

EN BANC

[A.M. No. CA-04-37, March 16, 2004]

**JUDGE PABLO B. FRANCISCO, COMPLAINANT, VS. ASSOCIATE
JUSTICE RODRIGO V. COSICO, RESPONDENT.**

DECISION

AZCUNA, J.:

For resolution is an administrative complaint for grave misconduct filed by Judge Pablo B. Francisco, as Presiding Judge^[1] of the Regional Trial Court, Branches 24 and 25, Biñan, Laguna, against Court of Appeals Associate Justice Rodrigo V. Cosico, in the latter's capacity as then Executive Judge of the Regional Trial Court of Biñan, Laguna.

The present controversy stemmed from the detail of one Ireneo S. Paz as Special Deputy Sheriff to the Regional Trial Court, Branch 31, San Pedro, Laguna.^[2]

It appears that in the early part of 1994, trial courts in San Pedro, Laguna were without a sheriff to serve and execute court processes.^[3] Judge Stella Cabuco Andres, Presiding Judge of the Regional Trial Court Branch 31, then brought the matter to the attention of Executive Judge Cosico.

Acting upon the same, Executive Judge Cosico wrote a letter, dated March 1, 1994, to Ireneo S. Paz, informing the latter of his detail as Special Deputy Sheriff, to wit:

In connection with your appointment effective March 1, 1994, you are hereby detailed at the Regional Trial Court, Branch 31, San Pedro, Laguna, effective immediately to perform the duties of Special Deputy Sheriff in accordance with Administrative Order No. 6 dated July 1, 1975 and other duties assigned to you by Hon. Stella C. Andres until further notice.

Thus, Paz commenced performing the functions of Special Deputy Sheriff in the said Regional Trial Court.

However, per Certification issued by the Human Resource Management Officer^[4] of the Municipality of Biñan, at the time of the said detail, Ireneo S. Paz was employed as Laborer II by the Municipality of Biñan. This fact is confirmed by Paz in an Affidavit^[5] where he states that, indeed, he was employed as laborer in the Office of the Municipal General Services of Biñan, Laguna.

Complainant Judge Francisco contends that Executive Judge Cosico usurped the power of the Supreme Court to appoint court employees,^[6] a "brazen defiance" of the Court's appointing power granted under Article VIII, Section 5 (6) of the Constitution which states that the Supreme Court has the power to appoint all officials and employees of the judiciary in accordance with the Civil Service Law.^[7]

For his part, respondent Executive Judge, now Associate Justice, Cosico avers that he did not appoint but merely detailed Paz at the RTC. Such judicial act, according to respondent, may not be assailed considering the authority given to the trial court judge under Supreme Court Administrative Circular No. 12,^[8] paragraph 7 thereof, as well as under the powers and prerogatives delegated by the Supreme Court to the Executive Judge.

Respondent adds that at the time he became the Executive Judge of the Regional Trial Court, Biñan, Laguna, there were already three municipal employees detailed at the RTC which he “inherited” from his predecessor Executive Judge. In support of this averment, the Affidavit of Judge Cabuco Andres was appended, wherein she states:

In November, 1991 when I first reported for work as judge in San Pedro, Laguna, Regional Trial Court, Branch 31 was still part of the judicial station with seat in Biñan, Laguna;

On the same date, I came to know Antonio Blancaflor, a municipal employee of Biñan, Laguna detailed by our Executive Judge^[9] to my court to perform the duties and functions of a sheriff;

In the early part of 1994, Antonio Blancaflor was appointed permanent sheriff in the Regional Trial Court of Muntinlupa City by the Supreme Court;

Due to Antonio Blancaflor’s appointment, the San Pedro Courts were left without any sheriff to serve and execute court processes;

Faced with this predicament, I brought the matter relative to the absence of a sheriff to the attention of then Executive Judge Rodrigo V. Cosico;

Consequently, Executive Judge Rodrigo V. Cosico issued a letter dated March 1, 1994 to Ireneo Paz, also a municipal employee of Biñan, Laguna, detailing him to my court to perform the duties of Special Deputy Sheriff....

Further, respondent Cosico also points out that in order that a judge may be held liable for serious misconduct, there must be reliable evidence showing that the judicial acts complained of were corrupt or inspired by an intention to violate the law or were in persistent disregard of well-known legal rules.^[10] In this case, respondent professes that he acted with the utmost good faith and in the interest of the exigencies of the administration of justice.^[11]

We now discuss these contentions.

Respondent invokes Administrative Circular No. 12^[12] addressed to all judges and clerks of court of the Regional Trial Courts, Metropolitan Trial Courts and Municipal Trial courts in Cities. Specifically, guideline no. 7 thereof allows judges “to designate or deputize any person to serve court processes and writs in remote areas in the absence of the regular sheriff thereat.”

It is undisputed that at the time of the questioned detail, there was in fact a vacancy for the position of sheriff at the RTC Branch 31. This fact is attested to by Presiding Judge Cabuco Andres. Upon being informed thereof, Executive Judge

Cosico answered the need by ordering the detail of Mr. Paz so that the latter may be temporarily deputized as sheriff.

Under Administrative Circular No. 6,^[13] an Executive Judge's primary mandate is the administrative supervision over the lower courts within his administrative area, with the end in view of providing a more effective and efficient judiciary service. We need not emphasize how the absence of a sheriff could cripple the administration of justice.

Thus, with regard to the question of whether respondent had the authority to cause the detail, we find that said act was authorized under Administrative Circular No. 12 and that the same was in furtherance of his duty as Executive Judge.

However, at the time of the questioned detail as Special Deputy Sheriff, Paz was already an employee of the Municipality of Biñan. Being thus employed, he was not qualified to be detailed as Special Deputy Sheriff.

This Court, in the case of *Office of the Court Administrator v. Veneracion*,^[14] had occasion to state that "a non-judicial person has no place in the judicial service."^[15] This is because the conduct and behavior of everyone connected with the dispensation of justice is circumscribed with the heavy burden of responsibility^[16] and to allow Paz to serve the judiciary while concurrently holding a post with the municipality, would run the risk of compromising the lofty standards the nature of the job requires.

In the same case of *OCA v. Veneracion*,^[17] where the person detailed was an employee of an agency under the Department of Finance, we said:

Judge Veneracion's outright disregard of the well-established separation of powers of the three great departments of the government and his exercise of powers beyond his judicial competence and in defiance of directives of the Supreme Court undermined the independence of the judiciary. Judge Veneracion can not hide behind the authorizations issued by officials of the executive branch of the government, giving an impression of legality of his actions. Administrative Circular No. 12, dated October 1, 1985, and Administrative Circular No. 7, dated April 27, 1987 clearly provide for the implementation of the Supreme Court's Constitutional power of appointment of judiciary employees, including sheriffs and the assignment of acting deputy sheriffs to the courts. Judge Veneracion repeatedly violated, nay, defied these circulars.^[18]

The facts in *Veneracion* show that when Judge Veneracion ordered the detail, no vacancy existed for the position of sheriff. Furthermore, respondent Judge Veneracion made repeated and persistent acts in blatant disregard of Supreme Court rules, in order to pursue his objectionable act.

In contrast, however, in the case before us against respondent Cosico, there was an existing vacancy for the position and the detail was aimed at responding to the need at the time, in order not to hamper the administration of justice. We find credence in respondent's averment that the detail in question was meant to be temporary and that he was in fact willing to revoke the detail if the same was found to be improper.