



Republic of the Philippines
Supreme Court
Baguio City

SECOND DIVISION

JOCELYN B. SORENSEN,
Complainant,

OCA IPI No. 13-4069-P

Present:

– versus –

LEONEN, *SAJ*, Chairperson,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., *JJ*.

ORVILLE G. SANTOS,
Sheriff IV, Office of the Clerk
of Court, Regional Trial
Court, Pagadian City,
Zamboanga del Sur,
Respondent.

Promulgated:

APR 12 2023

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DECISION

M. LOPEZ, J.:

In this administrative matter, the Court sees no reason to wield disciplinary sanctions on court employees for their failure to pay their debt absent any showing that their act was attended with “willfulness” which may impair the image of the public office they hold.

ANTECEDENTS

Respondent Orville G. Santos (Santos) was Sheriff IV of the Regional Trial Court, Office of the Clerk of Court, Pagadian City, Zamboanga del Sur. In 1999, before entering the Judiciary, Santos and his wife obtained a loan from complainant Jocelyn B. Sorensen (Sorensen) in the amount of PHP 810,000.00. Santos and his wife issued and delivered to Sorensen seven checks for the repayment of the loan.¹ However, the payee bank dishonored the checks upon presentment due to “account closed.”²

¹ *Rollo*, p. 81.

² *Id.* at 32.

In 2005, Sorensen filed criminal cases³ against Santos for violations of Batas Pambansa (B.P.) Blg. 22 before the Municipal Trial Court in Cities (MTCC). When Santos promised to pay his loan, Sorensen moved for the provisional dismissal of the criminal cases, which was granted. Santos executed a promissory note⁴ obligating himself to pay PHP 1,000.00 every month starting on January 31, 2006 until the amount of PHP 564,000.00 is fully paid.⁵ But Santos failed to make good his promise; thus, Sorensen filed the instant administrative complaint for Santos' "Willful Failure to Pay Just Debt."⁶

For his part, Santos admitted obtaining a loan from Sorensen. He did not deny that several B.P. 22 cases were filed against him in relation to his loan obligation, but he clarified that they were already dismissed by the trial court. Santos maintained that he had been making monthly payments for his obligation since January 2006 to Sorensen's sister Gena A. Bascon (Bascon) who was the manager of Sorensen's lending business in Pagadian City. Santos only failed to pay his monthly obligation in September 2011 when Sorensen's lending business ceased its operations and Bascon transferred her residence.⁷ He averred that no one came to him to collect his payment. In November 2011, Sorensen confronted Santos about his loan and demanded the full payment of his obligation. Santos claimed that his failure to pay does not constitute willful refusal to pay his debt as he is very much willing to satisfy his obligation. He maintained that there was no basis for the filing of the administrative complaint and insisted that he is amenable to pay his obligation in any manner convenient to Sorensen.⁸

After investigation,⁹ the Executive Judge recommended that Santos be made administratively liable for willful failure to pay just debt which is a light offense even though he incurred the obligation prior to his employment in the Judiciary. The Executive Judge noted Santos's retirement from service and pointed out that the Court would be used as a collection agency if the amount of the obligation would be deducted from Santos's retirement benefits.¹⁰

Upon review, the Office of the Executive Director of the Judicial Integrity Board (JIB) recommended the dismissal of the administrative complaint against Santos. It opined that Santos cannot be considered in default because there was no demand to pay. It emphasized that Santos's exoneration from

³ Docketed as Criminal Case Nos. 12459, 12465, 12466, 12619 & 12620.

⁴ *Rollo*, p. 3.

⁵ *Id.* at 80.

⁶ *Id.* at 18-19.

⁷ *Id.* at 141. *See* Judicial Affidavit of respondent Orville Santos.

⁸ *Id.* at 35-41.

⁹ *Id.* at 60-61. In a Resolution dated January 12, 2015, the Court (Third Division) referred the administrative complaint against Sheriff Orville G. Santos to the Executive Judge of the Regional Trial Court, Pagadian City, Zamboanga del Sur.

