



Republic of the Philippines
Supreme Court
 Manila

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ACCREDITED LOCAL
PUBLISHERS: THE WEEKLY
ILOCANDIA INQUIRER, THE
NORLUZONIAN COURIER, THE
AMIANAN TRIBUNE, THE
WEEKLY CITY BULLETIN, THE
NORTHERN STAR, THE
WEEKLY BANAT, THE NORTH
LUZON HEADLINE, THE
REGIONAL DIARYO, and HIGH
PLAINS JOURNAL ILOCANDIA,
 Complainants,

A.M. No. P-14-3213
 [Formerly A.M. No. 12-5-91-RTC]

Present:

SERENO, *CJ*,
 CARPIO,
 VELASCO, JR.,
 LEONARDO-DE CASTRO,
 BRION,
 PERALTA,
 BERSAMIN,
 DEL CASTILLO,
 PEREZ,
 MENDOZA,*
 REYES,**
 PERLAS-BERNABE,
 LEONEN,
 JARDELEZA, and
 CAGUIOA, *JJ*.

- versus -

SAMUEL L. DEL ROSARIO,
Clerk III, Regional Trial Court,
Branch 33, Bauang, La Union,
 Respondent.

Promulgated:

July 12, 2016

B. Berlangan-Arena

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DECISION

Per Curiam:

This case stemmed from a Joint Affidavit-Complaint¹ filed before Regional Trial Court Branch 67 (RTC Branch 67) of Bauang, La Union. Charges of grave misconduct and gross violation of Presidential Decree (P.D.) No. 1079² were filed by complainants, *The Weekly Ilocandia*

* On Sabbatical Leave.

** On Wellness Leave.

¹ Dated 19 October 2011; *rollo*, pp. 2-4.

²Revising and Consolidating All Laws and Decrees Regulating Publication of Judicial Notices, Advertisements for Public Biddings, Notices of Auction Sales and Other Similar Notices.

B. Berlangan-Arena

Inquirer, The Norluzonian Courier, The Amianan Tribune, The Weekly City Bulletin, The Northern Star, The Weekly Banat, The North Luzon Headline, The Regional Diary, and High Plains Journal Ilocandia (collectively referred to as the Accredited Publishers), against respondents Samuel L. del Rosario (Del Rosario), Clerk III of Branch 33, Regional Trial Court of Bauang, La Union; Harry Peralta (Peralta), publisher of the *Ilocos Herald*; and Brenda Ramos (Ramos), publisher of *Watching Eye* represented by Malou Reyes (Reyes).

ANTECEDENT FACTS

Complainants alleged that they, along with Ramos and Peralta, were the accredited publishers of judicial/legal notices. As such, they were authorized to participate in the raffle draws scheduled before RTC Branch 67 of Bauang, La Union.³ They accused respondent Del Rosario and respondent publishers of conspiring so that the latter would be the publishers of judicial and legal notices in cases that had not undergone the process of raffle, to the prejudice of complainants and in violation of P.D. 1079.⁴

In his Answer,⁵ respondent Del Rosario admitted referring some cases for publication to certain newspaper publishers or their representatives without the required raffle.⁶ He claimed that he had referred litigants to those publishers because they charged lower rates, and not because he was motivated by any monetary gain.⁷

In her Affidavit,⁸ Abarra alleged that in exchange for a certain amount of money intended for the medicines of respondent Del Rosario, the latter submitted a judicial notice to the *Ilocos Herald* for publication. Abarra claimed that publisher Peralta did not know that the notice had not been raffled. When Del Rosario gave her a second notice for publication, Abarra said that Peralta already knew it had not been raffled. As a result, Peralta did not publish the second judicial notice.⁹

On the other hand, Reyes responded that Del Rosario had approached her and asked her to publish all special proceedings (notices) that had not been raffled.¹⁰ The latter supposedly informed her that Presiding Judge Rose Mary M. Alim (Judge Alim) knew of the notices for publication.¹¹

³ Supra note 1, at 2.

⁴ Id.

⁵ Id. at 5-8.

⁶ Id. at 7.

⁷ Id.

⁸ Id. at 15-16.

⁹ Id. at 15.

¹⁰ Id. at 11.

¹¹ Id.

