



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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**FIRST GREAT VENTURES
 LOANS, INC., represented by
 DR. AGNES M. ESPIRITU,**
 Complainant,

A.M. No. P-17-3773

Present:

BERSAMIN, C.J.,
 CARPIO,
 PERALTA,
 PERLAS-BERNABE,
 LEONEN,
 CAGUIOA,
 REYES, JR., A.,
 GESMUNDO,
 REYES, JR., J.,
 HERNANDO,
 *CARANDANG,
 LAZARO-JAVIER,
 INTING, AND
 ZALAMEDA, JJ.

- versus -

**PROCESS SERVER ROBERT
 A. MERCADO, OFFICE OF
 THE CLERK OF COURT,
 MUNICIPAL TRIAL COURT
 IN CITIES, ANGELES CITY,
 PAMPANGA,**

Promulgated:

October 1, 2019

Respondent.

X-----X

DECISION

PER CURIAM:

The conduct and behavior of everyone connected with the dispensation of justice – from the judges to the lowliest clerks or aides – must always be beyond reproach and circumscribed with a heavy burden of responsibility. Propriety and decorum must characterize his conduct, and he should preserve the good name and standing of all courts by consistently adhering to the high ethical standards of the Judiciary. He is guilty of a grave offense if he ignores the standards for the sake of financial gain, and he may be dismissed from the service even for the first offense despite having been employed for 20 years.

* On official leave.

The Case

We hereby deal with and resolve the complaint filed by First Great Ventures Loans, Inc. (complainant) charging respondent Process Server Robert A. Mercado (respondent) with grave misconduct.¹

Antecedents

According to the complainant, the respondent, then a process server assigned in the Office of the Clerk of Court of the Municipal Trial Court in Cities (OCC-MTCC) in Angeles City, misrepresented himself as a sheriff of the Regional Trial Court in Angeles City and on the basis of his misrepresentation collected money from the complainant's delinquent clients without the knowledge or consent of the complainant, and without remitting the sums collected to the complainant.

After the respondent filed his comment,² the Court referred the case to the Executive Judge of the MTCC of Angeles City for investigation, report and recommendation.

Findings and Recommendations of the Investigating Judge

In her final investigation report, MTCC Executive Judge Gemma Theresa B. Hilario-Logronio rendered the following findings and conclusions, to wit:

FINDING OF FACTS

This administrative case arose from a complaint filed by Dra. Agnes Espiritu (Espiritu) against respondent Robert Mercado (Mercado). Espiritu is the president of First Great Ventures Loans, Inc. engaged in the lending business. Mercado is an employee of the Supreme Court holding the position as process server assigned at the Office of the Clerk of Court, Angeles City.

In her Complaint dated July 21, 2014, complainant Espiritu charged the respondent with Grave Misconduct for misrepresenting himself as a Sheriff of OCC-RTC to their delinquent debtors, Chito Valencia (Valencia) and Gina Vallejo (Vallejo). Mercado collected from them the payments of their unpaid loan with another misrepresentation that their cases were already turned over to him and as such their payments should be coursed through him. However, Espiritu alleged that the payments that Mercado was able to collect from their borrowers were not remitted to First Great Venture.

Espiritu, Valencia and Vallejo attended the administrative hearing. Valencia and Vallejo identified their respective affidavits both dated July 14, 2017 (Exhibits A & B).

¹ *Rollo*, pp. 1-3.

² *Id.* at 33.

Valencia testified during the investigation held on April 27, 2016, that on November 18, 2013, after he received a demand letter from First Great Ventures, Mercado went to his residence. Because of his representation that he is a Sheriff and that he will help Valencia to settle his case, he gave the money that was then in his possession in the sum of ₱15,000.00 as his partial payment for the loan he acquired from First Great Venture. Said money were the proceeds of the SSS burial benefits of his deceased father who died on October 19, 2013. Mercado issued an acknowledgment receipts (sic) dated November 18, 2013 for which he acknowledged the receipt of the amount of ₱15,000.00 from Valencia for the first partial payment (Exhibit "C"). Mercado signed the acknowledgment receipt. Thereafter, on December 18, 2013, Mercado went to see Valencia again and collected the sum of ₱3,500.00. This time Mercado issued an official receipt of First Great Ventures signed by Mercado. (Exhibit D). He came to know that Mercado did not remit to First Great Ventures his payment when Espiritu went to his house and told him that she did not authorize Mercado to collect for the company and his payments were not remitted to the company. (TSN dated April 27, 2017)

