



Republic of the Philippines
Supreme Court

Manila

EN BANC

RODOLFO C. SABIDONG,
Complainant,

A.M. NO. P-01-1448
(Formerly OCA IPI No. 99-664-P)

Present:

SERENO, *C.J.*,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,*
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,**
MENDOZA,
REYES,
PERLAS-BERNABE, and
LEONEN, *JJ.*

- versus -

NICOLASITO S. SOLAS
(Clerk of Court IV),
Respondent.

Promulgated:

JUNE 25, 2013

X-----X

DECISION

VILLARAMA, JR., J.:

The present administrative case stemmed from a sworn letter-complaint¹ dated May 29, 1999 filed before this Court by Rodolfo C. Sabidong (complainant) charging respondent Nicolasito S. Solas, Clerk of Court IV, Municipal Trial Court in Cities (MTCC), Iloilo City with grave and serious misconduct, dishonesty, oppression and abuse of authority.

* On official leave.

** No Part.

¹ *Rollo*, pp. 1-11.

The Facts

Trinidad Sabidong, complainant's mother, is one of the longtime occupants of a parcel of land, designated as Lot 11 (Lot 1280-D-4-11 of consolidation-subdivision plan [LRC] Pcs-483) originally registered in the name of C. N. Hodges and situated at Barangay San Vicente, Jaro, Iloilo City.² The Sabidongs are in possession of one-half portion of Lot 11 of the said Estate (Hodges Estate), as the other half-portion was occupied by Priscila Saplagio. Lot 11 was the subject of an ejectment suit filed by the Hodges Estate, docketed as Civil Case No. 14706 of the MTCC Iloilo City, Branch 4 ("*Rosita R. Natividad in her capacity as Administratrix of C.N. Hodges Estate, plaintiff vs. Priscila Saplagio, defendant*"). On May 31, 1983, a decision was rendered in said case ordering the defendant to immediately vacate the portion of Lot 11 leased to her and to pay the plaintiff rentals due, attorney's fees, expenses and costs.³ At the time, respondent was the Clerk of Court III of MTCC, Branch 3, Iloilo City.

Sometime in October 1984, respondent submitted an Offer to Purchase on installment Lots 11 and 12. In a letter dated January 7, 1986, the Administratrix of the Hodges Estate rejected respondent's offer in view of an application to purchase already filed by the actual occupant of Lot 12, "in line with the policy of the Probate Court to give priority to the actual occupants in awarding approval of Offers". While the check for initial down payment tendered by respondent was returned to him, he was nevertheless informed that he may file an offer to purchase Lot 11 and that if he could put up a sufficient down payment, the Estate could immediately endorse it for approval of the Probate Court so that the property can be awarded to him "should the occupant fail to avail of the priority given to them."⁴

The following day, January 8, 1986, respondent again submitted an Offer to Purchase Lot 11 with an area of 234 square meters for the amount of ₱35,100. Under the Order dated November 18, 1986 issued by the probate court (Regional Trial Court of Iloilo, Branch 27) in Special Proceedings No. 1672 ("*Testate Estate of the Late Charles Newton Hodges, Rosita R. Natividad, Administratrix*"), respondent's Offer to Purchase Lot 11 was approved upon the court's observation that the occupants of the subject lots "have not manifested their desire to purchase the lots they are occupying up to this date and considering time restraint and considering further, that the sales in favor of the x x x offerors are most beneficial to the estate x x x". On January 21, 1987, the probate court issued another Order granting respondent's motion for issuance of a writ of possession in his favor. The writ of possession over Lot 11 was eventually issued on June 27, 1989.⁵

² Id. at 12-13.

³ Id. at 14-15.

⁴ Id. at 16-17.

⁵ Id. at 18-22.

