

THIRD DIVISION

[A.M. No. P-08-2436 (Formerly OCA I.P.I. No. 06-2394-P), August 04, 2009]

**TEOPICIO TAN, COMPLAINANT, VS. SALVACION D. SERMONIA,
CLERK IV, MUNICIPAL TRIAL COURT IN CITIES, ILOILO CITY,**

RESOLUTION

CHICO-NAZARIO, J.:

Before this Court is an administrative complaint filed by Teopicio Tan (Tan) against Salvacion D. Sermonia (Sermonia), Clerk IV of the Municipal Trial Court in Cities (MTCC), Iloilo City, for willful failure to pay just debts and conduct unbecoming a court employee.

According to the Complaint^[1] dated 23 January 2006, sometime in February to March 2000, Sermonia purchased on credit from Tan various construction materials amounting to P15,145.50, promising to pay for the same within 30 days. However, after the lapse of the said period, Sermonia failed to pay her debt. Everytime Tan demanded payment from Sermonia, the latter got angry and uttered bad words against the former. Tan made his final demand on 21 November 2000, but Sermonia still refused to pay her debt. Hence, on 16 January 2002, Tan filed before the MTCC a civil complaint against Sermonia for collection of sum of money, docketed as Civil Case No. 20730. A Decision was rendered by the MTCC in Civil Case No. 20730 on 29 December 2003 ordering Sermonia to pay Tan P15,145.50, plus 12% interest per annum, from the date of demand until full payment, and 25% of the amount payable as attorney's fees, as well as to pay the costs of the suit.

On 9 March 2006, the Office of the Court Administrator (OCA) required Sermonia to file her comment within 10 days.^[2] However, Sermonia failed to comply, and a 1st Tracer^[3] dated 30 June 2006 was issued to her.

In response, Sermonia sent the OCA a letter^[4] dated 21 July 2006 requesting an extension of 30 days within which to file her comment since she had yet to secure the services of a counsel. The OCA granted her request on 30 August 2006. Despite the lapse of the extended period granted her, Sermonia still failed to submit her comment. Consequently, then Deputy Court Administrator Zenaida N. Elepaño submitted an Agenda^[5] Report on 23 May 2007, informing the Court of Sermonia's refusal to file her comment on Tan's Complaint.

Acting on said Agenda Report, the Court issued a Resolution^[6] dated 9 July 2007 directing Sermonia to file her comment within a non-extendible period of 10 days from notice, and to show cause why she should not be administratively dealt with for her failure to file the same comment despite the extended period previously granted her.

Sermonia filed her Comment^[7] only on 26 September 2007. Sermonia explained in her Comment that she did not pay her debt to Tan because she opposed the accuracy and justness of the amount he had demanded. Sermonia claimed to have already made partial payments of her debt, but she misplaced the papers/receipts evidencing her payments. She failed to make subsequent payments due to severe financial difficulties, since she was the principal provider for an extended family of elders, nephews, and nieces, plus she was incurring spiraling expenses brought about by her obesity. She did acknowledge, however, that she had moral and legal responsibilities to settle her financial obligation to Tan.

On 14 January 2008, the OCA submitted its Report^[8] with the following recommendation:

PREMISES CONSIDERED, it is respectfully recommended to the Honorable Court that respondent Salvacion Sermonia, Clerk IV, MTCC, Iloilo City be **SUSPENDED** from the service for one (1) year for willful failure to pay just debts and for failure to comply with the directive of the Office of the Court Administrator and **WARNED** that a repetition of the same or similar infraction in the future will be dealt with more severely.

On 3 March 2008, the Court required the parties to manifest^[9] within 10 days from notice if they were willing to submit the matter for resolution based on the pleadings filed.^[10] Since both parties failed to submit such manifestations, the Court considered that they were deemed to have submitted the case for deliberation based on the pleadings filed.

The Court agrees in the findings of the OCA, except in the recommended penalty.

A review of the records would reveal that Sermonia was indeed guilty of willful failure to pay a just debt.

"Just debts" refer to (1) claims adjudicated by a court of law; or (2) claims the existence and justness of which are admitted by the debtor.^[11]

In the case at bar, there is no question that Sermonia admitted her debt to Tan when the former stated in her Comment that:

3. **[Sermonia], while refusing to pay the debt subject of Civil Case No. 20730, did not do so willfully.** Rather, she was only **constrained and found difficulty** to do so as she was in disagreement with the accuracy and justness of the amount that was being demanded of her by [Tan]. In fact, she had actually made partial payments thereon but has misplaced the small pieces of paper that was issued to her to prove the same. She was just biding for time during which she could have found these small pieces of paper and, thereby, reduce her liability.

