

FIRST DIVISION

[A.M. NO. P-04-1896, January 12, 2005]

**FEDERICO B. SARAZA, COMPLAINANT, VS. ARLEEN C. TAM,
STENOGRAPHER, REGIONAL TRIAL COURT, BRANCH 21, IMUS,
CAVITE, RESPONDENT.**

DECISION

YNARES-SANTIAGO, J.:

In an Affidavit-Complaint^[1] filed with the Office of the Court Administrator (OCA) on October 16, 2003, complainant Federico B. Saraza charged respondent Court Stenographer Arleen C. Tam with willful failure to pay just debts, contracting loans from persons with cases pending in court and conduct prejudicial to the best interest of the service.

Complainant alleged that he was one of the defendants in Civil Case No. 1995-99 for Annulment of Real Estate Mortgage pending before the Regional Trial Court (RTC), Branch 21, Imus, Cavite. Sometime in April 2003, respondent, who was a stenographer in the said court, approached him for a loan in the amount of Fifty Thousand Pesos (P50,000.00). Complainant loaned respondent the said amount upon the latter's assurance that she would pay him back immediately.

Respondent failed to pay complainant despite several verbal and written demands, the last of which was made on May 22, 2003.^[2] Respondent even executed a promissory note^[3] promising to pay in monthly installments beginning August 2003, but likewise failed to comply with said undertaking. Respondent has not paid complainant a single centavo up to the time of the filing of the complaint.

Respondent was required to comment within ten (10) days from November 11, 2003.^[4] However, on November 24, 2003, complainant and respondent jointly filed an undated affidavit^[5] with the OCA seeking a dismissal of the complaint, on the ground that it was a case of pure misunderstanding and that neither of them was interested in pursuing the same.

Thereafter, respondent belatedly submitted her comment^[6] on January 15, 2004 and reiterated her prayer for the dismissal of the complaint. She explained that she has paid her obligation in full in December 2003 as evidenced by a receipt issued in her favor. Complainant consequently executed an affidavit withdrawing the instant complaint.

Upon evaluation, the OCA recommended that the complaint be re-docketed as a regular administrative matter and that respondent be suspended from office for six (6) months with stern warning that a commission of similar acts shall be dealt with more severely. According to the OCA, the desistance of the complainant will not

necessarily result in the dismissal of the administrative case. Respondent's act of contracting loans from persons with cases pending in court is punishable with dismissal from the service under Civil Service Rules. However, the OCA recommended that the penalty imposed should be tempered with mercy since this is respondent's first administrative offense. In addition, respondent was compelled to borrow money due to the impending foreclosure of her house and has paid the full amount of the obligation immediately.

In a resolution dated September 29, 2004, the parties were required to manifest within fifteen (15) days from notice, whether they were willing to submit the case for resolution based on the pleadings filed. Respondent submitted her manifestation on November 10, 2004 while complainant failed to do so. Nevertheless, the Court dispensed with complainant's manifestation and deems the case submitted for resolution.

At the outset, it must be emphasized that the withdrawal of an administrative complaint by the complainant does not necessarily warrant the dismissal of the same. Administrative actions cannot depend on the will or pleasure of a complainant who may, for reasons of his own, condone what may be detestable. Neither can the Court be bound by the unilateral act of a complainant in a matter relating to its disciplinary power. After all, complainants in administrative cases against court personnel are, in a real sense, only witnesses.^[7]

The withdrawal of an administrative complaint or subsequent desistance by the complainant does not free the respondent from liability, as the purpose of an administrative proceeding is to protect the public service, based on the time-honored principle that a public office is a public trust. It does not operate to divest the Court of jurisdiction to determine the truth behind the matter stated in the complaint. The Court's disciplinary authority cannot be dependent on or frustrated by private arrangements between the parties. An administrative complaint against a court official or employee cannot simply be withdrawn by a complainant who suddenly changes his mind.^[8]

It is not disputed that respondent contracted a loan from complainant in the amount of P50,000.00. After the instant complaint was filed, respondent immediately paid her obligation to complainant, who was a defendant in one of the cases pending before the court where respondent was a stenographer. Notwithstanding such payment, however, the act of contracting a loan from a person who has business relations with one's office is deemed conduct that is grossly prejudicial to the best interest of the service. It is a grave offense that is punishable by dismissal from the service under Rule IV, Section 52 (A) (10) of Civil Service Commission Memorandum Circular No. 19-99.

In *Julie Parcon Song v. Romeo Lleague*,^[9] we explained the impropriety of receiving money or any other kind of property as a loan from a litigant thus:

"... Respondent's act of receiving money from a litigant who has a pending case before the court where he is working is highly improper and warrants sanction from this Court. As stated by the Investigating Officer, the mere fact that he received money from a litigant unavoidably creates an impression not only in the litigant but also in other people that he