¹⁰ *Id.* at 64-68. *See* Investigation Report and Recommendation dated January 30, 2020 of Investigating Judge Romeo T. Descallar.

administrative liability shall be without prejudice to Sorensen’s right to file an action to collect the amount due to him.¹¹

Meanwhile, the JIB recommended that Santos be found guilty of willful failure to pay just debt and ordered to pay PHP 40,000.00 as fine.¹² The JIB held that it is improbable for Santos’s not to have known the whereabouts of Bascon or Sorensen who are cousins of Santos’ wife, especially that Pagadian is a small city where it is easy to find a relative whenever one needs to. It considered Santos’s previous suspension for one month and one day for gross neglect of duty and gross inefficiency in A.M. No. P-16-3426¹³ in imposing the fine of PHP 40,000.00 pursuant to Sections 16, 17, and 20 of A.M. No. 21-08-09-SC.¹⁴

RULING

The Court rejects the recommendation of the JIB and dismisses the charge of willful failure to pay just debt against Santos.

Willful failure to pay just debt is administratively punishable and a ground for disciplinary action under Executive Order (EO) No. 292¹⁵ or the Administrative Code of 1987 and the 2017 Rules on Administrative Cases in the Civil Service (RACCS).¹⁶ Both Section 23, Rule XIV of the Omnibus

¹¹ *Id.* at 80–85. *See* Report and Recommendation dated May 28, 2021 of the Office of the Executive Director of the JIB.

¹² *Id.* at 192-199. *See* Report dated November 18, 2-22 of the JIB. Penned by Vice Chairperson Justice Angelina Sandoval-Gutierrez (former Member of this Court) with the concurrence of Chairperson Justice Romeo J. Callejo, Sr. (former Member of this Court) and First Regular Member Justice Sesinando E. Villon.

¹³ *Flora Cabaret v. Orville G. Santos*, February 8, 2017 [Notice, Third Division].

¹⁴ Re: Further Amendments to Rule 140 of the Rules of Court.

¹⁵ **SECTION 46.** Discipline: General Provisions.—

x x x x

(b) The following shall be grounds for disciplinary action:

x x x x

(22) Willful failure to pay just debts or willful failure to pay taxes due to the government;

x x x x

¹⁶

**Rule 10
ADMINISTRATIVE OFFENSES AND PENALTIES**

Section 50. Classification of Offenses. Administrative offenses with corresponding penalties are classified into grave, less grave and light, depending on their gravity or depravity and effects on the government service.

x x x x

F. The following light offenses are punishable by reprimand for the first offense; suspension of one (1) to thirty (30) days for the second offense; and dismissal from the service for the third offense:

x x x x

Y

Rules Implementing Book V of EQ No. 292 and Section 50 (F), Rule 10 of the 2017 RACCS) categorized the term “**just debts**” into two: (1) claims adjudicated by a court of law; or (2) claims the existence and justness of which are admitted by the debtor. The first category of just debts is based on the court’s determination and adjudication of a claim that is due from a debtor, while the second category of just debts is based on the debtor’s own acknowledgment of the existence of their monetary obligation to their creditor. Simply put, the first category refers to a judgment debt¹⁷ while the second category pertains to a regular debt the existence of which is admitted by the debtor. These two categories are separate and distinct; thus, the disjunctive conjunction “or” is used to signify the dissociation and independence of one from the other.¹⁸

In this case, the JIB correctly classified Santos’s debt as one falling under the second category of just debts in view of Santos’s admission of the existence of his loan obligation to Sorensen. Santos acknowledges that while he has made several payments, his obligation has not yet been fully settled and therefore remains outstanding. It bears stressing, however, that willful failure to pay just debt under the second category, which is penalized under the 2017 RACCS is no longer included in the administrative charges set forth in A.M. No. 21-08-09-SC, *viz.*:

Section 16. Light Charges. - Light charges include:

- a) Vulgar and unbecoming conduct;
- b) Gambling in public;
- c) Fraternalizing with lawyers and litigants with pending case/cases in his or her court;
- d) Undue delay in the submission of monthly reports; and
- e) **Willful failure to pay judgment debts** or taxes due to the government. (Emphasis and underscoring supplied)

Section 16(e) is confined to willful failure to pay judgment debts. To be sure, it merely covers the first category of just debts or such claims which are adjudicated by the court. It can hardly be said that the Court intended to include willful failure to pay just debts in general in the enumeration of light charges punished under A.M. No. 21-08-09-SC. If such had been the intention, the Court would have adopted in *toto* the nomenclature of the offense under the 2017 RACCS. Undoubtedly, the second category of just debts is not within

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9. Willful failure to pay just debts or willful failure to pay taxes due to the government;

The term “just debts” shall apply only to.