4. When [Tan] filed Civil Case No. 20730, [Sermonia] did not file a responsive pleading anymore knowing that without those misplaced small

pieces of paper she, nevertheless, would not succeed in reducing her liability anyway. In this regard, in one occasion she just approached the counsel of [Tan] and told him, that she is just submitting herself to the usual course of the proceedings without interposing any defense, in effect, acknowledging the existence of her subject indebtedness. In doing so, she was of the honest belief that she will even make matters much easier for [Tan], who would as a consequence quickly obtain a favorable judgment from the court, which he could cause to be executed for satisfaction anytime.^[12] (Emphasis supplied.)

As can be gleaned above, Sermonia does not deny she has an unpaid debt to Tan. Sermonia, though, alleges that she refused to pay the amount demanded by Tan, because she disagreed with the accuracy and justness thereof, given that she had already made previous partial payments of her debt. This is a matter, however, which this Court can no longer take cognizance of in the resolution of the present administrative case.

It must be remembered that Tan already instituted Civil Case No. 20730, an action for collection of sum of money, against Sermonia, before the MTCC. It was in Civil Case No. 20730 where Sermonia could have appropriately assailed the amount being demanded by Tan and raised the defense of previous payments made. Yet, Sermonia chose not to file an answer to Tan's Complaint in Civil Case No. 20730, because she purportedly lost the receipts which could prove the previous payments she had made on her debt. Sermonia deemed it best to just let Civil Case No. 20730 proceed without opposition from her part. The MTCC rendered its Decision on 29 December 2003, ruling against Sermonia and ordering her to pay Tan's total demand of P15,145.50, plus 12% interest per annum, 25% attorney's fees, and costs of the suit. Even with this final and executory^[13] judgment of the MTCC in Civil Case No. 20730, Sermonia has still failed to finally settle her obligation to Tan.

In consideration of the foregoing, Tan's claim against Sermonia is a just debt, not only because its existence and justness are admitted by the latter, but also because it was already adjudicated by the MTCC. It is a just debt that remains unpaid by Sermonia.

Sermonia's averment of financial difficulties is not a sufficient excuse for failing to pay her debt to Tan. Nonpayment is not Sermonia's only option. Instead of meeting Tan's demands for payment with anger and foul utterances, Sermonia could have just humbly requested a readjustment of the terms of her debt to something more manageable for her to comply with, given her financial circumstances.

Having incurred a just debt, Sermonia had the moral duty and legal responsibility to settle it when it became due. In the words of this Court in *In Re: Complaint for Failure to Pay Just Debts Against Esther T. Andres*^[14]:

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.x x x.

Indeed, when Sermonia backtracked on her promise to pay her debt, such act already constituted a ground for administrative sanction,^[15] for any act that would be a bane to the public trust and confidence reposed in the judiciary shall not be countenanced.^[16] Sermonia's unethical conduct has diminished the honor and integrity of her office, stained the image of the judiciary and caused unnecessary interference, directly or indirectly, in the efficient and effective performance of her functions. Certainly, to preserve decency within the judiciary, court personnel must comply with just contractual obligations, act fairly and adhere to high ethical standards. Like all other court personnel, Sermonia is expected to be a paragon of uprightness, fairness and honesty not only in all her official conduct but also in her personal actuations, including business and commercial transactions, so as to avoid becoming her court's albatross of infamy.^[17]

The gravamen of Sermonia's offense is her unwillingness to pay a just obligation. The penalty imposed by the law is not directed at Sermonia's private life, but at her actuation unbecoming a public official.^[18]

Section 22(1), Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292, as amended by CSC Memorandum Circular No. 19, series of 1999, provides that willful failure to pay just debts is classified as a light offense, punishable by reprimand for the first infraction, suspension for one to 30 days for the second transgression, and dismissal for the third offense.

Sermonia has been previously charged twice for nonpayment of debts in *Madia-as Lending Corporation v. Salvacion Sermonia*^[19] and *GRIO Lending Services v. Salvacion Sermonia*,^[20] and was reprimanded by the Court in both instances. Thus, this is Sermonia's third case of willful failure to pay a just debt, which would have called for her dismissal from service.

Nevertheless, Section 53, Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service,^[21] grants the disciplining authority the discretion to consider mitigating circumstances in the imposition of the proper penalty. The Court has also ruled that where a penalty less punitive would suffice, whatever missteps may be committed by labor ought not to be visited with a consequence so severe.^[22] It is not only for the law's concern for the workingman; there is, in addition, his family to consider. Unemployment brings untold hardships and sorrows on those dependent on wage earners.^[23]

As a result, in several administrative cases, the Court has refrained from strictly imposing the penalties provided by the law or rules, in the presence of factors such as the offending court employee's length of service, acknowledgment of his or her infractions and feeling of remorse, family circumstances, advanced age, and other humanitarian and equitable considerations.^[24]