

THIRD DIVISION

[**A.M. No. P-15-3315 (Formerly OCA IPI No.12-3978-P), February 06, 2017**]

SPOUSES RODEL AND ELEANOR CAÑOS, COMPLAINANTS, VS. ATTY. LOUISE MARIE THERESE B. ESCOBIDO, CLERK OF COURT V, BRANCH 19, REGIONAL TRIAL COURT, DIGOS CITY, RESPONDENT.

DECISION

JARDELEZA, J.:

This administrative case stemmed from a letter-complaint^[1] filed by complainants, Spouses Rodel and Eleanor Caños (Sps. Caños), against respondent Louise Marie Therese B. Escobido (Escobido), Clerk of Court, Branch 19, Regional Trial Court (RTC), Digos City, before the Office of Court Administrator (OCA) for grave misconduct, gross violation of oath as a public official, and violation of the Code of Professional Responsibility.

The Facts

According to Sps. Caños, they have known Escobido since the latter part of 2009 when she assisted them on the cases they filed before RTC Branch 19. When Escobido learned that Sps. Caños are engaged in selling jewelry and imported goods, she offered to get some items to resell as she used to be in the same business. Since Sps. Caños trusted Escobido as clerk of court and as a lawyer, they agreed to her proposal.^[2]

Sometime between January and November 2010, Escobido purchased from Sps. Caños, on credit, various jewelry and imported goods amounting to P4,777,945.00. The purchases were covered by Trust Receipt Agreements.^[3]

As payment for the goods, Escobido issued postdated checks, some of which were made good during the first ten months. However, the rest of the checks amounting to P3,827,299.30 were returned or refused payment by the drawee banks for the reason "ACCOUNT CLOSED."^[4]

Aside from Escobido's purchases on credit, she also borrowed money from Sps. Caños. As payment, she issued postdated checks in the total amount of P164,866.10. The checks were likewise dishonored by the drawee banks for the reason "ACCOUNT CLOSED." Escobido never informed Sps. Caños on the status of her bank account until they received the returned checks and asked her on the reason for the dishonor.^[5]

On February 15, 2012, Escobido executed an Undertaking^[6] and acknowledged only

P2,545,339.25 as the amount she owed to Sps. Caños.

Sps. Caños made verbal and written demands on Escobido for her to pay her debts. [7] Despite demand, [8] she refused to pay her obligations amounting to P3,604,065.40.

Sps. Caños claimed that because of Escobido's large amount of debts, they were forced to pay some of Escobido's account with their suppliers. [9]

Finally, Sps. Caños alleged that Escobido, as clerk of court and as a lawyer, also used her position and profession to intimidate and coerce them from filing cases against her. She allegedly told them that should they decide to file a case against her, she could always find ways to delay the filing of the same as she has friends and batchmates in the City Prosecution Office of Davao City. [10]

In her defense, Escobido claimed that what transpired was a business opportunity she and Sps. Caños took advantage of, but which, unfortunately turned unsuccessful. [11]

She also belied Sps. Caños' allegation that they have known her only in 2009. She claimed she had known Rodel since 1993 when she was still studying law. Rodel became her boyfriend when she was in law school, but their relationship did not last long. In 2009, Escobido met Rodel again as he frequented her office to follow up cases which he filed and were pending before RTC Branches 18 and 19. Rodel even introduced Escobido to his wife. This new friendship paved the way for business transactions and opportunities. [12]

Escobido denied that she offered to get jewelry and other imported items from Sps. Caños. Instead, it was Rodel who persuaded her to help them sell their goods. [13] Under their agreement, Escobido signed trust receipts for imported goods obtained from Sps. Caños. She was allowed a certain period to sell the goods, after which the unsold items were returned to Sps. Caños. She would pay for the total amount of the items sold by issuing checks covering three equal monthly installments. [14]

The business was doing well for months until Sps. Caños introduced the jewelry business to Escobido. Rodel persuaded her that the business is lucrative and that she can get more profits. Sps. Caños proposed that they will give Escobido a "dealer's price," provided that anything she gets from them will be considered sold unless defective. In effect, what Sps. Caños and Escobido entered into was a contract of sale. [15]