On November 21, 1994, a Deed of Sale With Mortgage covering Lot 11 was executed between respondent and the Hodges Estate represented by its Administratrix, Mrs. Ruth R. Diocares. Lot 11 was thereby conveyed to respondent on installment for the total purchase price of ₱50,000. Consequently, Transfer Certificate of Title (TCT) No. T-11836 in the name of C. N. Hodges was cancelled and a new certificate of title, TCT No. T-107519 in the name of respondent was issued on December 5, 1994. Lot 11 was later subdivided into two lots, Lots 11-A and 11-B for which the corresponding titles (TCT Nos. T-116467 and T-116468), also in the name of respondent, were issued on February 28, 1997.⁶

On motion of Ernesto Pe Benito, Administrator of the Hodges Estate, a writ of demolition was issued on March 3, 1998 by the probate court in favor of respondent and against all adverse occupants of Lot 11.⁷

On June 14, 1999, this Court received the sworn letter-complaint asserting that as court employee respondent cannot buy property in litigation (consequently he is not a buyer in good faith), commit deception, dishonesty, oppression and grave abuse of authority. Complainant specifically alleged the following:

3. Complainant and his siblings, are possessors and occupants of a parcel of land situated at Brgy. San Vicente, Jaro, Iloilo City, then identified as Lot No. 1280-D-4-11, later consolidated and subdivided and became known as Lot 11, then registered and titled in the name of Charles Newton Hodges. The Sabidong family started occupying this lot in 1948 and paid their monthly rentals until sometime in 1979 when the Estate of Hodges stopped accepting rentals. x x x

4. Upon knowing sometime in 1987 that the property over which their house is standing, was being offered for sale by the Estate, the mother of complainant, TRINIDAD CLAVERIO SABIDONG (now deceased), took interest in buying said property, Lot 11;

5. TRINIDAD CLAVERIO SABIDONG, was then an ordinary housekeeper and a laundrywoman, who never received any formal education, and did not even know how to read and write. When Trinidad Claverio Sabidong, together with her children and the complainant in this case, tried to negotiate with the Estate for the sale of the subject property, they were informed that all papers for transaction must pass through the respondent in this case, Nicolasito Solas. This is unusual, so they made inquiries and they learned that, Nicolasito Solas was then the Clerk of Court 111, Branch 3, Municipal Trial Court in Cities, Iloilo City and presently, the City Sheriff of Iloilo City;

6. The respondent Nicolasito Solas, then Clerk of Court III, MTCC, Iloilo City, has knowledge, by reason of his position that in 1983 Hodges Estate was ejecting occupants of its land. x x x Taking advantage of this inside information that the land subject of an ejectment case in the Municipal Trial Court in Cities, Iloilo City, whom respondent is a Clerk of Court III, the respondent surreptitiously offered to buy the said lot in

⁶ Id. at 23-28.

⁷ Id. at 31-32.

litigation. x x x

7. Complainant nor any member of his family did not know that as early as 1984, the respondent had offered to purchase the subject lot from the estate x x x. After receiving the notice of denial of his offer to purchase, dated January 7, 1986, respondent made a second offer to purchase the subject property the following day, January 8, 1986, knowing fully well that the subject property was being occupied. x x x

8. Because of this denial, respondent met with the family of the complainant and negotiated for the sale of the property and transfer of the title in favor of the latter. Respondent made the complainant and his family believe that he is the representative of the estate and that he needed a downpayment right away. All the while, the Sabidong family (who were carpenters, laundrywomen, a janitor, persons who belong to the underprivileged) relied on the representations of the respondent that he was authorized to facilitate the sale, with more reason that respondent represented himself as the City Sheriff;

9. That between 1992-1993, a sister of the complainant who was fortunate to have worked abroad, sent the amount of Ten Thousand (P10,000.00) Pesos to complainant's mother, to be given to respondent Nicolasito Solas. x x x After receiving the money, respondent assured the Sabidong family that they will not be ejected from the lot, he being the City Sheriff will take care of everything, and taking advantage of the illiteracy of Trinidad Claverio Sabidong, he did not issue any receipt;

10. True enough, they were not ejected instead it took the respondent some time to see them again and demanded additional payment. In the meanwhile, the complainant waited for the papers of the supposed sale and transfer of title, which respondent had promised after receiving the downpayment of P10,000.00;

11. That sometime again in 1995, respondent again received from the mother of complainant the amount of Two Thousand (P2,000.00) Pesos, allegedly for the expenses of the documentation of sale and transfer of title, and again respondent promised that the Sabidong family will not be ejected;

12. To the prejudice and surprise of the complainant and his family, respondent was able to secure an order for the approval of his offer to purchase x x x in Special Proceedings No. 1672 x x x;