Meanwhile, Vallejo experienced the same fate as that of Valencia. Mercado came to her office at the Bank of Florida City of San Fernando Branch in the month of September 2013. Mercado introduced himself as a Sheriff of OCC-RTC Angeles City. He informed Vallejo that her account with Great Ventures was already due and that she should paid (SIC) directly to him because her case was already in court. Vallejo required Mercado to present his identification card and Mercado showed to her his Supreme Court ID (Exhibit E). Vallejo testified that she did not receive any demand letter from First Great Ventures. She also informed the court that Dra. Espiritu is her friend. When Mercado told her that her case was already filed in court, Vallejo was hurt and disappointed with Dra. Espiritu. Thus, when Mercado went to her office at the first time, she paid ₱10,000.00 and gave her payment to Mercado. Vallejo asked for official receipts thus Mercado wrote an acknowledgment receipt in his own handwriting. Vallejo lost the copy of said acknowledgment receipt, nonetheless, she was able to present other acknowledgment receipts handwrote by Mercado after he collected money from Vallejo. She presented an (sic) acknowledgment receipt[s] dated October 8, 2013 in the amount of ₱7,000.00 (Exhibit F); dated October 17, 2013 in the amount of ₱8,000.00 (Exhibit G)[;] and dated December 13, 2013 in the sum of ₱8,500.00 (Exhibit H). Vallejo later learned that all her payments coursed thru Mercado were not deducted from her loan. (TSN dated June 8, 2017)

Mercado, in his Comment filed on June 7, 2017 (Exhibit I) and during the investigation admitted that he collected from Vallejo her payments with First Great Ventures. He also admitted that he issued the acknowledgment receipts for Vallejo and signed the same indicating that he is a Sheriff. However, he cannot remember anymore if he also collected from Valencia. Mercado insisted that he remitted all his collections to Jouel Aleno. Jouel Aleno was the former manager of First Great Ventures. He passed away after First Great Ventures filed cases against Mercado. According to Mercado, he is not aware that Jouel Alano did not remit his collection to First Great Ventures.

Mercado mentioned during the investigation that he came to know Jouel Alano because he always accompanied him in serving summons to

their delinquent debtors. Jouel Alano will provide transportation service to Mercado until they became [close] to one another. Jouel Alano would ask Mercado's assistance in the delivery of demand letters until such time that he asked Mercado to help him in the collections. According to Mercado, Jouel Alano would introduce Mercado to their debtors that he is a Sheriff. Mercado narrated that after he served summons to litigants, he will accommodate Jouel Alano's request to deliver demand letters or to collect the monthly payments from the debtors before reporting to the MTCC-OCC. Jouel Alano fed him and gave him money for gasoline. (TSN dated [June 8, 2017])

CONCLUSIONS OF LAW

Mercado assumed his post as Process Server of the Supreme Court on September 1, 1997 and is assigned at the OCC-MTCC of Angeles City. He is in the Judiciary for twenty (20) years. This is his first administrative case.

The investigation of this case yielded the following undisputed facts:

1. That Robert Mercado misrepresented himself as Sheriff of OCC-RTC;
2. That Robert Mercado misrepresented himself that being a Sheriff of OCC-RTC, he was authorized to collect the delinquent accounts of First Great Ventures to its delinquent borrowers;
3. That he indeed received money from Vallejo, issued acknowledgment receipts with his signature and written under his name is the position, "Sheriff".
4. That he delivered demand letters for and in behalf of First Great Ventures to its delinquent borrowers;

With these mentioned undisputed facts as these were admitted by Mercado, there is no doubt that Mercado committed misconduct because he abused and misused his authority as a court employee.

In *Office of the Court Administrator v. Isip*, (A.M. No. P-07-2390, 19 August 2009, 596 SCRA 407) we held that all court employees must exercise at all times a high degree of professionalism and responsibility, as service in the Judiciary is not only a duty but also a mission. The Court has repeatedly emphasized that everyone in the judiciary, from the presiding judge to the clerk, must always be beyond reproach, free of any suspicion that may taint the judiciary. Public service requires utmost integrity and discipline. A public servant must exhibit at all times the highest sense of honesty and integrity, for no less than the Constitution mandates the principle that "a public office is a public trust and all public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency." As the administration of justice is a sacred task, the persons involved in it ought to live up to the strictest standards of honesty and integrity. Their conduct, at all times, must not only be characterized by propriety and decorum, but must also be above suspicion. Thus, every employee of the judiciary should be an example of integrity, uprightness, and honesty.

