

## EN BANC

**[ A.M. No. P-04-1916, August 11, 2008 ]**

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.  
ARMAN Z. PANGANIBAN, PROCESS SERVER, MUNICIPAL  
CIRCUIT TRIAL COURT, SAN FRANCISCO, QUEZON, RESPONDENT.**

**A.M. NO. P-05-2012**

**JUDGE ANICETO B. RAZO, MUNICIPAL CIRCUIT TRIAL COURT,  
SAN FRANCISCO, QUEZON, COMPLAINANT, VS. ARMAN Z.  
PANGANIBAN, PROCESS SERVER, MUNICIPAL CIRCUIT TRIAL  
COURT, SAN FRANCISCO, QUEZON, RESPONDENT.**

### DECISION

#### PER CURIAM:

As an offshoot of the Order dated 31 May 2004 issued by Judge Aniceto B. Razo (Judge Razo), acting presiding judge of the Municipal Circuit Trial Court of San Francisco, Quezon (MCTC-San Francisco), two administrative cases were lodged against respondent Arman Z. Panganiban (respondent), process server of the same court. A.M. No. P-05-2012<sup>[1]</sup> is for Grave Misconduct, while A.M. No. P-04-1916<sup>[2]</sup> charges respondent with Misappropriation.

Judge Razo issued an Order dated 31 May 2004<sup>[3]</sup> directing respondent to explain in writing why no disciplinary action should be taken against him for:

1. Exacting the amount of Four Thousand Pesos (P4,000.00) from Bethsa(i)da Puyos Marentes and El(i)no Marentes on April 6, 2003 allegedly for posting a surety bond for Jonathan Marentes who is being charge(d) of Acts of Lasciviousness. The said Jonathan Marentes was arrested on April 7, 2004 by virtue of the warrant issued by the Court on March 31, 2003. In fairness to the said accused and his mother Bethsaida Puyos Marentes and El(i)no Marentes, he was released from custody upon executing sworn statements that they entrusted to you the amount of Four Thousand Pesos (P4,000.00) for his bail but you did not turn over the money to the surety company and left the poor accused without bail.
2. For exacting the amount of Two Thousand (P2,000.00) pesos from the accused Yolanda, Jaime, Ricky, Erlito and Andres, all surnamed Rico, allegedly for the amount of the fine when in fact the accused has not pleaded guilty yet for lack of counsel to assist them in their arraignment and no judgment has been rendered by this Court at the time.

This order-memorandum is the subject of A.M. No. P-05-2012 for Grave Misconduct.

On 5 July 2004, Judge Razo sent a letter to then Court Administrator, now Associate Justice of this Court, Presbitero J. Velasco, Jr., on the alleged illegal acts committed by respondent which consisted of misappropriating P4,000 for payment of surety bond in Criminal Case No. 5900 and exacting P2,000 as fine from the accused in Criminal Case No. 5964. Judge Razo recommended administrative sanctions against respondent for acts which erode the faith and confidence of the public in the judiciary.<sup>[4]</sup> This was docketed as A.M. No. P-04-1916.

In his Letter dated 13 September 2004 in A.M. No. P-05-2012,<sup>[5]</sup> respondent attached a certification issued by Princesita A. Edades, Clerk of Court II of the MCTC-San Francisco (Clerk of Court Edades), stating that on 4 February 2004, respondent turned over to her P1,400 which Yolanda Rico (Yolanda) gave to him as fine in Criminal Case No. 5964 for Slight Physical Injuries. Respondent likewise attached a "Sinumpaang Salaysay" executed by Elino Marentes (Elino) to the effect that P4,000 was given to respondent for payment of surety bond for Jonathan Marentes (Jonathan) in a criminal case for acts of lasciviousness and that the money was returned to Elino because the surety company was blacklisted.