13. Worse, respondent moved for the issuance of a Writ of Possession in his favor, which the probate court acted favorably x x x. A writ of possession was issued on June 27, 1989 x x x;

14. x x x respondent took advantage of the trust and confidence which the Sabidong family has shown, considering that respondent was an officer of the court and a City Sheriff at that. The complainant and his family thought that respondent, being a City Sheriff, could help them in the transfer of the title in their favor. Never had they ever imagined that while respondent had been receiving from them hard-earned monies purportedly for the sale of the subject property, respondent was also exercising acts of ownership adverse to the interest of the complainant and his family;

15. Being an officer of the court and supposed to be an

embodiment of fairness and justice, respondent acted with malice, with grave abuse of confidence and deceit when he represented that he can facilitate the sale and titling of the subject property in favor of the complainant and his family;

16. That when several thousands of pesos were given to the respondent as payment for the same and incidental expenses relative thereto, he was able to cause the transfer of the title in his favor. x x x;

17. After the death of Trinidad Claverio Sabidong x x x the respondent received from the complainant the amount of Five Thousand (P5,000.00) Pesos x x x When a receipt was demanded, respondent refused to issue one, and instead promised and assured the complainant that they will not be ejected;

x x x x

19. The complainant again, through his sister-in-law, Socorro Sabidong, delivered and gave to the respondent the amount of Three Thousand (P3,000.00) Pesos as expenses for the subdivision of the subject lot. The respondent facilitated the subdivision and after the same was approved, the complainant did not know that two (2) titles were issued in the name of the respondent. x x x;

20. Meanwhile, respondent prepared a Contract to Sell, for the complainant and his neighbor Norberto Saplago to affix their signatures, pursuant to their previous agreement for the buyers to avail of a housing loan with the Home Development Mutual Fund (PAG-IBIG). Complainant attended the seminar of the HDMF for seven (7) times, in his desire to consummate the sale. However, when the complainant affixed his signature in the contract, he was surprised that the owner of the subject property was the respondent. When complainant raised a question about this, respondent assured complainant that everything was alright and that sooner complainant will be the owner of the property. Complainant and his family, all these years, had believed and continued to believe that the owner was the estate of Hodges and that respondent was only the representative of the estate;

21. The Contract to Sell, appeared to have been notarized on June 3, 1996, however, no copy thereof was given to the complainant by the respondent. Respondent then, took the papers and documents required by the HDMF to be completed, from the complainant allegedly for the purpose of personally filing the same with the HDMF. Complainant freely and voluntarily delivered all pertinent documents to the respondent, thinking that respondent was helping in the fast and easy release of the loan. While the said documents were in the possession of the respondent, he never made any transaction with the HDMF, worse, when complainant tried to secure a copy of the Contract to Sell, the copy given was not signed by the Notary Public, x x x;

22. The complainant [was] shocked to learn that respondent had canceled the sale and that respondent refused to return the documents required by the HDMF. Respondent claimed that as Sheriff, he can cause the demolition of the house of the complainant and of his family. Respondent threatened the complainant and he is capable of pursuing a demolition order and serve the same with the assistance of the military. x x x;

23. After learning of the demolition [order], complainant attempted to settle the matter with the respondent, however, the same proved futile as respondent boasted that the property would now cost at Four Thousand Five Hundred (P4,500.00) Pesos;

24. The threats of demolition is imminent. Clearly, complainant and his family were duped by the respondent and are helpless victims of an officer of the court who took advantage of their good faith and trust. Complainant later was informed that the subject property was awarded to the respondent as his Sheriff's Fees, considering that respondent executed the decisions in ejectment cases filed by the Hodges estate against the adverse occupants of its vast properties;

25. A civil case for the Annulment of Title of the respondent over the subject property is pending before the Regional Trial Court of Iloilo, Branch 37 and a criminal complaint for Estafa is also pending preliminary investigation before the Office of the City Prosecutor of Iloilo City, known as I.S. No. 1559-99, both filed [by] the complainant against the respondent.⁸

Acting on the complaint, Court Administrator Alfredo L. Benipayo issued a 1st Indorsement⁹ dated July 8, 1999, requiring respondent to file his comment on the Complaint dated May 29, 1999. On October 21, 1999, respondent submitted his Comment.¹⁰

In a Resolution¹¹ dated July 19, 1999, Public Prosecutor Constantino C. Tubilleja dismissed the Estafa charge against respondent for insufficiency of evidence.