Mercado failed to observe the above-mentioned standards required of him as a court employee. He allowed himself to be used as a collecting agent using his position as a court employee and worst misrepresenting himself as a Sheriff, though he is a process server. The undersigned is convinced that he is guilty of misconduct.

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer. The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law or to disregard established rules which must be proved by substantial evidence. [Please see *Civil Service Commission v. Ledesma*, G.R. No. 154521, September 30, 2005, citing *BIR v. Organo*, 424 SCRA 9 and *CSC v. Lucas*, 361 Phil. 486 (1999)]

In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule must be manifest. Corruption as an element of grave misconduct consists in the act of an official or employee who unlawfully or wrongfully uses his station or character to procure some benefit for himself or for another, contrary to the rights of others. (*Garbon vs Merka*, A.M. No. P-11-3000, December 14, 2011)

In this case, though Mercado admitted that he collected money from Vallejo, he insisted that he remitted the money to the manager of First Great Venture, Jouel Alano. He was just giving favor to Jouel Alano because they became friends as they were always together whenever Mercado served summons to their delinquent borrowers. He insisted that he does not accept payments from Jouel Alano except for gasoline allowance and free meals after serving summons.

There is no way to interrogate Jouel Alano as he is already dead. There is no way to confirm Mercado's allegation that he remitted his collections to him and it was Jouel Alano who failed to submit his collections to First Great Ventures. Espiritu will not also be the proper party to know of whom between Jouel Alano and Mercado pocketed the collections. It was also noticed that the record of the case did not include any affidavit of Jouel Alano and that according to Espiritu, after the filing of the cases against Mercado for Estafa and this administrative case, Jouel Alano resigned as manager of First Great Venture. (TSN dated June 8, 2017, pp. 3 & 4).

Thus, there is no substantial evidence presented by Espiritu to show the presence of corruption. There is also no evidence that Mercado has the intention to violate any law or disregard any existing rules because during the hearing of this case he consistently alleged that he was just accompanying Jouel Alano in the delivery of the demand letters and in the collections.

During the investigation of the case, Mercado admitted his error of judgment and showed remorse. He honestly did not know the reason why he committed said acts. (TSN dated June 8, 2016, p. 5 and p. 14)³

³ Id. at 44-48.

Executive Judge Logronio recommended that the respondent be held guilty of simple misconduct, a less grave offense, and suspended without pay for six months and one day.

Recommendation of the OCA

In its memorandum, the Office of the Court Administrator (OCA) agreed with the factual findings of Executive Judge Logronio, particularly observing that the respondent had misrepresented himself as a sheriff of the RTC in Angeles City; that he had not been authorized to collect delinquency payments, or to receive payments from the complainant's borrowers, or to deliver demand letters for and in behalf of the complainant; and that he had received various amounts to cover expenses.

Even so, the OCA disagreed with Executive Judge Logronio's recommendation that the respondent should only be found guilty of simple misconduct only, pointing out that:

The Court defines misconduct as a "*transgression of some established and definite rule of action, more particularly behavior or gross negligence by a public officer.*" **The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law, or to disregard established rules,** which, under Section 52 (A)(3), Rule IV of the Uniform Rules of Administrative Cases, is a grave offense punishable by dismissal even for the first offense.

In this case, the brazen acts of respondent Process Server Mercado in willfully misrepresenting himself as a Sheriff of the RTC, Angeles City, and collecting money from private individuals reveal his blatant disregard of the law and rules. He went beyond the limits of his authority as a Process Server when he allowed himself to become Alano's collection agent. He knew fully-well that his false pretense as a Sheriff and deceitful conduct made it possible for Vallego, one of the delinquent borrowers of complainant FGALI, to part with his money in payment of his loan obligation. Moreover, respondent Process Server Mercado's act of receiving money or valuable consideration in exchange for the assistance he extended to Alano is veritable form of corruption. It was a manifestation of his proclivity to abuse his authority or, worse, a betrayal of the public function entrusted to him as a court employee. Such actions on the part of respondent Process Server Mercado did not only violate his avowed duty to always act with propriety and proper decorum, but it also absolutely constituted grave misconduct.

On the other hand, respondent Process Server Mercado's actuations likewise constitute dishonesty, which has been defined as the disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray. His dishonest act became manifest when he issued receipts in his name bearing the position of "*Sheriff*".

Evidently, respondent Process Server Mercado utterly failed to live up to the high ethical standards required of a court employee. The Honorable Court exhorted the reason behind the stringent values and norms of conduct expected of all members of the judiciary from the exalted position occupied by the magistrates to the lowliest of clerks, as follows:

x x x x

In view of the foregoing, there is substantial evidence and compelling reasons to find respondent Process Server Mercado liable for grave misconduct and gross dishonesty, which are punishable with dismissal from the service even for the first offense.⁴ xxxx

The OCA observed, however, that although the respondent was guilty of grave misconduct, several circumstances that warranted the imposition of a penalty less severe than dismissal existed in his favor, namely: (1) his admission of the wrongdoing and his showing of remorse during the investigation; (2) the offense being his first and only offense; and (3) his untainted service in the Judiciary. Consequently, the OCA submitted the following recommendations:

RECOMMENDATIONS: It is respectfully recommended for the consideration of the Honorable Court that:

1. The present administrative complaint be **RE-DOCKETED** as a regular administrative matter; and
2. Respondent Process Server Roberto A. Mercado, Municipal Trial Court in Cities, Angeles City, Pampanga, be found **GUILTY** of **GRAVE MISCONDUCT AND DISHONESTY**; and
3. The penalty of **SUSPENSION** from office without salary for **ONE (1) YEAR** be imposed on respondent Process Server Mercado, with a stern warning that a repetition of the same or any similar act in the future shall be dealt with more severely.⁵

The Court re-docketed the complaint as a regular administrative matter on November 29, 2017.⁶

Ruling of the Court

The Court adopts the evaluation and report of the OCA that the respondent was guilty of grave misconduct.

Misconduct is defined as a transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, unlawful

⁴ Id. at 170-171.

⁵ Id. at 172.

⁶ Id. at 173-174.

behavior, willful in character, improper or wrong behavior. The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law, or to disregard established rules, which must be established by substantial evidence. As distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in a charge of grave misconduct.⁷

The actions of the respondent, being tainted with a corrupt design, willful intent to violate the law, and disregard of established rules, constituted grave misconduct.

Firstly, the respondent misrepresented himself as a sheriff of the RTC in Angeles City in order to enable himself to collect unpaid debts of the complainant's clients. His misrepresentation amounted to blatant dishonesty and deception because he was by no means a sheriff assigned in the court. His dishonesty and deception were designed to achieve a corrupt purpose considering that he had absolutely no reason or justification to introduce himself as a sheriff unless it was to ensure the collection from the complainant's delinquent debtors. Moreover, his dishonesty and deception contravened his oath of office as a process server, for he then knew that he had no capacity whatsoever to act as a sheriff. He complicated his deception by issuing acknowledgment receipts purportedly as such sheriff.

And, secondly, the respondent's dishonesty and deception were for the purpose of obtaining personal gain. Such actuation was strictly prohibited under the *Code of Conduct for Court Personnel*. Indeed, Section 1 of Canon 1 prohibited court personnel from using their official positions "to secure unwarranted benefits, privileges or exemptions for themselves or for others." In delivering the demand letters to the complainant's clients, the respondent unquestionably abused his position as a court personnel to intimidate the complainant's clients just to force them to pay to him. We should point out that his mere act of receiving money from the complainant's clients when he had no right to do so was the antithesis to his being a court employee.⁸

The respondent's grave misconduct, being a serious offense, deserves the ultimate penalty of dismissal from the service pursuant to Section 50(A)(3), Rule 10 of the 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS).⁹

⁷ *In Re: Castor*, A.M. No. 2013-08-SC, October 8, 2013, 707 SCRA 28, 32.

⁸ *Villahermosa, Sr., v. Sarcia*, A.M. No. CA-14-28-P, February 11, 2014, 715 SCRA 639, 647.

⁹ Civil Service Commission Resolution No. 1701077, promulgated on July 3, 2017, relevantly states: Section 50. *Classification of Offenses*. —

A. The following grave offenses shall be punishable by dismissal from the service:

x x x x

3. Grave Misconduct

The recommendation of the OCA that the respondent be suspended instead of dismissed because of mitigating circumstances in his favor is not well taken. The cited circumstances could not be considered mitigating circumstances because they would lessen the impact of his liability for which the penalty of dismissal even for the first offense was imposable. Neither should his service of over 20 years be a factor to lighten his penalty, for, truly, his long service in the Judiciary did not prevent him from so brazenly committing the acts of dishonesty and deception.

