

EN BANC

[A.M. No. P-97-1247, May 14, 1997]

**NARITA RABE, COMPLAINANT, VS. DELSA M. FLORES,
INTERPRETER III, RTC, BRANCH IV, PANABO, DAVAO,
RESPONDENT.
D E C I S I O N**

PER CURIAM:

In an administrative complaint for "Conduct Unbecoming a Government Employee, Acts Prejudicial to the Interest of the Service and Abuse of Authority" dated August 18, 1995, Complainant Narita Rabe,^[2] by counsel, charged Respondent Delsa M. Flores, Interpreter III at the Regional Trial Court, Branch IV, Panabo, Davao, as follows:^[3]

"(Mrs.) Flores took advantage of her position as a court employee by claiming a stall at the extension of the Public Public (sic) Market when she is (sic) not a member of our client's association and was never a party to Civil Case No. 89-23. She herself knows (sic) that the stalls in the said area had already been awarded to our client's members pursuant to the decision of the court on October 30, 1991. Worse, she took the law into her hands when she destroyed the stall of our client and brought the materials to the police station of Panabo, Davao."

After respondent filed her answer, the Court issued a Resolution dated January 17, 1996, absolving her of the charge. In the same resolution, however, the Court required respondent to explain why she should not be administratively dealt with for the following:^[4]

"x x x a) why she obtained a certification dated June 18, 1991 issued by Atty. Victor R. Ginete, Clerk of Court, same court, that she started performing her duties as (an) interpreter on May 16, 1991 when (1) according to a certification dated June 17, 1991 issued by Mr. Jose B. Avenido, Municipal Treasurer, Panabo Davao, she was employed in the office of the Municipal Assessor as Assessment Clerk I since February 1, 1990 to June 3, 1991 with her last salary being paid by said office on June 3, 1991; and (2) she took her oath of office before Judge Mariano C. Tupas only on June 17, 1991;

b) why she did not report said business interest in her sworn statement of Assets, Liabilities and Net Worth, Disclosure of Business Interests and Financial Connections, and Identification of Relatives in the Government Service for the years 1991, 1992, 1993, and 1994;

c) why she has not divested herself of her interest in said business within sixty (60) days from her assumption into (sic) office; and

d) why she has indicated in her DTRs for August 1995 that she worked on August 15-18, 21, 23-25 and 28-31 and for September, 1995 that she worked for all its twenty one (21) working days when her Contract of Lease with the Municipal Government of Panabo for the market stall in its Section 7 clearly states that she has to personally conduct her business and be present at the stall otherwise the same would be canceled as per its Section 13.

Respondent Flores, in a letter dated February 13, 1996, explains that, as stated in the certification of Atty. Ginete, she assumed her job in the Regional Trial Court, Branch IV, Panabo, Davao on May 16, 1991, in compliance with the directive from this Court for her to start working on the said date. Respondent further states that "even prior to said date (May 16, 1991)" she already reported to the court in order to familiarize herself with the scope of her duties.^[5]

Respondent Flores also admits that she had received from the municipality a salary for the period May 16 1991 — May 31, 1991, notwithstanding her transfer to the judiciary on May 16, 1991. She submits, however, the following justification:^[6]

"I admit that I received my last salary in the amount of One Thousand and 80/100 (P1,000.80) Pesos from the Local Government Unit from May 16-31, 1991 but farthest from my mind is the intent to defraud the government. It was my desire all the time to refund the amount the moment my salary is received from the Supreme Court, unfortunately more often than not (the salary) is received three or four months after assumption of office.

As we all know the month of May and June is the time we enroll our children in school thus the money I got that month from the Local Government Unit came handy in defraying registration expenses of my four children. The passage of time coupled with some intervening events, made me oblivious of my obligation to refund the money. However, when my attention was called on the day I received the copy of the resolution, I took no time in refunding the same."

Respondent alleges that the certification of Municipal Treasurer Jose V. Avenido is inaccurate because it was on January 25, 1990 that she was appointed as Assessment Clerk I.^[7] According to respondent, she took her oath on June 17, 1991, simply because it was on that date that she received a copy of her oath form.^[8]

Respondent avers that she did not divulge any business interest in her Sworn Statement of Assets and Liabilities and Financial Disclosure for the years 1991-1994 because she "was never engaged in business during said period although I had a stall in the market."^[9]

Respondent further avers that her Daily Time Record indicated that she held office on August 15, 18, 21, 23 to 25 and 28, 31 and all the working days of September, 1995 "because in truth and in fact x x x (she) did hold office on those days." This was because her contract of lease with the Municipal Government of Panabo was never implemented as it became the subject of "Civil Case No. 95-53 -- Panabo Public Market Vendors Assn. Inc. and Pag-ibig Ng Gulayan Ass. Inc. Vs. Municipality

of Panabo, et al., for Declaration of Nullity of Mun. Ord. No. XLV, Series of 1994."^[10]

The Court referred the matter to the Office of the Court Administrator for evaluation, report and recommendation. In its report, the OCA found respondent guilty of dishonesty and failure to report her business interest, and recommended that the penalty of dismissal be imposed on her. The Court finds that the report and recommendation of the OCA is in accord with the evidence and the law. We hold the explanation of respondent unsatisfactory. Respondent's misconduct is evident from the records.

By her own admission, respondent had collected her salary from the Municipality of Panabo for the period of May 16-31, 1991, when she was already working at the RTC. She knew that she was no longer entitled to a salary from the municipal government, but she took it just the same. She returned the amount only upon receipt of the Court Resolution dated January 17, 1996, or more than five (5) years later. We cannot countenance the same. Respondent's conduct is plain dishonesty.

Her explanation, as observed earlier, is unsatisfactory. Her overriding need for money from the municipal government, aggravated by the alleged delay in the processing of her initial salary from the Court, does not justify receipt of a salary not due her. We sympathize with respondent's sad plight of being the sole breadwinner of her family, with her husband and parents to feed and children to send to school. This, however, is not an acceptable excuse for her misconduct. If poverty and pressing financial need could justify stealing, the government would have been bankrupt long ago. A public servant should never expect to become wealthy in government.

But there is really more to respondents' defense of poverty. If respondent was just driven by dire pecuniary need, respondent should have returned the salary she had obtained from the Municipal Government of Panabo as soon as she obtained her salary from the court. However, she returned the money only after receipt of the Court's Resolution dated January 17, 1996, saying that she forgot all about it. Forgetfulness or failure to remember is never a rational or acceptable explanation.

In *Macario Flores vs. Nonilon Caniya, Deputy Sheriff, RTC, Imus, Cavite*,^[11] this Court ruled that a sheriff who failed to issue an official receipt for the money entrusted to him for the purpose of satisfying a judgment debt, "had really wanted to misappropriate the said amount." Inevitably, he was dismissed from service with forfeiture of all retirement benefits and accrued leave credits, with prejudice to re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations.

It is well to stress once again the constitutional declaration that a "(p)ublic office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest lives."^[12]

We have repeatedly held that although every office in the government service is a public trust, no position exacts a greater demand for moral righteousness and uprightness from an individual than in the judiciary. Personnel in the judiciary should conduct themselves in such a manner as to be beyond reproach and suspicion, and