On November 29, 2000, Court Administrator Benipayo issued an Evaluation and Recommendation¹² finding respondent guilty of violating Article 1491¹³ of the Civil Code. Said rule prohibits the purchase by certain court officers of property and rights in litigation within their jurisdiction. Court Administrator Benipayo recommended that:

1. this administrative complaint be treated as an administrative matter;
2. respondent Nicolasito S. Solas, Clerk of Court IV, OCC, MTCC, Iloilo City be **SUSPENDED** for six (6) months, with warning that a repetition of the same offense in the future will be dealt with more

⁸ Id. at 2-8.

⁹ Id. at 39.

¹⁰ Id. at 40-47.

¹¹ Id. at 54-56-A.

¹² Id. at 57-61.

¹³ Art. 1491. The following persons cannot acquire by purchase, even at a public or judicial auction, either in person or through the mediation of another:

x x x x

(5) Justices, judges, prosecuting attorneys, clerks of superior and inferior courts, and other officers and employees connected with the administration of justice, the property and rights in litigation or levied upon an execution before the court within whose jurisdiction or territory they exercise their respective functions; this prohibition includes the act of acquiring by assignment and shall apply to lawyers, with respect to the property and rights which may be the object of any litigation in which they may take part by virtue of their profession.

x x x x.

severely;

3. inasmuch as there are factual issues regarding the delivery of substantial amounts which complainant alleged and which defendant denied, this issue should be investigated and the Executive Judge of the Regional Trial Court of Iloilo City should be designated to hear the evidence and to make a report and recommendation within sixty (60) days from receipt.¹⁴

In a Resolution¹⁵ dated January 22, 2001, this Court adopted the recommendation of the Court Administrator to treat the present administrative action as a regular administrative matter and to designate the Executive Judge of the RTC of Iloilo City to hear the evidence of the parties. The Court, however, noted without action the Court Administrator's recommendation to suspend respondent for six months.

On March 13, 2001, Acting Court Administrator Zenaida N. Elepaño forwarded the records of this case to Executive Judge Tito G. Gustilo of the Iloilo City RTC.¹⁶ In a Resolution¹⁷ dated July 18, 2001, the Court referred this case to the Executive Judge of the RTC of Iloilo City for investigation, report and recommendation within 60 days from notice. By Order¹⁸ dated August 30, 2001, Executive Judge Gustilo set the case for reception of evidence.

On March 19, 2004, the RTC of Iloilo, Branch 37, dismissed the case for annulment of title, damages and injunction against respondent for lack of merit.¹⁹

In a Resolution²⁰ dated June 15, 2005, the Court resolved to reassign the instant administrative case to Executive Judge Rene S. Hortillo for investigation, report and recommendation within 60 days from notice. In a Letter²¹ dated September 15, 2005, Executive Judge Hortillo informed the Court that per the records, the parties have presented their testimonial and documentary evidence before retired Executive Judge Tito G. Gustilo.

On September 12, 2005, Executive Judge Hortillo required the parties to file their respective memoranda within 60 days from notice, upon submission of which the case shall be deemed submitted for resolution.²²

In his Memorandum,²³ respondent maintained that his purchase of the subject land is not covered by the prohibition in paragraph 5, Article 1491 of

¹⁴ *Rollo*, p. 61.

¹⁵ *Id.* at 64-65.

¹⁶ *Id.* at 70.

¹⁷ *Id.* at 72.

¹⁸ *Id.* at 66.

¹⁹ *Id.* at 83-91.

²⁰ *Id.* at 100.

²¹ *Id.* at 97.

²² *Id.* at 99.

²³ *Id.* at 73-76.

the Civil Code. He pointed out that he bought Lot 11-A a decade after the MTCC of Iloilo, Branch 3, had ordered the ejectment of Priscila Saplagio and Trinidad Sabidong from the subject lot. He insisted that public trust was observed when complainant was accorded his right of first refusal in the purchase of Lot 11-A, albeit the latter failed to avail said right. Asserting that he is a buyer in good faith and for value, respondent cited the dismissal of the cases for Estafa and annulment of title and damages which complainant filed against him.