Ag. for Nayan - Chano

In his Resolution,¹² Judge Fe found that respondents Del Rosario, Abarra and Reyes had violated A.M. No. 01-1-07-SC¹³ and possibly the provision of the Revised Penal Code on falsifications. The publisher's league or the parties affected were advised that they may file appropriate criminal charges against respondents Del Rosario, Abarra and Reyes. Judge Fe further referred the case to the Office of the Court Administrator (OCA) for the evaluation of the administrative liability of respondent Del Rosario.¹⁴

REFERRAL TO THE OCA

Upon evaluation, OCA recommended that the administrative complaint be re-docketed as a regular administrative matter. However, it found the preliminary findings of RTC Branch 67 insufficient. OCA said that the allegations against respondent were grave and warranted his dismissal from the service if he were to be found liable.¹⁵ Hence, it opined that the case called for a full-blown investigation, in which the parties could adduce evidence and the investigator could come up with a detailed report.¹⁶ The complaint was referred to Judge Alim as Presiding Judge of RTC Branch 33 of Bauang, La Union, for investigation, report and recommendation within 60 days from receipt thereof.¹⁷

FINDINGS OF THE INVESTIGATING COURT

Following OCA's instructions, Judge Alim came up with her Report/Recommendation¹⁸ concerning the charges against Del Rosario. She found that based on the evidence on record, as well as on the admissions made by respondent Del Rosario himself, the latter had referred some cases to several favored publishers but without the benefit of raffle. That conduct, according to Judge Alim, constituted grave misconduct on his part.¹⁹ Another act amounting to grave misconduct was the alleged misrepresentation by Del Rosario to the newspaper representatives that his direct assignment to them was with the knowledge of the presiding judge.²⁰

Judge Alim also found that Del Rosario's act of borrowing money from the newspaper representatives was tantamount to receiving consideration for the unraffled cases. Even if Del Rosario denied receiving any monetary consideration, why would he be receiving money

¹² Dated 12 April 2012, id. at 19-23; Penned by Executive Judge Ferdinand A. Fe.

¹³ Guidelines in the Accreditation of Newspapers and Periodicals and in the Distribution of Legal Notices and Advertisements for Publication.

¹⁴ Supra note 1, at 23.

¹⁵ Id. at 58.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id. at 108-112.

¹⁹ Id. at 112.

²⁰ Id. at 111.

Jef. P. Aragon - Done

from the newspaper representatives if they would not be getting any personal favor in return? This fact was confirmed when Del Rosario admitted that he had secured loans from Reyes for medicines, since the former could not borrow money from the Supreme Court because of his pending administrative case.²¹

Lastly, Judge Alim said that Del Rosario's acts constituting grave misconduct eroded faith and confidence in the administration of justice, since the whole court was brought to disrepute. She said that people dealing with the court were forced to become wary and act with caution.²² Her recommendation reads:

This Investigating Judge finds respondent Samuel del Rosario, Clerk III of the RTC, Branch 33, Bauang, La Union, to have violated the law on raffle of judicial notices, as admitted by him, which is conduct prejudicial to the best interest of the service, and punishable with DISMISSAL.

Considering, however, that this is respondent's second offense, the first one was dismissed by the Supreme Court in the case of *People vs. Borromeo, et al.*, and his plea for apology and his promise not to do the same act again, this Investigating Judge recommends that he be suspended for one (1) year, tempering his liability with compassion in light of his admission of the said act with apology, with a stern warning that a repetition of the same act shall be dealt with, more severely.²³

RULING OF THE COURT

We find respondent Del Rosario guilty of gross/grave misconduct.

Respondent himself admittedly failed to refer the notices for publication to the Office of the Clerk of Court for the conduct of raffle. His failure to do so was in clear violation of A.M. No. 01-1-07-SC in relation to P.D. 1079. He claims that he directly gave notices for publication sans the required raffle, because "other newspapers charge very high amounts and he [took] pity [on] poor litigants."²⁴ Yet he miserably failed to adduce evidence to support his allegation that there were indigent litigants who had sought his help for referrals to publishers that would charge lower rates than the others. Even then, compassion cannot be a justification for ignoring the law on the publication of judicial notices and the rules on raffle, as there are remedies provided for indigent litigants.

²¹ Id. at 111-112.

²² Id. at 112.

²³ Id.

²⁴ Id. at 110.

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Moreover, his lame excuse of lack of knowledge of the process not only demonstrates his professional incompetence, but also casts serious doubt on his motives. This Court cannot countenance acts that tend to erode the faith of the people in the courts.