- a. Claims adjudicated by a court of law, or
- b. Claims the existence and justness of which are admitted by the debtor.

x x x x

¹⁷ In the Annotated Version of A.M. No. 21-08-09-SC, the Court stated that “[j]udgment debt” is suggested to refer to claims that have already been adjudicated by a court.

¹⁸ *Kataniag v. People*, 74 Phil. 45 (1942).

the contemplation of A.M. No. 21-08-09-SC; thus, Santos cannot be administratively punished for nonpayment of his debt.

Moreover, A.M. No. 21-08-09-SC expressly states that its provisions apply to all pending and future administrative cases involving the discipline of Members, officials, employees, and personnel of the entire Judiciary.¹⁹ Hence, while Santos's willful failure to pay his just debt was committed prior to the effectivity of A.M. No. 21-08-09-SC, the Court is constrained to resolve this case under the framework of discipline of Rule 140 of the Rules of Court, as amended, where the light offense of willful failure to pay just debt is already omitted. Since the alleged infraction is no longer punishable under Rule 140, as amended, there is thus no basis for disciplinary action against Santos. Accordingly, the complaint against Santos must perforce be dismissed.

At any rate, even assuming that willful failure to pay just debt under the second category is within the ambit of A.M. No. 21-08-09-SC, the complaint against Santos must still fail.

The gravamen of "willful to pay just debts" is the unwillingness to pay a just obligation.²⁰ To put it differently, what A.M. No. 21-08-09-SC condemns is the court personnel's willfulness in not paying their just obligation, which means that their omission must not only be voluntary but also intentional.²¹ Mere failure to pay a loan on the due date, even despite demands, cannot be instantly characterized as willful as there must be a showing that the respondent no longer intends to fulfill their obligation.²² The established rule is that the one who alleges a fact has the burden of proving it for mere allegation is not evidence.²³ Here, Sorensen did not present substantial evidence to support his allegation that Santos has no sincere desire to clear his debt. On the contrary, Santos regularly and consistently tendered his payment and endeavored to pay his debt from January 2006 to August 2011 as evidenced by receipts.²⁴ When Sorensen demanded payment in November 2011, Santos was ready and willing to pay an amount corresponding to the unpaid months and resume his monthly installments.²⁵ Santos's failure to pay stemmed from the fact that Sorensen was already demanding payment of the entire obligation which was not yet due at that time, deliberately disregarding the terms of payment originally agreed upon. Considering that the element of "willfulness" is lacking in this case, Santos's failure to pay his debt cannot be deemed to have tainted the image of the Judiciary as to warrant the Court's exercise of its disciplinary authority.

¹⁹ A.M. No. 21-08-09-SC (2022), sec. 24.

²⁰ *Office of the Court Administrator v. Amascual*, A.M. No. P-20-4083, June 17, 2020 [Notice, Third Division]; citing *Tan v. Sermonia*, 612 Phil. 314, 322 (2009) [Per J. Chico-Nazario, Third Division].

²¹ Black's Law Dictionary, 8th Ed., p. 1630.

²² *Josefina M. Ongcuango Trading Corp. v. Pinlac*, 758 Phil. 105, 117 (2015) [Per J. Reyes, Third Division].

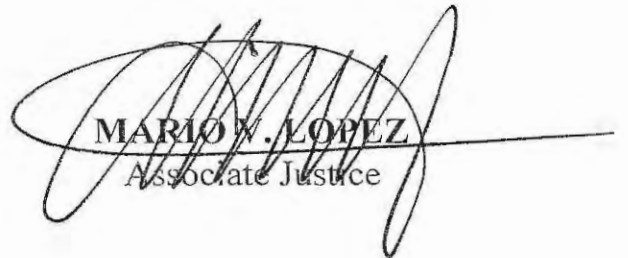
²³ *Dimayuga v. Rubia*, 835 Phil. 4, 10 (2018) [Per J. Tijam, *En Banc*].

²⁴ *Rollo*, p. 141.

²⁵ *Id.* at 40-41.

ACCORDINGLY, the administrative complaint against Orville G. Santos, Sheriff IV, Office of the Clerk of Court, Regional Trial Court, Pagadian City, Zamboanga del Sur, is **DISMISSED** for lack of merit.

SO ORDERED.



MARIO W. LOPEZ
Associate Justice

WE CONCUR:



MARVIC M.V. F. LEONEN
Senior Associate Justice
Chairperson



AMY C. LAZARO-JAVIER
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice