

## EN BANC

**[ A.M. No. P-02-1545 (Formerly AM-OCA-IPI-99-595-P), April 02, 2003 ]**

**ZENAIDA C. GUTIERREZ, VERNA V. GALVEZ, EVELYN Z. MERRERA, VILMA L. MELENDEZ, LYDIA A. POLINTAN, RONALDO A. MATABANG, FELIX G. AUSTRIA, JR., AND RUBY R. ROSARIO, COMPLAINANTS, VS. RODOLFO V. QUITALIG, SHERIFF III & OFFICER-IN-CHARGE, MUNICIPAL TRIAL COURT IN CITIES, SAN CARLOS CITY, PANGASINAN, RESPONDENT.**

### RESOLUTION

#### **AUSTRIA-MARTINEZ, J.:**

Before the Court is a complaint filed by Zenaida C. Gutierrez, Evelyn Z. Merrera, Lydia A. Polintan, Ruby R. Rosario, Verna V. Galvez, Vilma L. Melendez, Ronaldo A. Matabang and Felix G. Austria, Jr., all employees of the Municipal Trial Court in Cities, San Carlos City, Pangasinan, against Sheriff and Officer-in-Charge Rodolfo V. Quitilig for dishonesty, grave misconduct and conduct unbecoming a court employee.

In the joint Joint-Affidavit dated February 9, 1999, submitted to the Court, complainants allege the following: Respondent often indulges in drinking sprees with litigants and with his friends during office hours at the recreation area of the Hall of Justice or the canteen. He becomes vulgar, intemperate with his words and makes sexual comments towards the female staff every time he gets drunk. There were instances when they had to bring court clearances and other documents to be signed by him to the place where he was drinking. Sometime in October 1998, respondent brought home the logbook/timebook of the court in order to fill-up the dates when he was absent. Respondent sheriff does not deposit on time fiduciary funds with the Land Bank of the Philippines. There were instances when the accused and their bondsmen had to post their cash bond at the Office of the Clerk of Court of the Regional Trial Court (RTC) because respondent could not be found at the office. Some criminal case records and exhibits were either unaccounted for or were not in the office.<sup>[1]</sup>

In his letter dated May 3, 1999, addressed to the then Court Administrator Alfredo Benipayo, respondent denied the accusations hurled against him and explained that: the complaint was merely a ploy of Eduardo Rosario, a legal researcher in their office, to replace him as acting clerk of court; a report of the City Auditor of San Carlos City cleared him of financial accountability; a certification of Verna Galvez, Clerk IV, attested that all case records and exhibits of their branch were duly accounted for; he does not indulge in drinking sessions with litigants and friends during office hours; and if there were times that he drank alcohol, it was after office hours and in the company of RTC Judge Victor Llamas whose invitation he could not refuse.<sup>[2]</sup>

The Court in a Resolution dated November 12, 2000, referred the complaint to Executive Judge Bienvenido Estrada, RTC, San Carlos City for investigation, report and recommendation.<sup>[3]</sup>

However, pending investigation, the complainants filed a JOINT AFFIDAVIT OF DESISTANCE,<sup>[4]</sup> prompting Judge Estrada to hold thus:

"Based on my investigation and the evidence submitted, undersigned cannot find any iota of evidence to indict respondent Rodolfo V. Quitalig in view of the failure of the complainants to present their evidence and prove their charges. As a matter of fact, the complainants have jointly affirmed and confirmed their JOINT AFFIDAVIT OF DESISTANCE, prompting respondent to state categorically that he would no longer present his evidence to prove his innocence but he joined the manifestation of the complainants to dismiss this case."<sup>[5]</sup>