On September 10, 2007, respondent compulsorily retired from service. Prior to this, he wrote then Senior Deputy Court Administrator Zenaida N. Elepaño, requesting for the release of his retirement benefits pending resolution of the administrative cases against him.²⁴ In a Memorandum²⁵ dated September 24, 2007, Senior Deputy Court Administrator Elepaño made the following recommendations:

- a) The request of Nicolasito S. Solas, former Clerk of Court, MTCC, Iloilo City for partial release of his retirement benefits be **GRANTED**; and
- b) Atty. Lilian Barribal Co, Chief, Financial Management Office, Office of the Court Administrator be **DIRECTED** to (1) **WITHHOLD** the amount of Two Hundred Thousand Pesos (P200,000.00) from the retirement benefits of Nicolasito S. Solas to answer for any administrative liability that the Court may find against him in A.M. No. P-01-1448 (Formerly Administrative Matter OCA IPI No. 99-664-P); OCA IPI No. 99-659-P; OCA IPI No. 99-670-P; and OCA IPI No. 99-753-P; and (2) **RELEASE** the balance of his retirement benefits.²⁶

Eventually, the case was assigned to Judge Roger B. Patricio, the new Executive Judge of the Iloilo City RTC for investigation, report and recommendation.

On June 2, 2008, Judge Patricio submitted his final Report and Recommendation²⁷ finding respondent liable for grave misconduct and dishonesty under A.M. No. 03-06-13-SC or the Code of Conduct for Court Personnel. Based on the evidence presented, Judge Patricio concluded that respondent misappropriated the money which he received for the filing of complainant's loan application. Such money could not have been used for the partition of Lot No. 1280-D-4-11 since the same was already subdivided into Lots 11-A and 11-B when respondent presented the Contract to Sell to complainant. And despite respondent's promise to keep complainant and his family in peaceful possession of the subject property, respondent caused the issuance of a writ of demolition against them. Thus, Judge Patricio recommended the forfeiture of respondent's salary for six months to be deducted from his retirement benefits.

²⁴ Id. at 213.

²⁵ Id. at 210-212.

²⁶ Id. at 211-212.

²⁷ Id. at 194-205.

In a Resolution²⁸ dated September 29, 2008, the Court noted Judge Patricio's Investigation Report and referred the same to the Office of the Court Administrator (OCA) for evaluation, report and recommendation.

Findings and Recommendation of the OCA

In a Memorandum²⁹ dated January 16, 2009, then Court Administrator Jose P. Perez found respondent liable for serious and grave misconduct and dishonesty and recommended the forfeiture of respondent's salary for six months, which shall be deducted from his retirement benefits.

The Court Administrator held that by his unilateral acts of extinguishing the contract to sell and forfeiting the amounts he received from complainant and Saplagio without due notice, respondent failed to act with justice and equity. He found respondent's denial to be anchored merely on the fact that he had not issued receipts which was belied by his admission that he had asked money for the expenses of partitioning Lot 11 from complainant and Saplagio. Since their PAG-IBIG loan applications did not materialize, complainant should have returned the amounts given to him by complainant and Saplagio.

On February 11, 2009, the Court issued a Resolution³⁰ requiring the parties to manifest whether they are willing to submit the case for decision on the basis of the pleadings and records already filed with the Court. However, the copy of the Resolution dated February 11, 2009 which was sent to complainant was returned unserved with the postal carrier's notation "RTS-Deceased." Meanwhile, in a Compliance³¹ dated August 24, 2009, respondent expressed his willingness to submit the case for decision and prayed for an early resolution of the case.

Our Ruling

Article 1491, paragraph 5 of the Civil Code prohibits court officers such as clerks of court from acquiring property involved in litigation within the jurisdiction or territory of their courts. Said provision reads:

Article 1491. The following persons cannot acquire by purchase, even at a public or judicial auction, either in person or through the mediation of another:

x x x x

(5) Justices, judges, prosecuting attorneys, clerks of superior and inferior courts, and other officers and employees connected with the administration of justice, the **property and rights in litigation** or levied

²⁸ Id. at 231.

