

FIRST DIVISION

[A.M. No. P-08-2501, August 28, 2009]

**WILSON B. TAN, PETITIONER, VS. JESUS F. HERNANDO,
RESPONDENT.**

D E C I S I O N

BERSAMIN, J.:

All Judiciary employees are expected to be exemplars of fairness and honesty in both their official conduct and their personal actuations, including their business and commercial transactions. The community sees them in no other light. Thus, we insist upon this standard in dealing with the administrative complaint against an employee in the Office of the Clerk of Court of the Regional Trial Court (RTC) in Dumaguete City, Negros Oriental.

The antecedents follow.

By his letter-complaint dated July 5, 1999,^[1] complainant Wilson Tan charged respondent Jesus F. Hernando, Clerk IV, with dishonesty, moral turpitude and conduct unbecoming a public officer. He alleged that on October 1, 1998, Hernando, then with the Office of the Clerk of Court, went to his store to borrow P3,000.00 because Hernando then needed money; that as payment Hernando promised to deliver his October 1998 half-month salary check worth P3,000.00 upon receiving it, which promise was reflected on an acknowledgement receipt; that Hernando reneged on his promise and did not pay his obligation despite repeated demands; and that the act of Hernando compelled him to commence a criminal case for *estafa* against Hernando.^[2]

In his comment dated September 9, 1999,^[3] Hernando admitted that he had borrowed P3,000.00 from the complainant on October 1, 1998, but insisted that he had already paid the loan in full on January 27, 1999. However, the acknowledgment receipt^[4] issued by the complainant stated that Hernando still had a balance of P1,500.00.

On March 12, 2001, we referred the matter to Executive Judge Eleuterio E. Chiu of the RTC in Dumaguete City for investigation, report and recommendation.^[5]

In his report and recommendation dated June 29, 2001,^[6] Judge Chiu recommended the following alternative courses of action, namely:

- a) That the decision on the matter be held in abeyance until after a verdict was promulgated in Criminal Case No. L-345 of the Municipal Trial Court in Cities (MTCC), Branch 2, Dumaguete City (that is, the criminal case the complainant had filed

against Hernando charging him with other deceits), because said case was based on the same facts involved in the administrative matter; or

- b) That Hernando be suspended for 5 days, without pay, for dishonesty due to his failure to keep his promise to pay to the complainant the obligation of P3,000.00.

On December 10, 2001, the Court resolved to hold in abeyance its action on the evaluation, report and recommendation in order to await the final outcome of Criminal Case No. L-345.^[7]

On May 8, 2007, the Office of the Court Administrator (OCAd) received from the complainant a certified copy of the decision promulgated in Criminal Case No. L-345 on August 9, 2004 by the MTCC, Branch 2, in Dumaguete City,^[8] together with the entry of final judgment.^[9]

On October 1, 2007, the Court referred the matter to the Executive Judge, RTC, in Dumaguete City for evaluation, report and recommendation.

Through her letter dated January 14, 2008,^[10] RTC Executive Judge Fe Lualhati D. Bustamante reported that the decision in Criminal Case No. L-345 rendered by the MTCC, Branch 2, in Dumaguete City had absolved Hernando criminally but had ordered him to pay to the complainant the amount of P3,000.00 and interest at the rate of 12% *per annum* from October 1, 1998 until the amount was fully satisfied. She noted that Hernando had reached the compulsory age of retirement on December 25, 2004.

In the same report, Executive Judge Bustamante also made the following recommendation, to wit:

Mr. Hernando is in the twilight of his years. In his youth, he may have committed certain indiscretions. But he was a model employee, well-liked and steadfast in his work as clerk in the Office of the Clerk of Court of the then Court of First Instance and later the Regional Trial Court. He married late and had children who are still of tender ages (the youngest is ten years old). This is the reason why he had to resort to borrowing as his salary is not enough to support a growing family as the wife is unemployed. Mr. Hernando was humble enough to admit that as of the moment, he could not pay his obligation to Dr. Tan as he is living on a day to day basis as his salary was cut off upon retirement.

The undersigned therefore recommends that the Court adopts the findings of his honor, Roderick A. Maxino, who found that he is civilly liable to Dr. Wilson B. Tan in the amount of P3,000.00 and that he be ordered to pay the aforesaid amount with interest of 12% from 1 October 1998 until fully paid.

The undersigned humbly recommends that Mr. Hernando be allowed to retire so that the retirement benefits due him be released.