

EN BANC

[A.M. No. P-15-3301 (Formerly OCA IPI No. 13-4085-P), May 11, 2021]

ATTY. JUVY MELL S. MALIT, COMPLAINANT, VS. MARLYN C. GLORIA, JUNIOR PROCESS SERVER, MUNICIPAL CIRCUIT TRIAL COURT [MCTC], DINALUPIHAN-HERMOSA, DINALUPIHAN, BATAAN, RESPONDENT.

D E C I S I O N

PER CURIAM:

For the Court's consideration is the Administrative Complaint^[1] for Gross/Grave Misconduct and Dishonesty filed by complainant Atty. Juvy Mell S. Malit (Atty. Malit) against herein respondent Marlyn C. Gloria for receiving a total amount of P36,000.00 from the complainant's clients as cash bail which she, however, did not turn over and apply as bail.

The Antecedents

Atty. Malit was the legal counsel of Reynaldo Vergara (Vergara) and his company, Vercons Trading and Merchants Corporation. For four years, she handled all the cases and legal matters pertaining to Vergara.^[2]

In 2000, three criminal cases were filed against Vergara and his sister, Erlinda Malibiran (Malibiran), by one Loida Manalansan. Vergara only knew of these cases when he applied for a bank loan.^[3]

Hence, as the recommended bail was P12,000.00 for each case, Malibiran's secretary, Ruby Santos (Santos), gave the total amount of P36,000.00 to herein respondent Marlyn C. Gloria, the Junior Process Server at the Municipal Circuit Trial Court of Dinalupihan-Hermosa in Dinalupihan, Bataan, as payment for Vergara's bail.^[4] For this, respondent issued two unofficial receipts^[5] evidencing payment for the amount of P24,000.00 dated July 16, 2002 and another for the amount of P12,000.00 which was paid on August 8, 2002.

However, the cases filed against Vergara and Malibiran were never set for hearing after the issuance of the warrants of arrest.^[6] Likewise, the case folders of the criminal cases could no longer be found.^[7]

When Atty. Malit inquired from the Office of the Clerk of Court, she found out that the criminal cases were filed on June 8, 2000 and that warrants of arrest were issued on April 18, 2002 for Criminal Case No. 10541, and on July 1, 2002 for Criminal Case Nos. 10542 and 10543. However, except for the entries pertaining to a bail of P12,000.00 for each case, no other entries were found in the docket book pages.^[8]

Thus, Atty. Malit entered her appearance as counsel for Vergara and Malibiran and filed a Manifestation with Motion to Lift Warrants of Arrest for the reason that her clients already posted bail. This, however, was denied in an Order dated April 18, 2013 on the ground that the accused failed to present evidence that they had actually posted bail.^[9]

Consequently, Atty. Malit sent a letter to herein respondent demanding her to pay to the court the amount of P36,000.00 which she received so that her clients would no longer be arrested.^[10] Respondent failed to perform the act demanded of her hence, the filing of the Letter Complaint^[11] dated April 19, 2013 against her by Atty. Malit before the Office of the Court Administrator (OCA). According to Atty. Malit, respondent's acts of receiving the amount of P36,000.00 and not immediately applying the same to the bail of her clients constitute gross/grave misconduct and dishonesty.^[12]

For her part, while respondent openly admitted to having received the amount of P36,000.00 from Atty. Malit's clients, she, however, denied^[13] any administrative liability as she claimed that said amount was turned over to the former Clerk of Court, Virgilio Mejia, Sr. (Mejia). This assertion was supported by Mejia who even executed a Sworn Affidavit^[14] dated April 23, 2013 stating that the said cash bails were turned over to him by a certain Marlyn Gloria which he also deposited to the Land Bank of the Philippines – Dinalupihan Branch. Said sworn affidavit was submitted by the respondent to court as evidence. Likewise, respondent did not refute the allegation that she issued two acknowledgment receipts when she received the sum of money, nor did she deny the same when Atty. Malit presented said receipts as evidence.^[15]

Respondent further alleged that she only received the payment because the clerk of court was outside the court premises at that time, and that she did not personally benefit from the said amount.^[16] She also denied involvement as regards the missing case records as this, according to her, was due to flood caused by typhoon Habagat that year which destroyed the records and files in court.^[17]

Meanwhile, to date, respondent is already retired from the service having availed of optional retirement effective May 9, 2014.^[18] Likewise, another case against her was filed and pending, this time for conduct unbecoming a court employee entitled "*Concerned Citizen v. Marlyn C. Gloria, Process Server, Municipal Circuit Trial Court, Dinalupihan-Hermosa, Bataan*" and docketed as UDK A 20130311-01.^[19] Further, an Affidavit of Recantation^[20] was later executed by Mejia declaring that not a single centavo was turned over to him by the respondent and that he was merely coerced by the latter to execute the earlier affidavit.

The Report and Recommendation of the OCA

On November 5, 2014, the OCA issued its evaluation finding that the complaint against respondent is impressed with merit.^[21] According to the OCA, the fact that respondent readily admitted having received the total amount of P36,000.00 from Atty. Malit's client is already a clear act of grave misconduct under the provisions of Rule 10, Section 46, paragraph A(3) of the Revised Rules on Administrative Cases in the Civil Service (RRACCS). The OCA also pointed out that receiving cash bonds

from litigants or the accused is not within the duties of a process server under the 2002 Revised Manual for Clerks of Court. The OCA recommended, thus -

x x x It is respectfully recommended for the consideration of the Honorable Court that:

1. the administrative complaint against Marlyn C. Gloria, Junior Process Server, Municipal Circuit Trial Court, Dinalupihan, Bataan, be RE-DOCKETED as a regular administrative matter;
2. respondent Marlyn C. Gloria be found GUILTY of GRAVE MISCONDUCT for receiving the amount of Php 36,000.00 representing the cash bail bonds of Mr. Reynaldo Vergara and Ms. Erlinda Malibiran; and
3. respondent Marlyn C. Gloria be FINED in the amount of Php 30,000.00 to be deducted from her retirement benefits and/or monetary value of leave credits due her.^[22]

The Court's Ruling

It is a consistent reminder among court personnel that the image of a court, as a true temple of justice, is reflected in the conduct, whether official or otherwise, of the men and women working thereat. Hence, judicial personnel are expected to be living examples of uprightness in the performance of official duties to preserve at all times the good name and standing of the courts in the community^[23] as well as to maintain the confidence the people have in the Judiciary.

This expectation is enforced by Section 2, Canon 1 of the Code of Conduct of Court Personnel which mandates that "[c]ourt personnel shall not solicit or accept any gift, favor or benefit based on any or explicit understanding that such gift, favor or benefit shall influence their official actions."

Likewise, Section 2(e), Canon III, provides that "[c]ourt personnel shall not x x x [s]olicit or accept any gift, loan, gratuity, discount, favor, hospitality or service under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the court personnel in performing official duties."

Indeed, these acts are strictly prohibited as these may give the perception that court personnel can be influenced to act for or against a party or person in exchange for favors.

In this case, it is undeniable that the conduct of respondent in receiving the amount from a party litigant, regardless of intention, is in itself violative of the rules prescribed, as such was not part of her duties as a court process server. In this light, the duties of a process server under the 2002 Revised Manual for Clerks of Court are quoted hereunder:

- a. to serve court processes such as subpoena, summons, court order and notice;
- b. to prepare and submit returns of court processes;