

FIRST DIVISION

[A.M. No. P-15-3344, January 13, 2016]

**ANTONIO A. FERNANDEZ, COMPLAINANT, VS. MILA A. ALERTA,
RESPONDENT.**

R E S O L U T I O N

PERLAS-BERNABE, J.:

This administrative case stemmed from the judicial-affidavit^[1] filed by complainant Antonio A. Fernandez (complainant) before the Office of the Court Administrator (OCA), charging respondent Mila A. Alerta (respondent), Court Stenographer III of the Regional Trial Court of Dumangas, Iloilo, Branch 68 (RTC) with Grave Misconduct, Dishonesty, otherwise known as "Anti-Graft and violation of Republic Act No. 3019,^[2] and Corrupt Practices Act."

The Facts

On October 18, 1993, complainant engaged the services of respondent to cause the transfer to the former's name the Original Certificate of Title (OCT) No. T-11566, which covers the parcel of land he bought from one Ma. Fema M. Arones (Arones).^[3] According to complainant, he gave respondent original copies of the following documents to facilitate the transfer: (a) deed of absolute sale; (b) capital gains tax certificate; (c) OCT No. T-11566; and (d) tax declaration,^[4] as evidenced by an acknowledgment receipt,^[5] and paid respondent the amount of P15,000.00 for his services for which the latter did not issue any receipt.^[6]

After over nineteen (19) years, however, respondent still had not caused the transfer of the title to complainant's name.^[7] Thus, in letters dated February 17, 2014^[8] and March 3, 2014,^[9] complainant, through his counsel, demanded the return of the documents previously transmitted to respondent, but to no avail. Hence, complainant was constrained to institute the present administrative case.

In her Comment,^[10] respondent admitted that she was engaged by complainant to process the transfer of OCT No. T-11566 in his name and received the documents relative thereto, but denied receipt of the amount of P15,000.00 for her alleged services.^[11] She clarified that the sale from Arones actually covered three (3) parcels of land, and that she was able to complete the transfer of two (2) parcels of land as early as 1994.^[12] With respect to the third parcel of land covered by OCT No. T-11566, respondent explained that she could not facilitate its transfer to complainant's name because the latter failed to pay the capital gains tax due thereon, and that, due to her change of residence and the heavy workload at the RTC, she inadvertently forgot about it until she was reminded of it by complainant sometime in 2013.^[13] She initially thought that she had lost the original copy of

OCT No. T-11566, but after diligent search, was able to find it and thereafter, tried to return it to complainant who was, however, nowhere to be found.^[14]

The Report and Recommendation of the OCA

In a Memorandum^[15] dated March 10, 2015, the OCA recommended that respondent be found guilty of Simple Misconduct and thus, be suspended from office for a period of one (1) month and one (1) day, with a stern warning that a repetition of the same or similar offense shall be dealt with more severely.

The OCA observed that respondent's administrative liability is undisputed in light of her admission that she agreed to cause the transfer of the property covered by OCT No. T-11566 in complainant's name, which is not among her duties as court stenographer.^[16] It remarked that respondent was engaged in "moonlighting", considering the fact that processing of transfer of properties requires transacting with government offices, such as the Registry of Deeds, only during office hours. Finally, it emphasized that officials and employees of the judiciary are prohibited from engaging directly in any private business, vocation, or profession even outside office hours to ensure full-time service and avoid undue delay in the administration of justice and in the disposition of cases.

The Issue Before the Court

The sole issue for the Court's resolution is whether or not respondent should be held administratively liable.

The Court's Ruling

The Court concurs with the OCA's findings except as to its recommended penalty.

In a number of administrative cases, officers and employees of the judiciary engaging in any private business, vocation or profession without prior approval of the Court were adjudged guilty of "moonlighting."^[17]

Under the Revised Rules on Administrative Cases in the Civil Services, "moonlighting" is denominated as the light offense of "[t]he pursuit of a private business or vocation without the permission required under Civil Service rules and regulations." It is punishable by reprimand for the first offense, suspension from office for a period of one (1) to thirty (30) days for the second offense, and dismissal from service for the third offense.^[18]

In this case, respondent's administrative liability for "moonlighting" remains undisputed as she, in fact, readily admitted that she endeavored to process the transfer of OCT No. T-11566 in complainant's name as agreed upon by them. Evidently, such task is not part of her duties as court stenographer which, under Administrative Circular No. 24-90^[19] dated July 12, 1990, in relation to Section 17, Rule 136 of the Rules of Court, are generally limited to the following:

- (a) transcribing stenographic notes and attaching the same to the records of the case not later than twenty (20) days from the time the