Moreover, the respondent's presumptuousness and casualness about the discharge of court duties were too patent to be ignored. He showed no compunction or hesitancy in assuming functions that did not pertain to his office. Such attitude on his part did not merit the mitigation of the penalty. We have been forthright in the past in this regard. In *Gabon v. Merka*,¹⁰ for instance, the Court dismissed the respondent from the service for writing eight demand letters in behalf of a creditor using the court's official letterhead and signing the letters in her official capacity as the clerk of court. Finding the respondent guilty of gross misconduct and dismissing her from the service, the Court observed:

We have repeatedly stressed that all officials and employees involved in the administration of justice, from judges to the lowest rank and file employees, bear the heavy responsibility of acting with strict propriety and decorum at all times in order to merit and maintain the public's respect for, and trust in, the Judiciary. Simply stated, all court personnel must conduct themselves in a manner exemplifying integrity, honesty and uprightness.

In this case, the respondent's use of the letterhead of the court and of her official designation in the eight demand letters she prepared in 1993 hardly meets the foregoing standard. She took advantage of her office and position to advance the interests of private individuals, acting as "counsel" and collecting agent for the Saint Ignatius Loyola Credit Cooperative, Inc., Simeon C. Maamo, Jr., and Restituta Claridad. Despite her good intentions, she gave private individuals an unwarranted privilege at the expense of the name of the court.¹¹

Accordingly, the respondent should be removed from the service for having given to himself undue financial gain and benefit at the expense of the good name of the court that he served, and for taking advantage of his employment in the Judiciary at the expense of the unwary public.


WHEREFORE, the Court **FINDS** and **DECLARES** respondent Robert A. Mercado, Process Server, Office of the Clerk of Court, Municipal Trial Court in Cities in Angeles City **GUILTY** of **GRAVE MISCONDUCT**; and **DISMISSES** him from the service with forfeiture of all benefits, except accrued leave credits, and with prejudice to re-

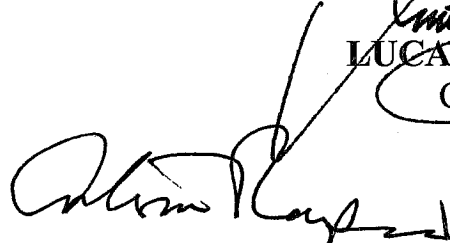
¹⁰ A.M. No. P-11-3000, November 29, 2011, 661 SCRA 505.

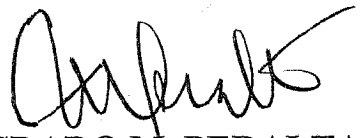
¹¹ Id. at 509.


employment in any branch or instrumentality of the Government, including government-owned and -controlled corporations and financial institutions.

SO ORDERED.

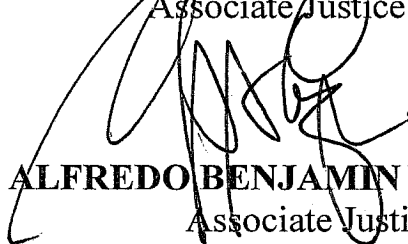

LUCAS P. BERSAMIN
Chief Justice



ANTONIO T. CARPIO
Associate Justice

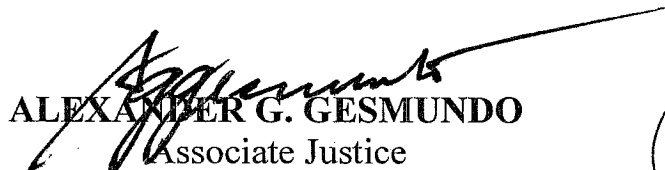

DISDADO M. PERALTA
Associate Justice

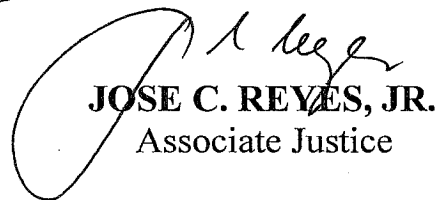

ESTELA M. PERLAS-BERNABE
Associate Justice

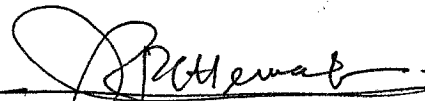

MARVIC M.V.F. LEONEN
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ANDRES B. REYES, JR.
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice

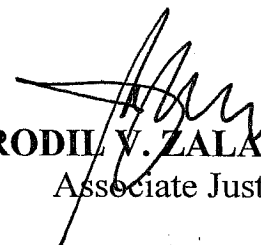

JOSE C. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice

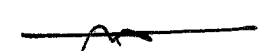
(ON OFFICIAL LEAVE)
ROSMARI D. CARANDANG
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

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EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court