

EN BANC

[A.M. No. P-00-1419, October 17, 2001]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
MAGDALENA G. MAGNO, CLERK OF COURT II, MUNICIPAL TRIAL
COURT, JAEN, NUEVA ECIJA, RESPONDENT.**

D E C I S I O N

PER CURIAM:

This is a case of dishonesty committed by respondent Clerk of Court Magdalena G. Magno of the Municipal Trial Court of Jaen, Nueva Ecija.

The antecedent facts are:

On March 26, 1999, a judicial audit and physical inventory of court cases was conducted in the Municipal Trial Court of Jaen, Nueva Ecija by a team from the Office of the Court Administrator (OCA) in view of the forthcoming retirement of Presiding Judge Tiburcio V. Empaynado on May 21, 1999.

In his Report to the Chief Justice dated November 15, 1999, then Court Administrator Alfredo Benipayo included therein the information that according to a daily tabloid, Magdalena G. Magno, Clerk of Court II of the Municipal Trial Court of Jaen, Nueva Ecija, was entrapped and arrested in her office by Agents of the National Bureau of Investigation (NBI). She allegedly received marked money bills amounting to P4,000.00 which she demanded as "grease money" from one Leon Medestomas, plaintiff in Civil Case No. 2338 for ejectment with damages, for the implementation of a writ of execution/demolition issued therein.

In a Resolution dated January 18, 2000, this Court requested the NBI Director to furnish it with the evaluation and report on the entrapment of respondent Magno.

Then NBI Director Federico M. Opinion, Jr. complied with the request. On June 20, 2000, this Court referred his letter (with the required Evaluation and Report on the entrapment case) to the OCA.

On August 29, 2000, this Court issued a Resolution directing that the NBI Evaluation and Report on the entrapment of Magno be docketed as A. M. No. P-00-1419 (Office of the Court Administrator vs. Clerk of Court Magdalena G. Magno, MTC, Jaen, Nueva Ecija). In the same Resolution, Magno was suspended from office pending resolution of the case and was required to submit her comment on the NBI Report.

The NBI Report states:

**"MTC (Jaen, Nueva Ecija) Clerk of Court MAGDALENA G. MAGNO
demanded 4,000.00 `grease money' from Complainant LEON**

MEDESTOMAS in exchange for the implementation of a writ of execution on a demolition order issued by the said trial court re: Civil Case No. 2338 (Ejectment with Damages). Subject MAGNO threatened Complainant that the writ of execution would not be prepared and implemented unless Complainant gave-in to Subject's demand.

a) Complaint against Clerk of Court MAGDALENA MAGNO for alleged extortion activities was filed directly in this Command by LEON M. MEDESTOMAS, assisted by his counsel Atty. ARSENIO REYES.

b) On 24 August 1992, complaint for Ejectment with Damages was filed by spouses LEON and LYDIA MEDESTOMAS against FLORENTINO MEDESTOMAS before the Municipal Trial Court of Jaen, Nueva Ecija, and said case was docketed under Civil Case No. 2338 (Complaint dated 18 August 1992, Annex "B").

c) On 29 March 1999, a Resolution was issued by Hon. TIBURCIO EMPAYNADO, Judge, MTC, Jaen, Nueva Ecija, relative to the aforesaid case. In that Resolution, the motion for demolition was granted and Judge EMPAYNADO ordered Clerk of Court MAGDALENA MAGNO to issue a Writ of Demolition (Resolution dated 29 March 1999, Annex "C").

d) **Subject MAGDALENA MAGNO demanded P 4,000.00 cash from him for the issuance and implementation of Writ of Demolition and Subject threatened him that she is the only one who could cause the issuance and implementation of the said Demolition Order** (Sworn Statement of LEON M. MEDESTOMAS, Annex "D").

e) **An entrapment operation against Subject was planned by this Command.** For this purpose, a Forensic Chemist was summoned for the dusting and marking of money bills which will be utilized for the said operation (Request for Forensic Examination dated 30 April 1999, Photocopies of marked and dusted money bills, Annexes "E" & "F").

