

EN BANC

**[A.M. NO. P-07-2340 (OCA-IPI NO. 06-2388-P),
July 26, 2007]**

**SHARON ROSE O. AGUSTIN, COMPLAINANT, VS. NOEMI S.
MERCADO, COURT STENOGRAPHER, METROPOLITAN TRIAL
COURT, BRANCH 8, MANILA, RESPONDENT.**

D E C I S I O N

PER CURIAM:

In a complaint filed before the Office of the Court Administrator (OCA), Sharon Rose Agustin charged Noemi Salonga Mercado, Court Stenographer, Metropolitan Trial Court of Manila, Branch 8, with Grave Misconduct, Non-Payment of Just Debt and Conduct Unbecoming a Court Personnel.

The facts as found by the OCA are as follows:

Complainant narrated that as a Human Resource Officer of the Asia Central Employment Services, Inc. owned by Mr. Lauro M. Legaspi, she was entrusted by the latter to handle the legal transactions of the company. Since Mr. Legaspi has a criminal case pending before the MeTC, Branch 8, Manila, complainant would often go to the court to follow up the status of the same (case) until she met respondent Noemi S. Mercado, the court stenographer.

Mr. Legaspi failed to attend a scheduled hearing of the case because he underwent a triple by-pass surgery, and, as a consequence thereof, a warrant of arrest was issued against him by Judge Caroline Rivera-Colasito.

Sometime in June 2005, respondent arrived at their office and talked personally to Mr. Legaspi regarding the aforesaid warrant of arrest and the latter's (Mr. Legaspi) other cases pending before the Department of Labor and Employment (DOLE). When Mr. Legaspi asked respondent if she could help him settle his case pending before MeTC, Branch 8, Manila, the latter readily agreed and demanded from the former the amount of Ten Thousand Pesos (P10,000.00) allegedly as payment for his bail.

Complainant claimed that in July 2005, respondent returned to their office and handed to Mr. Legaspi a folder with a caption "Slight Physical Injury, Nabo vs. Legaspi". She uttered, "Sir, ayos na po ang kaso nyo katunayan po ito yong file na nagpapatunay na tapos na ang kaso". They were shocked when they found inside the folder the original copies of the records of the case.

A few days later, some policemen came to their office to serve the Warrant of Arrest against Mr. Legaspi, but the latter explained to the former that he is on bail and that the case against him has been terminated by the court. Besides, complainant was already in possession of the original copies of the documents of the subject criminal case.

Mr. Legaspi then asked respondent if she could help him find an insurance company because he is required to file a surety bond in connection with his labor cases still pending before the DOLE. Respondent told Mr. Legaspi to prepare the necessary documents and the money for the surety bond amounting to One Million Forty Five Thousand Two Hundred Sixty Four Pesos and Forty Three Centavos (P1,045,264.43). Likewise, respondent also informed Mr. Legaspi that the insurance company is demanding 12% of the amount of the bond and another 3% thereof as her (respondent's) processing fee. Respondent immediately demanded from Mr. Legaspi the amount of P31,357.93 representing 3% of P1,045,264.43. After a week, while Mr. Legaspi was confined in the hospital, complainant inquired from respondent about the insurance company. Thereafter, an agent of ZP Insurance Agency came to their office to collect the 12% of the amount of surety bond and issued a receipt for P104,000.00.

However, the DOLE informed Mr. Legaspi that it cannot accept the surety bond because the license of the insurance company to operate as such has already expired.

Since complainant and respondent became close friends, the former did not hesitate to allow respondent to stay in her house. They shared a room together and were happy together. But their happiness was shortlived as complainant stated to uncover the real motive of respondent. Respondent would borrow money from complainant without paying her in return. When respondent received a Notice of Ejectment against their ancestral house in Tondo, she borrowed money from complainant on the pretext that she will use the same in filing a case against her uncle. She also borrowed money for the tuition fees of her children. Likewise, respondent had stolen and pawned jewelries of complainant as evidenced by the pawnshop receipts and the identification card of the former which the latter recovered inside their room.

Finally, complainant claimed that respondent convinced her to engage in lending business in MeTC, Branch 8, Manila. To date, however, she has yet to recover the capital she invested in the aforesaid venture.^[1]

On February 20, 2006, the OCA required respondent to file comment.^[2] Meanwhile, in a Resolution dated March 29, 2006, the Court resolved to withhold the salaries and benefits of respondent for non-submission of her Bundy cards since September 2005.^[3]

Despite the directive of the OCA, respondent failed to file her comment. Hence, on June 5, 2006, the OCA warned respondent that failure to submit her comment, the complaint would be deemed submitted for resolution.^[4]

On July 9, 2006, Judge Roslyn M. Rabara-Tria, Pairing Judge, Metropolitan Trial Court, Branch 8, Manila, informed the OCA that respondent had been absent without leave (AWOL) since December 16, 2005.^[5]

In its Report dated January 8, 2007, the OCA noted that respondent no longer reported for work from the time she learned that an administrative case would be filed against her. She had been twice required to file comment but the registry receipts for both communications indicated that respondent had not received them. Apparently, she had moved out^[6] of her given address hence the court processes could not be properly served on her. Accordingly, the OCA recommended that respondent be dismissed from service for cause, with forfeiture of all benefits except accrued leave credits, if any, and with prejudice to re-employment in the government or any of its subdivisions, instrumentalities, or agencies including government owned or controlled corporations.^[7]

On February 12, 2007, we required the parties to manifest whether they are willing to submit the case for decision. Only complainant manifested her willingness to submit the case for resolution, while respondent's copy of the February 12, 2007 Resolution was returned unserved. In a Resolution dated June 6, 2007, we deemed the said Resolution duly served on the respondent.

We adopt the findings and recommendation of the OCA.

Respondent no longer reported for work upon learning that an administrative case would be filed against her. She has been on AWOL since December 16, 2005 and has successfully evaded service of the court processes by moving out of her given address. Nonetheless, these circumstances did not divest the Court of its jurisdiction or prevent its taking cognizance of the case or from imposing upon the respondent the proper penalty for her infractions.

As correctly observed by the OCA:

Respondent's AWOL status does not render the complaint against her moot and academic since the Court's jurisdiction over her has attached from the time of the filing of the complaint as there was no directive yet from the Court to declare her on AWOL, and is not lost by the mere fact that she never reported for work during the pendency of her case. To deprive the Court of authority to determine her innocence or guilt of the charges is fraught with injustice and pregnant with ridiculous implications. For what remedy would the people have against a civil servant who deliberately resorts to wrongful and illegal conduct and abandons his office and absconds afterwards knowing fully well that he would soon be beyond the pale of the law and immune from administrative penalties? As held in *Perez v. Abiera*, A.C. No. 223, June 11, 1975, 64 SCRA 302, 307 '*[if] only for reasons of public policy, this Court must assert and maintain its jurisdiction over members of the judiciary and other officials under its supervision and control for acts performed in office which are inimical to the service and prejudicial to the interests of litigants and the general public. If innocent, respondent official merits vindication of his name and integrity as he leaves the*