of Pasay City, Branch 113, with Grave Misconduct and Violation of Republic Act No. 3019^[1] relative to Civil Case No. R-PSY-10-04477-CV entitled "*Ria Samia Velasco v. Carlos R. Velasco II*" for Declaration of Nullity of Marriage.

In her letter^[2] to the Office of the Court Administrator (OCA) dated April 15, 2011, the complainant alleged that sometime in 2010, some court employees in San Pedro, Laguna introduced her to Obispo, who can allegedly help her in the filing of the Petition for Declaration of Nullity of Marriage (Petition) of her son, Carlos R. Velasco II (Carlos) and daughter-in-law, Ria Samia Velasco (Ria). According to the complainant, Obispo assured her that he can work out the annulment of marriage without the couple's appearance in court.

Immediately, Obispo demanded money from the complainant. As such, the latter issued a Metrobank check^[3] dated September 22, 2010 amounting to P75,000.00 in favor of Obispo. On November 2, 2010, the complainant made the second payment in the amount of P10,000.00.

Despite the assurance of Obispo, however, the complainant averred that the annulment of marriage did not materialize. Consequently, she demanded the return of the P85,000.00 she made in favor of Obispo. In reply, Obispo requested that the refund be made in installment. The complainant, however, did not agree and demanded that full payment be made.

On May 9, 2011, the OCA issued its 1st Endorsement and directed Obispo to submit his Comment within 10 days from receipt thereof.^[4]

On June 13, 2011, Obispo filed his Comment. He denied that he gave assurance to the complainant that he could work out the petition without the appearance of the

parties in court.^[5] For his defense, he claimed that he merely recommended to the complainant a lawyer who could handle the case and a psychologist who could conduct the required psychological evaluation of the couple. When he called up the lawyer on the cellphone, the latter informed him that he was out of town and that he would attend to the case upon his return.

To further refute the allegations against him, Obispo claimed that he merely told the complainant that Ria would appear in court only once during the time when she will give her testimony. Nonetheless, he admitted receiving from the complainant the amount of P85,000.00 as he was authorized by the lawyer to receive it on his behalf. He alleged that the money was turned over to the lawyer upon the latter's return.

Also, Obispo alleged that the Petition was, in fact, filed before the RTC of Pasay City, Branch 109. He, however, claimed that the annulment proceedings did not materialize because Ria, without the knowledge of the lawyer, withdrew the Petition^[6] for the alleged reason that she wanted to save her marriage with Carlos.

In the Memorandum^[7] dated September 12, 2013, the OCA recommended that the instant administrative complaint against Obispo be re-docketed as a regular administrative matter. The OCA found Obispo guilty of grave misconduct and violation of Canon 1, Section 2 of the Code of Conduct for Court Personnel; and, thus, recommended his dismissal from the service with forfeiture of all benefits, except leave credits, and disqualification from reinstatement or appointment to any public office including government-owned or controlled corporations.

Except for the penalty imposed, the evaluation of the OCA is well-taken.

Time and time again, the Court has stressed that the behavior of all employees and officials involved in the administration of justice, from judges to the most junior clerks, is circumscribed with a heavy responsibility. Their conduct must be guided by strict propriety and decorum at all times in order to merit and maintain the public's respect for and trust in the judiciary. Needless to say, all court personnel must conduct themselves in a manner exemplifying integrity, honesty and uprightness.^[8]

In the present case, the records of the case reveal that the conduct of Obispo fell short of this standard. By soliciting money from the complainant, even for the purpose of securing the services of a counsel and the filing of the Petition for Annulment of Marriage, among others, he committed an act of serious impropriety which tarnished the honor and dignity of the Judiciary and deeply affected the people's confidence in it. He committed the ultimate betrayal of the duty to uphold the dignity and authority of the Judiciary by peddling influence to litigants, creating the impression that decisions can be bought and sold.^[9]

In the complainant's letter to the OCA, she narrated how Obispo asked money from her, in the amount of P85,000.00, to obtain a favorable resolution in Civil Case No. R-PSY-10-04477-CV. She presented a note^[10] signed by Obispo acknowledging "receipt of the amount of P75,000.00 in check with Metrobank Check No. 1429458 dated September 22, 2010," with a further notation that states "additional cash advance by Gerry Obispo amounting to ten thousand pesos (P10,000.00) only." Moreover, Obispo admitted in his Answer receipt of the P85,000.00 from the

complainant but countered that he merely received the same upon the instructions of the lawyer he secured to handle the case for them.

Upon review of the records, however, the Court finds the defense of Obispo without merit. A review of the check presented by the complainant clearly shows that the same was made to the order of Mr. Geraldo C. Obispo which he personally encashed on September 22, 2010. Clearly, the check received by Obispo reveals that the payment was made indeed in his favor. The mere fact that he received money from the complainant inescapably creates a notion that he could facilitate the favorable resolution of the case pending before the court. Such behavior puts not only the court personnel involved, but the Judiciary as well, in a bad light.^[11]

Section 2, Canon I of the Code of Conduct for Court Personnel provides that "court personnel shall not solicit or accept any gift, favor or benefit based on any explicit or implicit understanding that such gift, favor or benefit shall influence their official actions," while Section 2(e), Canon III states that "court personnel shall not x x x solicit or accept any gift, loan, gratuity, discount, favor, hospitality or service under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the court personnel in performing official duties."

Undoubtedly, Obispo's act of soliciting money constitutes grave misconduct in office which is appalling. It is a grave offense that carries an equally grave penalty. Under Section 22(c) of Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 (E.O. No. 292) and Other Pertinent Civil Service Laws, gross misconduct is classified as a grave offense. The penalty for this offense is dismissal even for the first offense.

To temper the harshness of the rules, however, the Court has refrained from imposing the extreme penalty of dismissal in a number of cases in the presence of mitigating factors. In *Apuyan, Jr. v. Sta. Isabel*,^[12] respondent sheriffs act of soliciting 0.05% out of the 140,000,000 subject of the attachment or the amount of P50,000 before processing the garnishment of the defendant's bank account amounted to gross misconduct, dishonesty, and conduct grossly prejudicial to the best interest of the service, which under the Omnibus Rules Implementing Book V of E.O. No. 292 carried the penalty of dismissal from the service even for a first offense. Nonetheless, the extreme penalty was not imposed on the errant employee where there exists mitigating circumstance which could alleviate his culpability. Per report of the OCA, this was the first time that the respondent sheriff has been charged administratively. Thus, instead of imposing the penalty of dismissal, the respondent sheriff was meted the penalty of suspension for one (1) year.

Also, in *Baygar, Sr. v. Judge Panontongan, et al.*,^[13] respondent Tirana, Process Server of the Municipal Trial Court of Binangonan, Rizal, Branch 1, was found guilty of soliciting from the wife of the accused the amount of P3,020.00 with the promise that he would assist in facilitating the release of the accused from jail. The OCA recommended respondent Tirana's dismissal from the service with forfeiture of all retirement benefits, except accrued leave credits and with prejudice to re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations. The Court, however, found the recommended penalty of dismissal too harsh, it appearing that this was respondent Tirana's first offense in his 21 years in government service. As such, the Court ruled