

SECOND DIVISION

[A.M. No. P-09-2714 [Formerly OCA I.P.I. No. 08-2707-P], December 06, 2010]

**FERNANDO P. CHAN, COMPLAINANT, VS. JOVEN T. OLEGARIO,
RESPONDENT.**

D E C I S I O N

PERALTA, J.:

Before this Court is a criminal complaint dated July 30, 2007 filed by Fernando P. Chan (Chan) against respondent Joven Olegario (Olegario), Process Server of the Regional Trial Court (RTC) of Makati City, Branch 6, Iligan City, for *Estafa*. The complaint was filed before the Office of the Ombudsman, however, Olegario being a court employee, the instant complaint was forwarded to the Office of the Court Administrator (OCA) for administrative disciplinary action.

The antecedent facts of the case, as culled from the records, are as follows:

Complainant Chan is the owner/proprietor of XRG Hardware and Construction Supply located at Tibanga Highway, Iligan City.

On February 3, 2001, Olegario went to Chan's hardware to obtain construction materials which will be utilized for the construction of his house. He introduced himself to Chan as a court process server at the RTC of Iligan, Branch VI, and showed certain documents as proof. Olegario explained then to Chan that he was short of funds for the construction of his house and that he had applied for a loan at GSIS. He then asked Chan for construction materials and promised that he will pay his loan as soon as he received the proceeds of his GSIS loan as well as an interest of 20% per annum.

Banking on the words of Olegario and his being a government employee, Chan agreed to his request and delivered to him construction materials, to wit: (1) 10 bags of cement; (2) 10 pcs. of Plywood; and (3) 10 pcs. of corrugated G.I. sheet. The total cost of the construction materials amounted to Four Thousand Five Hundred Ten Pesos (P4,510.00).

Three months after, Chan demanded payment from Olegario, but the latter told him that his loan has yet to be released. He promised though that he will pay his obligation with interest. His promise to pay his obligation went on and on.

Chan averred that for seven years, Olegario has not paid him even a single centavo.

On June 15, 2007, Chan sent another demand letter to Olegario to pay his obligation. Again, Olegario merely promised him that he will pay his obligation within 15 days, but he never did.

On October 16, 2007, the Court directed Olegario to submit his comment on the instant complaint against him.

In his Comment dated March 4, 2008, Olegario denied that he had been evading his obligation to pay his debts to Chan. He alleged that his wife died on February 6, 2008 after a month of fighting a massive stroke, thus, he had to attend to the needs of his wife.

Olegario likewise manifested that he attempted to tender partial payment to Chan, but the latter refused it. He asked the Court to give him more time to settle his obligation to Chan.

Subsequently, in its Memorandum dated September 23, 2009, the OCA recommended that the instant complaint be redocketed as a regular administrative complaint. It further found Olegario guilty of willful failure to pay just debt and conduct unbecoming of a court employee, thus, also recommended the imposition of a fine in the amount of P5,000.00.

We agree with the findings and recommendation of the OCA.

The Court cannot overstress the need for circumspect and proper behavior on the part of court employees. While it may be just for an individual to incur indebtedness unrestrained by the fact that he is a public officer or employee, caution should be taken to prevent the occurrence of dubious circumstances that might inevitably impair the image of the public office. Employees of the court should always keep in mind that the court is regarded by the public with respect. Consequently, the conduct of each court personnel should be circumscribed with the heavy burden of onus and must at all times be characterized by, among other things, uprightness, propriety and decorum.^[1]

There is no question as to the existence of the debt and its justness as Olegario himself admitted them. Likewise, Olegario's allegation of financial difficulties is not a sufficient excuse for failing to pay his debt to Chan. He claimed that he had no intention of evading his obligation, but we are unconvinced. The fact that it took more than seven years before he attempted to pay his obligation clearly negated his claim.

Moreover, we also take note that it was Olegario's pronouncement that he is a court employee which induced Chan to trust him and extend a loan to him. Thus, Olegario's non-payment of his debt for more than 7 years not only tainted his name but the court's image as well. This we will not tolerate.

Furthermore, the fact that Chan, on December 12, 2009, manifested that he is no longer interested to pursue the instant administrative case since he and Olegario have already agreed to settle their dispute amicably would not render this case moot. The withdrawal of complaints cannot divest the Court of its jurisdiction nor strip it of its power to determine the veracity of the charges made and to discipline, such as the results of its investigation may warrant, an erring respondent. Administrative actions cannot depend on the will or pleasure of the complainant who may, for reasons of his own, condone what may be detestable. Neither can the Court be bound by the unilateral act of the complainant in a matter relating to its