

## **FIRST DIVISION**

**[ A.M. No. P-02-1627 (Formerly OCA IPI No. 00-815-P), August 07, 2003 ]**

**CARIDAD RACCA AND CONSOLACION GALINATO,  
COMPLAINANTS, VS. MARIO C. BACULI, CLERK II AND EDMAR  
CADANO, PROCESS SERVER, MUNICIPAL CIRCUIT TRIAL COURT,  
NARVACAN, ILOCOS SUR, RESPONDENTS.**

### **R E S O L U T I O N**

**VITUG, J.:**

In a sworn complaint, dated 02 February 2000, Clerk II Mario C. Baculi of the Municipal Circuit Trial Court, Narvacan-Nagbukel-Santa, Ilocos Sur, was charged with gross dishonesty, conduct unbecoming a court employee and conduct prejudicial to the best interest of the service relative to Civil Case No. 563, entitled "*Caridad Racca vs. Consolacion Galinato*." The complaint averred that, in the aforementioned civil case, Consolacion Galinato and Caridad Racca entered into a compromise agreement. On 30 May 1995, respondent Baculi went to the house of Galinato and told her that he was authorized by Racca to collect her monthly obligation pursuant to the compromise agreement. She thus gave him the sum of P1,500.00, evidenced by a receipt bearing an even date. About two months later, Racca demanded from Galinato the payment of her obligation. It was then that Galinato allegedly learned that Baculi did not turn over the money to Racca.

Caridad Racca also complained that when she went to the house of Galinato to demand payment of the latter's obligation, the latter informed her that the amount of P1,500.00 was already paid through Baculi. Racca maintained that she did not authorize Baculi to collect the sum from Galinato and that, in any case, the money was not given to her. She claimed that she went to the office of Baculi a number of times to demand that the sum be turned over to her but Baculi denied having received it from Galinato.

Baculi, in his counter-affidavit, denied that he went to the house of Galinato but that the latter went to his (Baculi's) office to deliver the amount due Racca after Galinato was unable to see Edmar Cadano, the process server authorized to receive the money, who was then absent. Galinato prevailed upon Baculi to receive the money as Galinato could no longer wait for Cadano. Baculi claimed that he gave the money to Cadano a few days later but he did not bother to ask for any receipt from Cadano. Baculi, in corroboration, submitted an affidavit of desistance, dated 06 April 2000, executed by Galinato, to the effect that Baculi merely affixed her signature on the complaint because Judge Juan C. Cabusora had asked her to do so; that she could not understand the contents of the complaint and merely relied on Judge Cabusora's words that it was only about the money she gave to Baculi; and that the latter never went to her house but, just to the contrary, she went to the office of Baculi and asked him to receive the money due Racca only because the one

authorized to receive it was not around. In a subsequent affidavit (dated 28 April 2000), however, Galinato averred that Baculi misled her into signing the affidavit of desistance.

Edmar Cadano, for his part, executed an affidavit, dated 28 April 2000, stating that Baculi did not turn over to him the amount of P1,500.00 supposedly received from Galinato.

The Court, in its resolution of 09 May 2001, referred the matter to Judge Ulpiano I. Campos of the Regional Trial Court, Narvacan, Ilocos Sur, Branch 22, for investigation, report and recommendation.

In his report of 28 December 2001, Judge Campos found Baculi administratively liable for violating Republic Act No. 6713, otherwise also known as the Code of Conduct and Ethical Standards for Public Officials and Employees. The Investigating Judge recommended that Baculi be suspended, without pay, for fifteen (15) days and that he be ordered to pay and deliver to complainant Racca the amount of P1,500.00 with legal interest of 12% per annum from 30 May 1995 until fully paid.

The Office of the Court Administrator (OCA), tasked to evaluate the report of Judge Campos, found respondent Baculi to have committed an act prejudicial to the interest of the service when he, not being a court-deputized collector, accepted the money from Galinato although he might not have had any dishonest motive. The OCA found the recommended penalty by the Investigating Judge to be harsh **considering that there was no convincing evidence that Baculi misappropriated or failed to turn over the money to Cadano.** The OCA said:

"The undersigned, after carefully perusing the records of this case, concurs with the findings made by the Investigating Judge that respondent Baculi committed a conduct prejudicial to the best interest of the service when he accepted the subject money from Mrs. Galinato. That he was motivated by an honest intention not to cause unnecessary delay to Mrs. Galinato is of no moment. The fact is that he had no business accepting the P1,500.00 tendered by Galinato because he was not the collector deputized by the court to do so. His actuations only compromised the integrity and corroded the dignity and honor of the courts and served to shake the people's faith and trust in the judiciary.

"However, the undersigned believes that the penalty recommended by the Investigating Judge is simply too harsh considering the circumstances of the case. This is so because of the fact that it was never established by clear and convincing evidence that respondent Baculi indeed failed to remit the money to Cadano or that he really misappropriated the same. Even Judge Campos recognized this fact in his Report when he mentioned therein that 'it could then be safely concluded that either the money in question remained in the hands of the respondent or it reached the possession of Edmar Cadano, whichever, whose testimony should be believed and to hold water at that' (Rollo, pp. 106-107) which means he is in doubt whether Baculi delivered the money or not to Cadano. In the face of this circumstance, the doubt must be resolved in favor of the respondent. Also, the undersigned, just like the Investigating Judge, cannot help but question the manner by which the instant case was filed.