We have stressed that the behavior of all employees and officials involved in the administration of justice, from judges to the most junior clerks, is circumscribed with a heavy responsibility. Their conduct must be guided by strict propriety and decorum at all times in order to merit and maintain the public's respect and trust in the judiciary. Needless to say, all court personnel must conduct themselves in a manner exemplifying integrity, honesty and uprightness.²⁵

Respondent Del Rosario clearly violated the rule on the raffle of judicial notices for publication. The importance of the raffle of individual notices, cannot be overemphasized. It is intended to protect the integrity of the process.²⁶ Under P.D. 1079, the rationale for the conduct of a raffle is to better implement the philosophy behind the publication of notices and announcements and, more important, to prevent cross commercialism and unfair competition among community newspapers, which conditions prove to be inimical to the development of a truly free and responsible press.²⁷ In turn, the Court issued A.M. No. 01-1-07-SC to ensure uniform compliance with P.D. 1079 to protect the interests of the public in general, and of litigants in particular.

It bears to stress that a disregard of Court directives constitutes grave or serious misconduct.²⁸

Furthermore, Del Rosario admits to having contracted loans from Reyes "whenever he needed money for his medicines."²⁹ In support of this allegation, the latter testified that "whenever she collects the amount of ₱7,000, she would lend him (Del Rosario) ₱1,500 or ₱1,000 because she pitied him as he needed money for his medicines."³⁰ Del Rosario admits his misconduct, apologizes to the Court, and promises not to repeat the offense in the future.³¹

Notwithstanding respondent's remorseful appeal, the act of contracting a loan from a person having business relations with one's office is classified as a grave offense and is punishable by dismissal from

²⁵ *Aldecoa-Delorino v. Abellanosa*, A.M. No. P-08-2472, RTJ-08-2106, P-08-2420, 648 Phil. 32, 52 (2010).

²⁶ *In re: Partial Report on the Results of the Judicial Audit Conducted in the MTCC, Branch 1, Cebu City*, A.M. No. MTJ-05-1572, 567 Phil. 103, 123 (2008).

²⁷ See WHEREAS Clause.

²⁸ *Tugot v. Coliflores*, A.M. No. MTJ-00-1332, 467 Phil. 391, 402 (2004).

²⁹ *Supra* note 1 at 110.

³⁰ *Id.*

³¹ *Id.* at 111.

service under Section 46 A(9), Rule 10 on the Revised Rules on Administrative Cases in the Civil Service (RRACCS).

*Song v. Llegue*³² demonstrates the impropriety of receiving money or any other kind of property as a loan from a litigant or any other person who has business relations with court personnel:

Respondent admitted having received ₱3,000.00 from complainant, although he claims that it was a loan. This fact is also evidenced by a photocopy of the Allied Bank check dated April 3, 2002 issued by complainant to respondent, which he encashed on the same day. Respondent also acknowledged receiving such amount from complainant in his letter to complainant, through her counsel, remitting his payment for his debt. Respondent's act of receiving money from a litigant who has a pending case before the court where he is working is highly improper and warrants sanction from this Court. As stated by the Investigating Officer, the mere fact that he received money from a litigant unavoidably creates an impression not only in the litigant but also in other people that he could facilitate the favorable resolution of the cases pending before the court. Such behavior puts not only the court personnel involved, but the judiciary as well, in a bad light. We have often stressed that the conduct required of court personnel, from the presiding judge to the lowliest of clerk must always be beyond reproach and circumscribed with the heavy burden of responsibility as to let them be free from any suspicion that may taint the judiciary. **All court personnel are expected to exhibit the highest sense of honesty and integrity not only in the performance of their official duties but also in their personal and private dealings with other people to preserve the Court's good name and standing. This is because the image of a court of justice is mirrored in the conduct, official or otherwise, of the men and women who work there. Any impression of impropriety, misdeed or negligence must be avoided.**³³ (Emphasis supplied and citation omitted)

In sum, We find respondent Del Rosario remiss in his duty as Clerk III or clerk-in-charge of RTC Branch 33 of Bauang, La Union, for not abiding by the procedures for the raffle as laid down by law. This offense, coupled with his act of receiving loans from a person (Reyes) who had direct dealings or business with the court, constitutes gross misconduct on the part of a court employee.

