

FIRST DIVISION

[A.M. NO. P-05-1969, June 12, 2008]

**AURORA B. GO, COMPLAINANT, VS. TERESITA C. REMOTIGUE,
CLERK OF COURT, MUNICIPAL TRIAL COURT IN CITIES-OCC,
CEBU CITY, RESPONDENT.**

D E C I S I O N

AZCUNA, J.:

This is an administrative complaint filed by complainant Aurora B. Go against respondent Teresita C. Remotigue, Clerk of Court in the Municipal Trial Court in Cities, Cebu City for Conduct Unbecoming a Court Employee.

In her complaint dated September 13, 2004, complainant alleged that on February 26, 2003, complainant and respondent entered into an agreement to engage in the lending business with the court personnel of Cebu City as their prospective clients. This agreement was formalized by virtue of a Trust Agreement dated June 10, 2003^[1] wherein complainant agreed to contribute P150,000 as capital to be used for lending money with a stipulation that the 10% monthly interest earned on the loans would be divided equally between them. However, respondent ceased to remit complainant's 50% share from the interest collected from clients. Thus, in July 2003, complainant signified her intention to terminate their business partnership and requested respondent to return the amount of the capital with the interest thereon. Respondent failed to comply despite verbal and written demands, the last of which was a handwritten letter dated May 12, 2004^[2] which demanded the return of her contribution with the corresponding interest within two weeks from notice thereof. According to complainant, in one of her conversations with respondent, the latter arrogantly told her in the Cebuano dialect, "*Sige kiha nalang sa husgado. Og kita nalang ta sa husgado kon maka-sukot ka ba, labin nga dili ako mobayad sa imo.*" ("Go ahead, file a case in court. Let us see if you can get anything from me, the more I will not pay you.") Complainant got worried that respondent might not settle her just claim as the latter even bragged about her influence and connection with the courts in Cebu City.

In her Comment dated December 10, 2004, respondent admitted that she and complainant had entered into a lending agreement in the lending business of her cousin, Conchita Pepito of Leyte, but denied that the same was particularly for the court personnel of Cebu City. Respondent pointed out that complainant proposed to her the lending business which would have the court employees of Cebu as clients, but knowing that it would be improper, she declined and instead, proposed that they join the lending business owned by her cousin, Conchita Pepito. Respondent countered that she continued to remit the share of complainant until March 2004 and that she only ceased to remit the interests when complainant informed her about her desire to terminate their lending business. She appended in her Comment the 21 deposit/payment slips^[3] of Bank of the Philippine Islands (BPI)^[4] under her

name and BPI Savings Account Number 2941-0008-89 evidencing her payment of complainant's share of the monthly interests and the P90,000 as partial refund of the principal amount of P150,000 while the outstanding amount cannot be returned yet as they were tied to long term loans. Contrary to complainant's claim, respondent said that complainant signified her intention to terminate their business relationship through verbal demands in February 2004, not in July 2003, as complainant needed funds to support her campaign as municipal mayor of Calubian, Leyte in the 2004 elections. Respondent claimed that she did not make an assurance that the capital contribution by the complainant would be returned immediately upon termination of their undertaking and as a consequence, she ceased granting loans to clients. She asserted that the lending business was a private undertaking and not confined to court employees in Cebu City and that she never used her position in the court to facilitate the lending business.

In its Report dated January 24, 2005, the Office of the Court Administrator (OCA) recommended that the case be redocketed as a regular administrative matter and that respondent be suspended from office for a period of one (1) month without pay for violation of Administrative Circular No. 5. The OCA found that per the Trust Agreement and her own admission, respondent was engaged in the business of lending, with the complainant providing the capital, and, thus, violated Administrative Circular No. 5 (Re: Prohibition for All Officials and Employees of the Judiciary to Work as Insurance Agents), dated October 4, 1988, which prohibits all officials and employees of the judiciary from engaging directly in any private business, vocation or profession. The OCA made no distinction whether respondent's business caters to court personnel in particular or that she utilizes her time outside of office hours to pursue her business. It emphasized that the public trust character of the office proscribes her from engaging in any private activity.

The recommendation of the OCA is well-taken. The Trust Agreement, signed by both parties and their instrumental witnesses and duly notarized by a notary public, serves as the repository of the terms and conditions of what complainant and respondent have agreed to be valid and binding between them and, therefore, constitutes the law between them. Under Article 1159 of the Civil Code, obligations arising from contracts have the force of law between the contracting parties and should be complied with in good faith. The Trust Agreement,^[5] executed by the parties on June 10, 2003, clearly shows that both complainant and respondent expressly bound themselves, to the exclusion of other persons, to be partners in the lending business with the following stipulations:

TRUST AGREEMENT

This Trust Agreement made and entered into by and between:

AURORA B. GO, of legal age, Filipino, married, with residence and postal address at M/F Diez Bldg., corner Ramos and Ranudo Sts., Cebu City, hereinafter known as the
First Party;

-- and --

TERESITA C. REMOTIGUE, also of legal, Filipino, with residence and postal address at No. 5, Naya Village, Tisa, Cebu City, hereinafter known as the **SECOND PARTY**, by virtue of this agreement:

1. The First Party entrusts the sum of **ONE HUNDRED FIFTY THOUSAND PESOS (P150,000.00)** to the Second Party. The first P50,000.00 was entrusted by the First Party to the Second Party on February 26, 2003, while the second P50,000.00 was entrusted on April 2, 2003 and the third P50,000.00 was entrusted on June 9, 2003;
2. The Second Party shall use the money entrusted for a lending business, which shall impose an interest of ten percent (10%) per month;
3. Earned interest shall be shared equally between the First and the Second Parties;
4. Interest earned every month shall be deposited by the Second Party to the account of the First Party with the Bank of the Philippines Islands identified as **S/A No. 2941-0008-89** on or before the 15th day of every month;
5. Every cash out for lending shall be withdrawn from the Bank of the Philippines Islands in the account of Aurora B. Go under **S/A No. 2945-0065-71;**
6. Any collection from the lending shall be deposited with the Bank of the Philippines Islands for the account of the First Party under **S/A No. 2945-0065-71;**
7. Any cash available shall be rolled or applied for lending;
8. The First Party shall, upon 30-day prior notice given to the Second Party, have the right to cease the lending operations;
9. Upon being notified of the First Party's intent to stop the operations, the Second Party shall cease to shell out money for clients, though the operation shall continue as far as collection and enforcement of the loan are concerned;
10. The Second Party shall have the right to withdraw from the agreement provided that she shall have liquidated and accounted for amount entrusted to her and the supposed interest gained.
11. Any agreement previously entered into by the parties are hereby superseded.

IN WITNESS WHEREOF, we have hereunto affix our signature this June 10, 2003, in the City of Cebu, Philippines.

(Sgd.) **AURORA B. GO**

First Party

CTC. No. 20725743

Issued on Feb. 3, 2003

(Sgd.) **TERESITA C. REMOTIGUE**

Second Party

CTC No. 17007188

Issued on Jan. 29, 2003