

SECOND DIVISION

[A.M. No. P-19-3916 (Formerly OCA IPI No. 17-4710-P), June 17, 2019]

ANONYMOUS, COMPLAINANT, VS. JESSICA MAXILINDA A. IBARRETA, SHERIFF IV, REGIONAL TRIAL COURT OF IRIGA CITY, CAMARINES SUR, BRANCH 36, RESPONDENT.

DECISION

PERLAS-BERNABE, J.:

The instant administrative case arose from the letter indorsement^[1] dated January 8, 2016 of Assistant Ombudsman Joselito P. Fangon (Assistant Ombudsman Fangon) and the undated anonymous complaint^[2] charging respondent Jessica Maxilinda A. Ibarreta (respondent), Sheriff IV of the Regional Trial Court of Iriga City, Camarines Sur, Branch 36 (RTC) of: (a) acquiring ill-gotten wealth; and (b) engaging in lending business with high interest and devoting her official time in promoting her financial and propriety pursuit, respectively.

The-Facts

At around two (2) o'clock in the afternoon of January 7, 2016, the Office of the Ombudsman received an anonymous call reporting that respondent displays wealth which is disproportionate to her monthly wage, has a money lending business, and is a powerful and influential person because judges in the RTC always give special preference to her.^[3] The Office of the Ombudsman, through Assistant Ombudsman Fangon, forwarded the complaint to the Office of the Court Administrator (OCA), which referred the matter to Executive Judge Timoteo A. Panga, Jr. (Judge Panga) of the RTC for investigation. After Judge Panga submitted his partial report,^[4] Hon. Manuel M. Rosales (Judge Rosales) was designated as the new executive judge of the RTC, and as such, he took over the investigation of the case,^[5] and thereafter, submitted his own report.^[6]

In their reports, Judge Panga and Judge Rosales observed that: (a) respondent's marriage had been annulled; (b) she has two (2) college-level children who are both studying at a private university in Naga City; (c) she owns a house and two (2) vehicles, all of which are declared in her Statements of Assets, Liabilities, and Net Worth; (d) no adverse findings regarding her work performance as Sheriff was reported nor was there any complaints or accusation filed relative to her misuse of her office or any reports of harassment or oppression from any litigant or counsel; (d) she, however, runs a money lending business, locally known as "5-6," wherein she charges excessive interest rates of as much as ten percent (10 %) per month, which apparently is the source of her wealth; and (e) she personally conducts such money lending business even during office hours.^[7]

In a Memorandum^[8] dated May 24, 2017, the OCA found the charges of acquisition of ill-gotten wealth against respondent to be without merit. Nevertheless, it found *prima facie* evidence against respondent for simple misconduct, taking into account her acts of engaging in a money lending business during office hours and devoting her official time to foster her proprietary pursuits. Hence, the OCA recommended that the matter be docketed for purposes of preliminary inquiry and that respondent be made to comment.^[9]

In her Comment,^[10] respondent made a point-by-point refutation of the accusation on acquisition of ill-gotten wealth against her. Notably, however, as to the issue about her money lending business, she merely asserted that it was the business of her late mother which was discontinued when she passed away.^[11]

The OCA's Report and Recommendation

In a report and recommendation^[12] dated November 6, 2018, the OCA recommended, among others, that: (a) respondent be found guilty of Simple Misconduct for violating Reasonable Rules and Regulation and Section 1, Canon IV of the Code of Conduct for Court Personnel,^[13] and accordingly, fined in the amount of P5,000.00 payable within thirty (30) days from receipt of notice; and (b) she be directed to cease and desist from her money lending activities and be sternly warned that her failure to do so shall be dealt with more severely.^[14]

Prefatorily, the OCA pointed out that as per their Memorandum^[15] dated May 24, 2017, it already cleared respondent from the allegation of acquisition of ill-gotten wealth, and that she was only being made to answer for her money lending activities.^[16] Despite this, respondent took more time in explaining the origins of her wealth and property, and only made an unconvincing and dismissive retort to address the latter charge. The OCA took this as an implicit admission that respondent is indeed engaging in a money lending business during office hours. The OCA held that respondent's acts violated: (a) Section 1, Canon IV of the Code of Conduct for Court Personnel which mandates that court personnel shall commit themselves exclusively to the business and responsibilities of their office during working hours; and (b) Administrative Circular No. 5 dated October 4, 1988, which prohibits all officials and employees of the Judiciary from engaging in, *inter alia*, money lending activities during office hours, and thus, constitutes Simple Misconduct for which she must be held administratively liable. Finally, the OCA recommended the imposition of a fine in lieu of suspension, considering respondent's first offense in her thirty (30) years of service, and that such imposition would prevent any adverse effect on the public service that would ensue if respondent, a Sheriff performing frontline functions, is suspended.^[17]

The Issue before the Court

At the outset, the Court notes that as early as in the OCA's Memorandum dated May 24, 2017, respondent was already cleared of the charge of acquisition of ill-gotten wealth. As such, the sole issue for the Court's resolution is whether or not respondent should be held administratively liable for her alleged money lending business activities during office hours.

The Court's Ruling

After a judicious perusal of the records, the Court adopts the findings and recommendations of the OCA, except as to the amount of fine to be imposed on respondent.

Administrative Circular No. 5 dated October 4, 1988 reads in full:

TO: ALL OFFICIALS AND EMPLOYEES OF THE JUDICIARY SUBJECT:
PROHIBITION TO WORK AS INSURANCE AGENT

In line with Section 12, Rule XVIII of the Revised Civil Service Rules, the Executive Department issued Memorandum Circular No. 17 dated September 4, 1986 authorizing heads of government offices to grant their employees permission to "engage directly in any private business, vocation and profession ... outside office hours."

However, in its En Bane resolution dated October 1, 1987, denying the request of Atty. Froilan L. Valdez of the Office of Associate Justice Ameurfina Melencio-Herrera, to be commissioned as a Notary Public, **the Court expressed the view that the provisions of Memorandum Circular No. 17 of the Executive Department are not applicable to officials or employees of the courts considering the express prohibition in the Rules of Court and the nature of their work which requires them to serve with the highest degree of efficiency and responsibility, in order to maintain public confidence in the Judiciary.** The same policy was adopted in Administrative Matter No. 88-6-002-SC, June 21, 1988, where the court denied the request of Ms. Esther C. Rabanal, Technical Assistant II, Leave Section, Office of the Administrative Services of this Court, to work as an insurance agent after office hours including Saturdays, Sundays and holidays. Indeed, the entire time of Judiciary officials and employees must be devoted to government service to insure efficient and speedy administration of justice.

ACCORDINGLY, **all officials and employees of the Judiciary are hereby enjoined from being commissioned as insurance agents or from engaging in any such related activities, and, to immediately desist therefrom if presently engaged thereat.**
(Emphases and underscoring supplied)

Verily, Administrative Circular No. 5 dated October 4, 1988 has prohibited all officials and employees of the Judiciary from engaging directly in any private business, vocation or profession, even outside their office hours. The prohibition is aimed at ensuring that full-time officers and employees of the courts render full-time service, for only then could any undue delays in the administration of justice and in the disposition of court cases be avoided. The nature of the work of court employees and officials demanded their highest degree of efficiency and responsibility, and they would not ably meet the demand except by devoting their undivided time to the government service. This explains why court employees have been enjoined to strictly observe official time and to devote every second or moment of such time to serving the public.^[18] This is in line with Section 1, Canon