However, in a letter received by the Court Administrator on May 15, 2001, complainant Ruby R. Rosario alleged that: the affidavit of desistance was prepared by the respondent himself; she only signed said affidavit because she was pressured by her officemates who thought that respondent has changed and will retire in August; respondent is back to his old ways of being rude and impolite; and the decision of Judge Estrada to dismiss the case against respondent is contrary to the ruling of this Court in *Lapena vs. Pamarang*<sup>[6]</sup> and *Dionisio vs. Gilera*<sup>[7]</sup> where it was held that the withdrawal of a complaint for lack of interest of a complainant does not necessarily warrant the dismissal of an administrative complaint.<sup>[8]</sup>

Hence, the Court, in another Resolution, dated February 4, 2002, referred the case to Acting Executive Judge Salvador P. Vedaña, RTC San Carlos City for reinvestigation, report and recommendation. The Court likewise resolved to docket the instant case as a regular administrative matter.<sup>[9]</sup>

On June 28, 2002, Executive Judge Vedaña submitted his First Indorsement, portions of which are quoted verbatim, as follows:

"In support to his comment, respondent, during the hearing denied all the accusations leveled against him. He denied the accusation of the complaining witnesses that he was drunk during office hours and doing the same at the recreation area of the Hall of Justice or at the canteen outside the premises of the Hall of Justice. He admitted that he used to drink but not during office hours and not at the premises of the Hall of Justice. He denied that once drunk, he did vulgar acts or uttered intemperate words to his office mates. He did not insinuate sexual overtures to a female staff. He just patted the back of one of the complainants because she was his "kumadre" and that was done during her birthday.

"He further declared that there were times when he signed clearances in the canteen because he normally goes directly to the canteen after serving subpoenas and writs of execution in far away places considering that he returns to the office at around 1:30 to 2:00 o'clock in the

afternoon. He did not likewise bring the logbook at home for the purpose of filling it up in order to make it appear that he was present when in fact he was absent. He brought the logbook home because he received a letter from Atty. Corazon Molo directing him to furnish her with a Xerox copy of the logbook. He did not notice or observed the "X" mark placed "by complainant Zenaida Gutierrez in the logbook, particularly when he was absent or out of office.

"He testified that he had a hand in the deposit of Fiduciary Funds such as bail bonds and/or other funds before Mrs. Melendez was appointed as Cash Clerk. He, however, denied the accusation that he did not deposit the Fiduciary Fund at the Land Bank. He admitted that there were times when the accused and the bondsman would like to post cash bond and he was nowhere to be found but he was then on field work serving court processes. When Mrs. Melendez was not yet appointed as Cash Clerk, he received for about five (5) times, cash bonds. Because of his several duties, he sometimes kept the money in his drawer and not in the steel cabinet because the latter had no lock. The cash bond was kept in his **drawer for about one (1) week before it could be deposited in the bank.** He denied the accusation of the complainants that he still had to wait for another cash bond to be posted in order for him to deposit the cash bond which he received first.

"On the complainants' accusations regarding respondent's habitual drunkenness during office hours, impolite manners while drunk and tampering with the logbook and losing the same, the undersigned Investigating Judge finds that while the complainants were in unison in their accusations, they however failed to substantiate and concretely support the accusations and remained bare allegations. No particular dates were specified for the alleged drunkenness, neither was the logbook subject of their complaint ever presented. On these points, this Court hereby gives the benefit of doubt and resolves the issue in favor of respondent.

"However, on the accusation for fidelity of Fiduciary Funds, the undersigned Investigating Judge finds the evidence presented by the complainants, particularly the rundown of the deposits made during the incumbency of the respondent, to be sufficient to support the accusation.

"From the same rundown which covered the period June 13, 1995 to January 13, 2000, it was shown that the respondent had not religiously deposited his collections intact. What was apparent from the rundown was his habitual practice of lapping that is, using the current collections to cover for the deposit he made for his previous or prior collections.

"The reason put up by the respondent that he had to discharge multiple duties is too shallow and flimsy. There was no reason for him to keep his collections for one (1) week or more, more so to keep the same in his drawer as it was his bounden duty to religiously remit/deposit the same to the depositary bank.

"Every employee in the Judiciary should be an example of integrity,