

THIRD DIVISION

[A.M. No. P-01-1484 (Formerly OCA I.P.I. No. 96-194-P), July 17, 2001]

**EXECUTIVE JUDGE JOSE R. ASTORGA, COMPLAINANT, VS.
NICOLASITO S. SOLAS, CLERK OF COURT, MUNICIPAL TRIAL
COURT IN CITIES, ILOILO CITY, RESPONDENT.**

DECISION

VITUG, J.:

In a letter-complaint, dated 05 July 1996, former Executive Judge Jose R. Astorga of the Municipal Trial Court in Cities ("MTCC"), Iloilo City, charged respondent Clerk of Court, Nicolasito Solas, of MTCC, Iloilo City, with various irregularities in the performance of his duties.

Complainant averred that, on 25 June 1996, a voucher for payment or withdrawal of cash bond deposit, along with an accomplished Land Bank of the Philippines Check No. 17728546, was presented to him for his signature and release. Noticing that the voucher was signed by Judge Nelida Medina only on 25 June 1996 but that the check was by then already signed on and dated 18 June 1996 by respondent, Judge Astorga disapproved the voucher and the release of the check. The check (of 18 June 1996) was thereafter canceled and, on 01 July 1996, replaced by a new check. Complainant also stated that respondent unduly acted as a Notary Public; attached to the complaint were photocopies of private documents notarized by respondent. Complainant said that he had called the attention of respondent several times on this matter but the latter still continued to notarize documents not related to his official functions.

In his comment, respondent denied having committed any irregularity in signing LBP Check No. 17728546 prior to the preparation of the voucher. He maintained that he did not falsify the check and that no one was prejudiced by his action. Respondent claimed that the complaint was filed merely to favor the assistant clerk of court, Ma. Theresa Zerrudo, a close associate of complainant. He denied having improperly acted in occasionally administering oaths which he considered to be part of his functions under the Manual for Clerks of Court.

The Court, in its Resolution of 19 November 1997, referred the case to Executive Judge Severino C. Aguilar of the Regional Trial Court of Iloilo City, Branch 35, for investigation, report and recommendation.

During the pendency of the case, the Integrated Bar of the Philippines ("IBP"), Iloilo City, through its Board of Directors, filed on 19 January 1998 a Petition before the Office of the Court Administrator to enjoin respondent from notarizing and administering oaths on documents that had no relation to his official duties. In the "1st Indorsement" of Deputy Court Administrator Zenaida Elepaño, the petition of

the IBP was referred to Judge Aguilar for inclusion in his investigation of "OCA-IPI No. 96-194-P, entitled `Judge Jose R. Astorga vs. Nicolasito Solas.'"

After a series of conferences, the investigating judge recommended, in his "order" of 30 July 1998, to have the instant administrative matter considered closed and terminated, with a warning that a repetition by respondent of his questioned conduct could warrant a drastic action from the Office of the Executive Judge. In his order, the investigating judge took into account the letter, dated 08 July 1998, of respondent expressing remorse over an "honest mistake" in signing the check even prior to the preparation of the voucher. Respondent apologized for the inconvenience he had caused Judge Astorga. The order contained the conformity of complainant and his acceptance of respondent's apology. The investigating judge explained that he issued the order as being a move to restore cordial relationship between Judge Astorga and respondent.

Relative to the petition of the IBP, the investigating judge issued an order, dated 19 February 1998, to the effect that based on an agreement with the Iloilo City IBP, represented by its President Atty. Von Lovel Bedina, respondent would discontinue his practice of notarizing documents and administering oaths on matters not related to his official function as a clerk of court. Thus, he felt, no sanction need yet be imposed on respondent.

The Office of the Court Administrator ("OCA"), in its memorandum, of 11 December 2000, gave its own assessment of the case.

On the issue of the premature signing of Land Bank Check No. 17728546, the OCA found that indeed respondent had acted in good faith and that, in any case, there was no prejudice that resulted to anyone.

Insofar as the charge of notarizing documents and administering oaths unrelated to his office, respondent was recommended by the OCA to be sanctioned by an imposition of a P5,000.00 fine with a warning that a repetition of the same offense would be dealt with more severely, citing Section N, Chapter VIII, Manual for Clerk of Court -

"DUTY TO ADMINISTER OATH - Officers authorized to administer oaths, with the exception of notaries public, municipal judges and clerks of court, are not obliged to administer oath or execute certificates save in matters of official business; and with the exception of notaries public, the offices performing the service in those matters shall charge no fee, unless specifically authorized by law."

The Court accepts the findings and recommendations of the OCA.

The OCA was convinced that the signing of Land Bank Check No. 17728546 prior to the preparation of the voucher was done in good faith and no one was prejudiced thereby. The Court, nevertheless, would still remind respondent to follow regular procedure in future transactions of this nature.

In respect to the other charge, respondent acted imprudently in notarizing documents and administering oath on matters alien to his official duties. The Resolution, dated 18 December 1990, of the Court *En Banc* on Administrative Matter