In January 2010, Sps. Caños started giving jewelry to be sold, which Escobido received by signing trust receipts. She usually issued checks for the amounts due, payable in eight to ten monthly installments per transaction. At first, she was able to pay her debts until most of her customers started to miss their payments. Escobido allegedly told Rodel about her problem and he merely advised her to be careful next time and gave her an extended period within which to pay. Thus, despite her outstanding balance, Sps. Caños continued to sell her jewelry. [16]

Escobido went on to get more items from Sps. Caños until she decided to stop due

to her increasing bad debts. She told them that she would just return whatever jewelry she could get back from her customers who had been remiss in their payments.^[17] Sps. Caños refused because the jewelry was already considered sold and they feared that their quality might have already deteriorated.^[18] She tried to pay her debts, even borrowing from loan sharks until she could no longer pay.^[19]

In November 2010, Escobido recounted that aside from the checks to cover business transactions, she also had to cover the checks she issued for accommodation on behalf of her relatives and friends. Since she could no longer cover all these checks, Escobido allegedly requested Sps. Caños not to deposit her checks and to give her more time to pay them with cash. Thus, contrary to their claims, she did inform them of the status of her bank account.^[20] In fact, Sps. Caños made her believe that they understood her situation and assured her of their help in solving her problem.^[21]

Escobido likewise denied refusing to pay Sps. Caños. She was paying them even with meager amounts from December 2010 to February 2013. She claimed that she paid Rodel in March 2013 which he did not acknowledge since he gave back her checks.^[22]

When Sps. Caños realized that Escobido would never be able to pay them, they agreed to accept the return of some of the jewelry.^[23] These were supposed to be deducted from her outstanding accounts. When she asked for the checks covering the returned jewelry, Sps. Caños told her that the checks were still with their suppliers and that they would just sign the acknowledgment receipts in the meantime. However, they failed to give her the said checks.^[24]

Escobido further claimed that she executed the Undertaking upon Rodel's initiative and after consultation with her sister, Atty. Genevieve Marie Dolores B. Paulino (Paulino).^[25] The amount of P2,545,339.25 was arrived at after deducting the value of the jewelry that she returned to Sps. Caños.^[26]

On March 14, 2012, however, Rodel gave to Escobido the final letter-demand in the amount of P3,604,065.40.^[27] She was hesitant to accept and sign the letter-demand because the previous Undertaking indicated a lower amount. She was forced to receive and sign the letter-demand in the midst of family and financial problems.^[28]

Escobido also denied the allegation that Sps. Caños did not file a case against her due to lack of funds. They, in fact, filed a complaint against her for estafa and violation of *Batas Pambansa Blg. (BP) 22*.^[29] She did not use her position as clerk of court or profession as a lawyer to dissuade them from filing a case against her. She did not boast about her connections in the Office of the City Prosecutor of Davao City.^[30]

Furthermore, Escobido claimed that Rodel promised to be lenient with her if she would help him with his cases. Escobido's sister, Paulino, agreed to render legal services to Rodel, provided that compensation for such services would be deducted from the amount owed by Escobido. Thus, Escobido asserted that the amount of

debt demanded by Sps. Caños is bloated.^[31] The amount she owed would be greatly reduced if her payments, the value of the returned jewelry, and the legal services of her sister would be deducted from her total debt.^[32]

Finally, Escobido argued that she should not be held liable for any administrative violations attributed to her by Sps. Caños because she never denied her debt. She never refused to pay, but was only unable to do so. She was also not motivated by ill-will against Sps. Caños since her only desire to venture into business with them was to augment her family income.^[33]

The Report and Recommendation of the OCA

In a Memorandum^[34] dated December 10, 2014, the OCA found that Escobido is guilty of deliberate failure to pay just debts. The OCA noted the more than 100 postdated checks she issued amounting to more than P4,000,000.00, which all bounced. The willfulness in not paying her obligation was shown by the several years her debt remained unpaid from November 2010 to May 2013. The measly payments Escobido made served as mere tokens to appease Sps. Caños and did not show a serious intention to clear her debt.^[35]