On 1 December 2004, the Court, in A.M. No. P-04-1916, issued a Resolution placing respondent under preventive suspension pending investigation of the complaint. The case was referred to the Executive Judge of the Regional Trial Court of Gumaca, Quezon for investigation, report and recommendation.<sup>[6]</sup>

On 6 April 2005, the Office of the Court Administrator (OCA) recommended that A.M. No. P-05-2012 be referred to the Executive Judge of the Regional Trial Court of Gumaca, Quezon, for investigation, report and recommendation. The OCA posits the view that accepting money for the purpose of obtaining a surety bond for an accused in a criminal case is not part of respondent's duties as a process server and that there appears to be a glaring conflict between Judge Razo's memorandum and the certification of Clerk of Court Edades.<sup>[7]</sup>

On 8 June 2005, A.M. No. P-05-2012 was referred to the Executive Judge of the Regional Trial Court of Gumaca, Quezon for investigation, report and recommendation.<sup>[8]</sup>

On 15 September 2005, Judge Aurora V. Maqueda-Roman, Executive Judge of the Regional Trial Court of Gumaca, Quezon (Investigating Judge), submitted her Report and Recommendation on these two administrative cases. Based on the evidence submitted by the parties, the Investigating Judge made the following findings:<sup>[9]</sup>cting the amount of Four Thousand

1. Pesos from Bethsa(id)a Puyos Marentes and El(i)no Marentes in Crim. Case No. 5900 entitled People vs. Jonathan Marentes:

As unraveled from the facts presented from the testimonies of the witnesses Arman Z. Panganiban, Clerk of Court II, Princesita Edades, El(i)no Marentes, Yolanda Rico and Godofredo Telar and from the documentary evidence presented during the investigation conducted by

the undersigned, it shows that on April 6, 2003, El(i)no Marentes gave the amount of Four Thousand pesos (Php4,000.00) to respondent Arman Panganiban in the house of Toriano Patriarca in San Andres, Quezon, intended to be posted as surety bond for Jonathan Marentes who was charged for Acts of Lasciviousness. Respondent Arman Z. Panganiban admitted this fact that he received the said amount of Php4,000.00 from El(i)no Marentes, which fact was corroborated by El(i)no Marentes and attested to by him together with Bethsaida Puyos Marentes in an affidavit dated April 11, 2003. No receipt was presented as proof of receipt of said money by respondent. Respondent failed to post the said bond for Jonathan. As a consequence Jonathan was arrested on April 7, 2003, after one (1) month the reason he averred for his failure to post the surety bond for Jonathan was that the Wilson Surety Bond Insurance Company, in Lucena ceased operation.

Striking to the mind of the Court was the testimony of Elinio Marentes that Respondent Arman Z. Panganiban voluntarily came to them and asked that the amount of Php4,000.00 be given to him to be posted as bond for her nephew. He gave the amount of Php4,000.00 on April 6, 2003 for the respondent and the latter returned the same to his nephew on May 9, 2004, without being asked to give it back. (Tsn, March 9, 2005, p. 5).

But undersigned was more baffled when although admitting he received the amount from Elinio Marentes(,) respondent could not tell the date when he received the amount of Php4,000.00 and the date he returned the same. (Tsn, Jan. 31, 2005, page 3). There can be no other reason to be drawn except that he did not want to expose the truth on how long he had kept the money for himself having applied the same for his own personal use.

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Re:

1.) Exacting the amount of Two Thousand Pesos as fine from accused Yolanda Rico, et al., in Criminal Case No. 5964:

On October 10, 2003, respondent Arman Z. Panganiban sent a letter to Mr. Fred Telar asking for Php1,400.00 allegedly for the payment of the fine of the accused relative to Criminal Case No. 5964 entitled People vs. Yolanda(a) Rico, et al, for slight physical injuries. On the same date, Fred Telar gave the amount of Php1,400.00 to the respondent. The scheduled hearing of the case was on February 2, 2004. Before the scheduled hearing, Judge Razo talked to the Ricos, who are his townmates, and told the latter to just pay the fine in the amount of Php1,400.00. Judge Razo asked the Ricos if they have the available money for the payment of the fine but the Ricos answered that they have already given the money to respondent thru Godofredo Telar, their landlord. Judge Razo summoned the Clerk of Court II, Princesita Edades to the chamber and told the latter that the Ricos had already paid the fine thru respondent Arman Panganiban. As told by Judge Razo, the Clerk of Court demanded from