

EN BANC

[**A.M. No. P-04-1875 (Formerly OCA IPI No. 03-1699-P), February 06, 2008**]

EMILIANO MALABANAN, Complainant, vs. NIÑO R. METRILLO, Clerk III, Regional Trial Court, Tanauan City, Branch 83, Respondent.

DECISION

PER CURIAM

What brings our judicial system into disrepute are often the actuations of a few erring court personnel peddling influence to party-litigants, creating the impression that decisions can be bought and sold, ultimately resulting in the disillusionment of the public. **This Court has never wavered in its vigilance in eradicating the so-called “bad eggs” in the judiciary.** And whenever warranted by the gravity of the offense, the supreme penalty of dismissal in an administrative case is meted to erring personnel.^[1] (Emphasis and underscoring supplied)

Niño Metrillo (respondent), Clerk III^[2] of the Regional Trial Court, Tanauan City, Branch 83, was charged with violation of Republic Act (RA) No. 3019 (Anti-graft and Corrupt Practices Act, by letter-complaint dated June 23, 2003^[3] of Emiliano Malabanan (complainant).

Complainant, then the incumbent Barangay Chairperson of Barangay Tinurik, Tanauan City, Batangas, was approached by Esmeraldo De Guzman (De Guzman), one of his constituents, relative to the latter’s case^[4] which was pending before Branch 83 of the Tanauan RTC.

De Guzman was on probation but he violated the conditions thereof, prompting a Probation and Parole Officer II to file a *Motion to Revoke Probation*.^[5]

Pending resolution of the motion, respondent summoned the relatives of De Guzman to see him so he could help De Guzman in his case. Obliging, Luis Perez and Rodel^[6] Perez, De Guzman’s father-in-law and brother-in-law, respectively, together with complainant who was requested to accompany them, met with respondent.

At the meeting, respondent assured them that he could find a way to settle the matter, impressing upon them that the probation officers are his friends and that the presiding judge of Branch 83 is his godfather.^[7] Before the Perezes and complainant left, respondent told them that he needed P20,000, half of which would be given to the probation officer and the other half to the Presiding Judge.

Complainant gave respondent P10,000 on September 16, 2002 and another P10,000 on October 3, 2002.^[8]

Respondent wshed in his undertaking, however, despite the lapse of several months. He even asked for additional amount, but complainant refused to heed and instead filed the complaint at bar against respondent.^[9]

In his Comment,^[10] respondent **did not deny nor admit** the charge against him. Instead, he informed that the complaint against him for violation of RA No. 3019 was dismissed by the Office of the City Prosecutor on the ground that there was no showing that he took advantage of his position in its commission, albeit his prosecution for estafa under Article 315, paragraph 2 of the Revised Penal Code was recommended.^[11]

Respondent was in fact charged with estafa before the Tanauan RTC, which charge was eventually dismissed after the Motion to Dismiss^[12] filed by the prosecution, due to the execution of a Joint Affidavit of Desistance by complainant and the Perezes, was granted.

Respondent who had resigned effective August 1, 2003 claims that with the dismissal of the criminal case and his resignation, the present administrative complaint should likewise be dismissed.

In its Report,^[13] the Office of the Court Administrator (OCA) states:

. . . The issues in this case are: (1) Whether the resignation of the respondent will render the administrative complaint filed against him moot and academic; and (2) Whether the dismissal of a related case of estafa based on the Affidavit of Desistance executed by the private offended party is a ground for the dismissal of the administrative complaint.

The records show that the instant administrative complaint, with the affidavit of the complainant attached thereto, was received by the Office of the Court Administrator on 03 July 2003. Herein respondent tendered his resignation on 25 July 2003, effective 01 August 2003. Therefore, **the filing of the complaint preceded the resignation of the respondent**. Under Memorandum Circular No. 38, Series of 1993, an officer or employee under administrative investigation may be allowed to resign pending decision of the case but it shall be without prejudice to the filing of any administrative/criminal case against him for any act committed while still in the service. The Court therefore, retains its jurisdiction either to pronounce the respondent official innocent of the charge or declare him guilty thereof. In a case, the court said:

If innocent, the respondent official merits vindication of his name and integrity as he leaves the government which he served well and faithfully; if guilty, he deserves to receive the corresponding censure and penalty proper and imposable under the situation (*Pesole vs. Rodriguez, 81 SCRA 208*).

Administrative investigation is different from criminal proceedings and the prosecution of one is not a bar to the other. In other words,

administrative investigation and criminal prosecution may be conducted simultaneously in different fora and the conviction in one will not affect the other.

The information that was filed against herein respondent was estafa committed by means of false pretenses, i.e., by pretending to possess power or influence over the Probation Officer and the Presiding Judge of Branch 83, RTC Tanauan City. When the respondent demanded and received the amount of Twenty thousand (P20,000.00) pesos from the private complainant with intent to gain, through fraudulent representation that he can work for the denial of the opposition to the petition for probation of the accused in Criminal Case No. P-656, in view of his alleged relationship with the Judge and the Probation Officer, he committed grave misconduct. Complainant, parted with the money in the belief that respondent, by reason of his office, can help the accused in his predicament.

x x x x^[14] (Italics in the original; emphasis and underscoring supplied)

In view of the resignation of the respondent, the OCA recommended the forfeiture of the benefits he is entitled to receive, with prejudice to re-employment in the Government or any of its agencies including government-owned or controlled corporations.^[15]

The Court has re-docketed the case and directed the parties to manifest whether they are willing to submit the case based on the pleadings and records already filed and submitted.^[16] Both parties failed to comply with the directive.

The Court finds respondent guilty of gross misconduct, punishable by dismissal even for the first offense.^[17]

That respondent tendered his resignation on July 25, 2003 after the complaint against him was filed on June 23, 2003, obviously to evade any sanction which may be imposed upon him for his wrongdoing, does not spare him of liability.^[18]

Neither does the dismissal of the estafa charge against him, which was based on an affidavit of desistance anyway. It bears noting that the quantum of proof required to successfully prosecute an administrative case is merely substantial evidence, not proof beyond reasonable doubt.^[19] At all events, as noted earlier, respondent did not deny the charge.

In the recent case of *Rodriguez v. Eugenio*^[20] wherein the therein respondent, a process server, was found guilty of grave misconduct for demanding and receiving money from the uncle of a party litigant, this Court dwelt on misconduct in office and its erosion of the respect for law and the courts in this wise.

Misconduct has been defined as any unlawful conduct, on the part of the person concerned with the administration of justice, prejudicial to the rights of the parties or to the right determination of the cause. It generally means wrongful, improper or unlawful conduct motivated by a premeditated, obstinate or intentional purpose. The term, however, does