We find no basis, however, for the recommendation of Judge Alim for the imposition of a mere suspension for one year. Records do not bear out any ground for the reduction of penalty. On the contrary, respondent admitted that he had been charged in the "Borromeo case," which was eventually dismissed by this Court.³⁴ Respondent resorted to obtaining loans from Reyes, because he could not avail himself of a loan from the Supreme Court during the pendency of the Borromeo case. Be that as it may, the

³² 464 Phil. 324 (2004).

³³ Id. at 330-331.

³⁴ TSN dated 20 January 2015; *rollo*, p. 105.

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alleged dismissal of the case cannot be used to support the diminution of the penalty to be imposed. The Court notes that the nature of the case and the reason for its dismissal were not disclosed, and that the penalty for grave misconduct is dismissal even for the first offense.

Under Section 22(c) of Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Section 46 A(2) of RRACCS, gross/grave misconduct is classified as a grave offense punishable with dismissal from service.

We reiterate anew that this Court shall not hesitate to impose the ultimate penalty on those who have fallen short of their accountabilities. No less than the Constitution has enshrined the principle that a public office is a public trust.³⁵ The Court will not tolerate or condone any conduct, act, or omission that falls short of the exacting norms of public office, especially on the part of those expected to preserve the image of the judiciary.³⁶ Lastly, since his acts may amount to a violation of P.D. 1079, our ruling is without prejudice to OCA's filing of the appropriate criminal charges against Del Rosario.

WHEREFORE, for his gross misconduct in his duties as Clerk III of the Regional Trial Court, Branch 33, Bauang, La Union, respondent Samuel L. del Rosario is hereby **DISMISSED** from service, with forfeiture of all benefits, excluding leave credits, with prejudice to re-employment in any branch or agency of the government including government-owned or controlled corporations.

The Office of the Court Administrator is **DIRECTED** to file the appropriate criminal complaint against respondent Samuel L. del Rosario in connection with the criminal aspect of this case in accordance with P.D. 1079.

SO ORDERED.



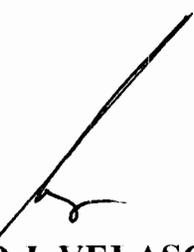
MARIA LOURDES P. A. SERENO
Chief Justice

³⁵ Constitution, Art. XI, Sec. 1.

³⁶ Supra note 25.



ANTONIO T. CARPIO
Associate Justice



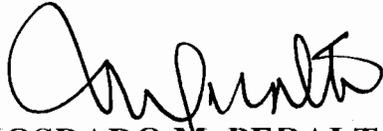
PRESBITERO J. VELASCO, JR.
Associate Justice



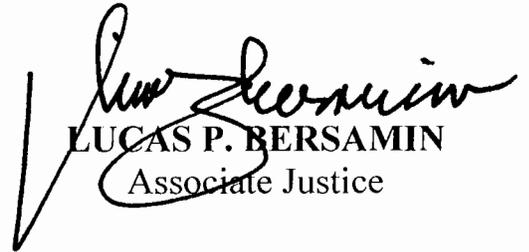
TERESITA J. LEONARDO-DE CASTRO
Associate Justice



ARTURO D. BRION
Associate Justice



DIOSDADO M. PERALTA
Associate Justice



LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice

(On Sabbatical Leave)
JOSE CATRAL MENDOZA
Associate Justice

(On Wellness Leave)
BIENVENIDO L. REYES
Associate Justice



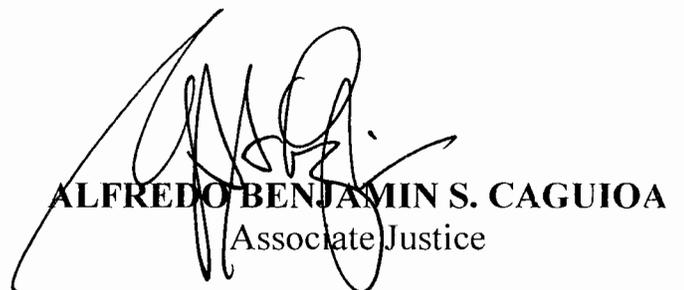
ESTELA M. PERLAS-BERNABE
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

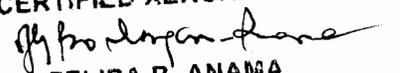


FRANCIS H. JARDELEZA
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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