²⁹ Id. at 232-247.

³⁰ Id. at 248.

³¹ Id. at 253.

upon an execution **before the court within whose jurisdiction or territory they exercise their respective functions**; this prohibition includes the act of acquiring by assignment and shall apply to lawyers, with respect to the property and rights which may be the object of any litigation in which they may take part by virtue of their profession.

x x x x (Emphasis supplied.)

The rationale advanced for the prohibition is that public policy disallows the transactions in view of the fiduciary relationship involved, *i.e.*, the relation of trust and confidence and the peculiar control exercised by these persons.³² “In so providing, the Code tends to prevent fraud, or more precisely, tends not to give occasion for fraud, which is what can and must be done.”³³

For the prohibition to apply, the sale or assignment of the property must take place during the pendency of the litigation involving the property.³⁴ Where the property is acquired after the termination of the case, no violation of paragraph 5, Article 1491 of the Civil Code attaches.³⁵

In the case at bar, when respondent purchased Lot 11-A on November 21, 1994, the Decision in Civil Case No. 14706 which was promulgated on May 31, 1983 had long become final. Be that as it may, it can not be said that the property is no longer “in litigation” at that time considering that it was part of the Hodges Estate then under settlement proceedings (Sp. Proc. No. 1672).

A thing is said to be in litigation not only if there is some contest or litigation over it in court, but also from the moment that it becomes subject to the judicial action of the judge.³⁶ A property forming part of the estate under judicial settlement continues to be subject of litigation until the probate court issues an order declaring the estate proceedings closed and terminated. The rule is that as long as the order for the distribution of the estate has not been complied with, the probate proceedings cannot be deemed closed and terminated.³⁷ The probate court loses jurisdiction of an estate under administration only after the payment of all the debts and the remaining estate delivered to the heirs entitled to receive the same.³⁸ Since there is no evidence to show that Sp. Proc. No. 1672 in the RTC of Iloilo, Branch 27, had already been closed and terminated at the time of the execution of the Deed of Sale With Mortgage dated November 21, 1994, Lot 11 is still deemed to be “in litigation” subject to the operation of Article 1491 (5) of the Civil Code.

³² *Ramos v. Atty. Ngaseo*, 487 Phil. 40, 47 (2004).

³³ *Maharlika Publishing Corporation v. Sps. Tagle*, 226 Phil. 456, 465 (1986).

³⁴ *Macariola v. Hon. Asuncion, etc.*, 199 Phil. 295, 308 (1982).

³⁵ *Ramos v. Atty. Ngaseo*, supra note 32, at 48.

³⁶ *Vda. de Gurrea v. Suplico*, 522 Phil. 295, 308-309 (2006), citing *Valencia v. Cabanting*, A.C. Nos. 1302, 1391 and 1543, April 26, 1991, 196 SCRA 302, 307.

³⁷ *Id.* at 309, citing *Portugal v. Portugal-Beltran*, G.R. No. 155555, August 16, 2005, 467 SCRA 184, 197.

³⁸ *Id.*, citing *Guilas v. Judge of the Court of First Instance of Pampanga, et al.*, 150 Phil. 138, 144-145 (1972).

This notwithstanding, we hold that the sale of Lot 11 in favor of respondent did not violate the rule on disqualification to purchase property because Sp. Proc. No. 1672 was then pending before another court (RTC) and not MTCC where he was Clerk of Court.

On the charges against the respondent, we find him liable for dishonesty and grave misconduct.

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior as well as gross negligence by a public officer. To warrant dismissal from service, the misconduct must be grave, serious, important, weighty, momentous and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment. The misconduct must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office.³⁹

Dishonesty is the "disposition to lie, cheat, deceive, defraud or betray; untrustworthiness; lack of integrity; lack of honesty, probity, or integrity in principle; and lack of fairness and straightforwardness."⁴⁰

In this case, respondent deceived complainant's family who were led to believe that he is the legal representative of the Hodges Estate, or at least possessed of such power to intercede for overstaying occupants of the estate's properties like complainant. Boasting of his position as a court officer, a City Sheriff at that, complainant's family completely relied on his repeated assurance that they will not be ejected from the premises. Upon learning that the lot they were occupying was for sale and that they had to negotiate for it through respondent, complainant's family readily gave the amounts he demanded and, along with Saplago, complied with the requirements for a loan application with PAG-IBIG. All the while and unknown to complainant's family, respondent was actually working to acquire Lot 11 for himself.