f) **On 30 April 1999, Agents of this Command arrested Subject inside her office** in MTC, Jaen, Nueva Ecija and **found in her possession were marked money bills and unsigned Writ of Demolition pertaining to Civil Case No. 2338** (Joint Affidavit of Arresting Agents, Unsigned Writ of Demolition, Annexes "G" & "H").

g) Subject MAGNO was immediately brought to our office, where she was photographed, booked and fingerprinted. **After she was apprised of her constitutional rights, she opted to remain silent** (Booking Sheet, Arrest Report and Arrest Information Sheet, Annexes "I" & "J").

h) **Complainant gave to Subject the P4,000.00 marked money bills who in turn showed to him an unsigned Writ of Demolition which according to Subject would now be forwarded to the Sheriff for execution** (Supplemental Sworn Statement of LEON M. MEDESTOMAS, Annex "K").

i) **Subject was interviewed relative to her defense that the said P 4,000.00 was not intended for her but to the Sheriff who would ...implement the said order, but she could not give the name of the Sheriff, which led the Undersigned to a conclusion that there is NONE.**

j) Ultraviolet light examinations conducted on the dorsal and palmar aspects of the left and right hands of Subject showed the presence of fluorescent specks and smudges. Similar examinations made on the money bills showed the presence of yellow fluorescent powder and the marking PCR 4/30/99 CABDO-NBI (Request for Ultraviolet Examination, and Certification from NBI Forensic Chemistry Division, Annexes "L" & "M").

k) On 01 May 1999, a transmittal letter was forwarded to the Office of the Cabanatuan City Inquest Prosecutor recommending that Subject MAGDALENA MAGNO be prosecuted for the crime of Robbery/Extortion, defined and penalized under Article 294 of the Revised Penal Code (Transmittal Letter, Annex "N")." (Emphasis ours)

An Information for direct bribery against respondent Magdalena Magno was subsequently filed with the Regional Trial Court (Branch 36) of Gapan, Nueva Ecija, docketed as Criminal Case No. 8936. But the said court, in its order dated July 24, 2000, quashed the Information for lack of jurisdiction. The record of the instant administrative case does not contain further details on the progress of this criminal case.

On September 21, 2000, respondent Magno filed her comment on the NBI Report. She denied the charge that she demanded and received from Leon Medestomas P4,000.00 as "grease money". She claimed that the amount was intended to be given to the sheriff to defray the latter's expenses in the implementation of the writ of execution/demolition. She recalled that on April 21, 1999, Medestomas went to her office to inquire as to (1) who would implement the writ of demolition; and (2) the amount needed for its implementation. She informed Medestomas that she would ask the sheriff who is familiar with the expenses involved in the implementation of the writ. On April 23, 1999, she discussed the matter with Sheriffs Mendoza and Palor and they gave her a written estimate of expenses in the sum of P4,000.00. When Medestomas returned to her office on the last week of April, 1999, she gave him the sheriffs' written estimate and told him that the money will be deposited with the MTC of Jaen and that any amount unspent will be returned to him as required under Section 9, Rule 141 of the Revised Rules of Court. On April 30, 1999, Medestomas went to her office again and deposited with the court P4,000.00 for the sheriffs' expenses. She then counted the money in the presence of Medestomas inside her office and scribbled a temporary receipt for the amount. But when she was about to give the receipt to Medestomas, the latter hurriedly left. She called him, instructing him to get the receipt, but he ignored her. [This specific incident was allegedly witnessed by one Marcela Millar, a Staff Assistant in the office, who executed a sworn statement which forms part of her (Magno's) defense.] Thereupon, Agents of the NBI then swarmed her office and took the record of the case of Medestomas, together with the P4,000.00 placed between the pages thereof. The NBI Agents arrested her and took her to the NBI Office in