The OCA also noted that two administrative complaints have been previously filed against Escobido for non-payment of debt.^[36] The first complaint, docketed as A.M. OCA IPI No. 03-1705-P (*Pham Duc Nhuan v. Louise Marie Therese B. Escobido, Clerk of Court V, RTC, Branch 19, Digos City*), charged Escobido with Conduct Unbecoming a Public Officer and Failure to Pay Just Debts. She allegedly failed to return P1,390,000.00, which was given by the complainant as part of a business transaction between them despite repeated demands. As guarantee, Escobido issued a check which was dishonored by the bank. The Court dismissed the complaint for being premature as the complainant has filed a criminal complaint involving the same issue, which was then pending review before the Department of Justice. In March 2014, a criminal case for violation of BP 22, docketed as Criminal Case No. 109,581-B-F-C-2003, with Pham Due Nhuan as private complainant, was filed against Escobido before Branch 3, Municipal Trial Court in Cities (MTCC), Davao City.^[37]

The second complaint, docketed as A.M. No. P-06-2259 [formerly A.M. OCA IPI No. 06-2386-P] (*Fe Lutero Cajegas, et al. v. Louise Marie Therese B. Escobido, Clerk of Court, RTC, Branch 19, Digos City, Davao Oriental*), charged Escobido with non-payment of debts to six persons despite repeated demands. She borrowed money from complainants, who were her former officemates at the Commission on Human Rights, Region XI, Ecoland, Davao City, and issued checks as payment for the loans. When presented to the bank, the checks were dishonored because the accounts against which they were drawn had been closed. In a Resolution dated October 16, 2006, Escobido was reprimanded for willful failure to pay just debts.^[38]

Upon review of the three administrative cases, the OCA found that the cases show a disquieting parallelism among them. In these cases, Escobido paid her debts with checks which upon presentment to the drawee banks, were dishonored because the accounts from which payments were drawn had to be closed. It was also found that she indiscriminately opened checking accounts in different banks, with numerous

checkbooks per account to cover the amounts she owed her creditors.^[39]

The OCA discovered that three criminal complaints for estafa and violation of BP 22 are pending before Branch 3, MTCC, Davao City. Two of these, Criminal Cases No. 150,071-D-B-C-14 and 150,072-D-B-C-14, were filed by Sps. Caños as private complainants, while Criminal Case No. 109,581-B-F-C-2003 was filed by Pham Due Nhuan as private complainant.^[40]

The OCA also found that Escobido should be held liable for conduct prejudicial to the best interest of the service. Her insidious and repeated acts of issuing worthless checks with considerable amounts involved, her cavalier treatment of the affidavit of undertaking to pay the debt which she claimed she was forced to sign, and her second time to commit the offense of willful failure to pay just debts evince bad faith and a disposition to defraud.^[41]

The OCA further noted that the recommendation is without prejudice to the outcome of the pending criminal cases filed against Escobido.^[42]

The OCA recommended the following:

- (1) the instant administrative complaint be **RE-DOCKETED** as a regular administrative matter against Atty. Louise Marie Therese B. Escobido, Clerk of Court V, Branch 19, Regional Trial Court (RTC), Digos City;
- (2) respondent Atty. Louise Marie Therese B. Escobido be found **GUILTY** of conduct prejudicial to the best interest of the service and willful failure to pay just debts and that she be **SUSPENDED** for a period of one (1) year, with a **STERN WARNING** that the commission of the same or similar acts in the future shall be dealt with more severely; and
- (3) the Presiding Judge and/or the Branch Clerk of Court of Branch 3, Municipal Trial Court in Cities, Davao City be **DIRECTED** to apprise the Court on a quarterly basis, relative to the progress of Criminal Case Nos. 150,071-D B-C-14; 150,072-D-B-C-14 and 109,581-B-F-C-2003 and to furnish the Court with copies of the decision in said criminal cases.^[43]

In a Manifestation^[44] dated July 17, 2015, Sps. Caños informed the Court that aside from the three criminal cases filed against Escobido, they have filed another complaint for estafa against her. The case is docketed as Criminal Case No. 27(15) and is pending before Branch 18, RTC, Digos City.

On November 25, 2015, the Clerk of Court of Branch 3, MTCC, Davao City, submitted^[45] the Orders of Dismissal^[46] of Criminal Cases No. 150,071-D-B-C-14, 150,072-D-B-C-14, and 109,581-B-F-C-2003 filed against Escobido.

The Court's Ruling

The Court agrees with the OCA that Escobido should be held administratively liable for willful failure to pay just debts and conduct prejudicial to the best interest of the