Thus, while respondent was negotiating with the Hodges Estate for the sale of the property to him, he collected as down payment ₱5,000 from complainant's family in July 1986. Four months later, on November 18, 1986, the probate court approved respondent's offer to purchase Lot 11. The latter received further down payment from complainant in the amount of ₱10,000 between 1992 and 1993, or before the Deed of Sale with Mortgage⁴¹ dated November 21, 1994 could be executed in respondent's favor.

³⁹ *Office of the Court Administrator v. Musngi*, A.M. No. P-00-3024, July 17, 2012, 676 SCRA 525, 530, citing *Alenio v. Cunting*, A.M. No. P-05-1975, July 26, 2007, 528 SCRA 159, 169.

⁴⁰ *Id.*

⁴¹ *Rollo*, pp. 24-26.

Thereafter, respondent demanded ₱3,000 from complainant supposedly for the subdivision of Lot 11 between the latter and the Saplagios. Yet, it was not until respondent obtained title over said lot that the same was subdivided into Lots 11-A and 11-B. The records⁴² of the case show that the Subdivision Plan dated April 25, 1996, duly approved by the Land Management Services (DENR) subdividing Lot 11 into sublots 11-A and 11-B, was inscribed on February 28, 1997 – two years after TCT No. T-107519 covering Lot 11 was issued in respondent's name on December 5, 1994.

Finally, in 1995, respondent received the amount of ₱2,000 to defray the expenses for documentation and transfer of title in complainant's name. In the latter instance, while it may be argued that respondent already had the capacity to sell the subject property, the sum of all the circumstances belie an honest intention on his part to convey Lot 11-A to complainant. We note the inscription in TCT No. T-11836⁴³ in the name of C.N. Hodges that respondent executed a Request dated February 19, 1997 “for the issuance of separate titles in the name of the registered owner.”⁴⁴ Soon after, TCT No. T-116467⁴⁵ covering Lot 11-A and TCT No. T-116468⁴⁶ covering Lot 11-B were issued in the name of respondent on February 28, 1997 – only eight months after he executed the Contract to Sell⁴⁷ in favor of complainant on June 3, 1996.

Respondent's bare denials were correctly disregarded by the Court Administrator in the light of his own admission that he indeed asked money from both complainant and Saplagio. The evidence on record clearly established that by misrepresenting himself as the estate's representative and as a court officer having the power to protect complainant's family from eviction, respondent was able to collect sums totaling ₱20,000 from complainant's family. Even after the latter realized they were duped since respondent was already the owner of Lot 11, they still offered to buy the property from him. Respondent, however, changed his mind and no longer wanted to sell the property after nothing happened to the loan applications of complainant and Saplagio. This subsequent unilateral cancellation by respondent of the contract to sell with complainant may have been an afterthought, and plainly unjustified, based merely on his own assumption that complainant could not make full payment. But it did not negate the deception and fraudulent acts perpetrated against complainant's family who were forced into submission by the constant threat of eviction. Such acts constitute grave misconduct for which respondent should be held answerable.

In Re: Complaint Filed by Paz De Vera Lazaro Against Edna Magallanes, Court Stenographer III, RTC Br. 28 and Bonifacio G.

⁴² Id. at 13.

⁴³ Id. at 12-13.

⁴⁴ Id. at 13.

⁴⁵ Id. at 27.

⁴⁶ Id. at 28.

⁴⁷ Id. at 29-30.

Magallanes, Process Server, RTC Br. 30, Bayombong, Nueva Vizcaya,⁴⁸ the Court stressed that to preserve decency within the judiciary, court personnel must comply with just contractual obligations, act fairly and adhere to high ethical standards. In that case, we said that court employees are expected to be paragons of uprightness, fairness and honesty not only in their official conduct but also in their personal dealings, including business and commercial transactions to avoid becoming the court's albatross of infamy.⁴⁹

More importantly, Section 4(c) of Republic Act No. 6713⁵⁰ or the Code of Conduct and Ethical Standards for Public Officials and Employees mandates that public officials and employees shall remain true to the people at all times. They must act with justness and sincerity and shall not discriminate against anyone, especially the poor and the underprivileged. They shall at all times respect the rights of others, and shall refrain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety and public interest.

Under Section 52,⁵¹ Rule IV of the Uniform Rules on Administrative Cases in the Civil Service, dishonesty and grave misconduct are classified as grave offenses with the corresponding penalty of dismissal for the first offense. Section 58(a) states that the penalty of dismissal shall carry with it the cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in the government service.

Section 53 further provides that mitigating circumstances attendant to the commission of the offense should be considered in the determination of the penalty to be imposed on the erring government employee. However, no such mitigating circumstance had been shown. On the contrary, respondent had been previously held administratively liable for irregularities in the performance of his duties as Clerk of Court. In A.M. No. P-01-1484,⁵² this Court imposed on respondent a fine of ₱5,000 for acting imprudently in notarizing documents and administering oath on matters alien to his official duties. And in A.M. Nos. P-08-2567 (formerly OCA IPI No. 99-670-P) and P-08-2568 (formerly OCA IPI No. 99-753-P),⁵³ respondent was found liable

⁴⁸ A.M. No. P-11-3003 (Formerly A.M. I.P.I. No. 08-2970-P), April 25, 2012, 671 SCRA 1.

⁴⁹ Id. at 5.

⁵⁰ AN ACT ESTABLISHING A CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES, TO UPHOLD THE TIME-HONORED PRINCIPLE OF PUBLIC OFFICE BEING A PUBLIC TRUST, GRANTING INCENTIVES AND REWARDS FOR EXEMPLARY SERVICE, ENUMERATING PROHIBITED ACTS AND TRANSACTIONS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF AND FOR OTHER PURPOSES.

⁵¹ Section 52, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service reads:
Section 52. *Classification of Offenses.* – Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

A. The following are *grave offenses* with their corresponding penalties:

1. Dishonesty – 1st Offense - Dismissal

x x x x

3. Grave Misconduct – 1st Offense - Dismissal

x x x x

⁵² *Exec. Judge Astorga v. Solas*, 413 Phil. 558, 561 & 563 (2001).

⁵³ *Leyrit v. Solas*, October 30, 2009, 604 SCRA 668, 684.

for simple misconduct and ordered to pay a fine equivalent to his three (3) months salary to be deducted from his retirement benefits.

Since respondent had compulsorily retired from service on September 10, 2007, for this additional administrative case he should be fined in an amount equivalent to his salary for six months which shall likewise be deducted from his retirement benefits.

WHEREFORE, the Court finds respondent Nicolasito S. Solas, retired Clerk of Court IV, Municipal Trial Court in Cities, Iloilo City, **LIABLE FOR GRAVE MISCONDUCT AND DISHONESTY**. Respondent is **FINED** in an amount equivalent to his salary for six (6) months to be deducted from his retirement benefits.

SO ORDERED.


MARTIN S. VILLARAMA, JR.
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice

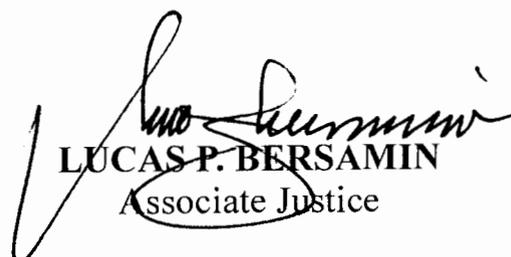

ANTONIO T. CARPIO
Associate Justice

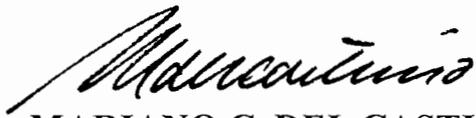

PRESBITERO J. VELASCO, JR.
Associate Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


ARTURO D. BRION
Associate Justice

(On official leave)
DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



ROBERTO A. ABAD
Associate Justice

(No Part)

JOSE PORTUGAL PEREZ
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice



BIENVENIDO L. REYES
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice



MARVIC MARIO VICTOR F. LEONEN
Associate Justice