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THIRD DIVISION

[A.M. No. P-99-1292. February 26, 1999]

JULIETA BORROMEO SAMONTE, *complainant, vs.* **ATTY. ROLANDO R. GATDULA, Branch Clerk of Court,** *respondent.*

SYNOPSIS

In a verified complaint, respondent, RTC Branch Clerk of Court, Quezon City, was charged with grave misconduct in engaging in the private practice of law. Complainant was the representative of her sister, plaintiff in Civil Case No. 37-14552 for ejectment pending with the MTC. The execution of that decision in favor of plaintiff was enjoined by Branch 220, RTC, Quezon City where respondent is the Branch Clerk of Court. Complainant alleged that respondent tried to convince her to change his lawyer if she wanted the execution of the judgment to proceed and even gave her his calling card with the name "Baligod, Gatdula, Tacardon, Dimailig and Celera Law Offices" with address at 220 Mariwasa Bldg., 717 Aurora Blvd., Cubao, Quezon City which complainant attached to her affidavit-complaint. Respondent, when asked to comment, claimed that it was complainant who showed him said calling card and asked him if he could handle the case but to which he refused as he was not connected with the law firm, though he was invited to join the firm. The case was set for hearing for several times but complainant nor her counsel did not appear. The return of the service stated that complainant was abroad. Respondent testified in his own behalf and vehemently denied complainant's allegation. He, however, did not deny that his name appeared on the calling card or that the calling card was printed without his knowledge and consent.

The Court ruled that the inclusion or retention of respondent's name in the professional card constitutes an act of solicitation which is a violation of Section 7, subparagraph (b)(2) of Republic Act No. 6713 (Code of Conduct and Ethical Standards for Public Officials or Employees).

The conduct and behavior of everyone connected with the dispensation of justice from the presiding judge to the lowliest clerk must not only be characterized by propriety and decorum but above all else must be above suspicion.

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Respondent was REPRIMANDED.

SYLLABUS

1. **CONSTITUTIONAL LAW; SUPREME COURT; ADMINISTRATIVE SUPERVISION OVER COURT PERSONNEL; ADMINISTRATIVE COMPLAINT AGAINST A CLERK OF COURT; FAILURE OF COMPLAINANT TO APPEAR.**— The complainant, by her failure to appear at the hearings, failed to substantiate her allegation that it was the respondent who gave her the calling card of "Baligod, Gatdula, Tacardon, Dimailig and Celera Law Offices" and that he tried to convince her to change counsels.

2. **ID.; ID.; CLERK OF COURT; INCLUSION OF NAME ON CALLING CARD OF LAW FIRM CONSTITUTES SOLICITATION.**— We find that while the respondent vehemently denies the complainant's allegations, he does not deny that his name appears on the calling card attached to the complaint, which admittedly came into the hands of the complainant. The above explanation tendered by the Respondent is an admission that it is his name which appears on the calling card, a permissible form of advertising or solicitation of legal services. Respondent does not claim that the calling card printed without his knowledge or consent, and the calling card carries his name primarily and the name of "Baligod, Gatdula, Tacardon, Dimailig and Celera with address at 220 Mariwasa Bldg., 717 Aurora Blvd., Cubao, Quezon City" in the left corner. The card clearly gives the impression that he is connected with the said law firm. The inclusion/retention of his name in the professional card constitutes an act of solicitation which violates Section 7 sub-par. (b)(2) of Republic Act No. 6713, otherwise known as "Code of Conduct and Ethical Standards for Public Officials and Employees." WHEREFORE, respondent Rolando R. Gatdula, Branch Clerk of Court, RTC, Branch 220, Quezon City is hereby reprimanded for engaging in the private practice of law with the warning that a repetition of the same offense will be dealt with more severely. He is further ordered to cause the exclusion of his name in the firm name of any office engaged in the private practice of law.

3. **ID.; JUDICIARY; EVERYONE CONNECTED WITH OFFICE CHARGED WITH DISPENSATION OF JUSTICE SHOULD BE CIRCUMSCRIBED WITH HEAVY BURDEN OF**

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RESPONSIBILITY. — Time and again this Court has said that the conduct and behavior of every one connected with an office charged with the dispensation of justice, from the presiding judge to the lowliest clerk, should be circumscribed with the heavy burden of responsibility. His conduct, at all times must not only be characterized by propriety and decorum but above all else must be above suspicion.

APPEARANCES OF COUNSEL

Apolo P. Gaminde for complainant.

RESOLUTION

GONZAGA-REYES, *J.*:

The complaint filed by Julieta Borromeo Samonte charges Rolando R. Gatdula, RTC, Branch 220, Quezon City with grave misconduct consisting in the alleged engaging in the private practice of law which is in conflict with his official functions as Branch Clerk of Court.

Complainant alleges that she is the authorized representative of her sister Flor Borromeo de Leon, the plaintiff, in Civil Case No. 37-14552 for ejectment, filed with the Metropolitan Trial Court of Quezon City, Branch 37. A typographical error was committed in the complaint which stated that the address of defendant is No. 63-C instead of 63-B, P. Tuazon Blvd., Cubao, Quezon City. The mistake was rectified by the filing of an amended complaint which was admitted by the Court. A decision was rendered in favor of the plaintiff who subsequently filed a motion for execution. Complainant, however, was surprised to receive a temporary restraining order signed by Judge Prudencio Castillo of Branch 220, RTC, Quezon City, where Atty. Rolando Gatdula is the Branch Clerk of Court, enjoining the execution of the decision of the Metropolitan Trial Court. Complainant alleges that the issuance of the temporary restraining order was hasty and irregular as she was never notified of the application for preliminary injunction.

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Complainant further alleges that when she went to Branch 220, RTC, Quezon City, to inquire about the reason for the issuance of the temporary restraining order, respondent Atty. Rolando Gatdula, blamed her lawyer for writing the wrong address in the complaint for ejectment, and told her that if she wanted the execution to proceed, she should change her lawyer and retain the law office of respondent, at the same time giving his calling card with the name "Baligod, Gatdula, Tacardon, Dimailig and Celera" with office at Rm. 220 Mariwasa Bldg., 717 Aurora Blvd., Cubao, Quezon City; otherwise she will not be able to eject the defendant Dave Knope. Complainant told respondent that she could not decide because she was only representing her sister. To her consternation, the RTC Branch 220 issued an order granting the preliminary injunction as threatened by respondent despite the fact that the MTC, Branch 37 had issued an Order directing the execution of the Decision in Civil Case No. 37-14552.

Asked to comment, respondent Atty. Gatdula recited the antecedents in the ejectment case and the issuance of the restraining order by the Regional Trial Court, and claimed that contrary to complainant Samonte's allegation that she was not notified of the raffle and the hearing, the Notice of Hearing on the motion for the issuance of a Temporary Restraining Order was duly served upon the parties, and that the application for injunctive relief was heard before the temporary restraining order was issued. The preliminary injunction was also set for hearing on August 7, 1996.

The respondent's version of the incident is that sometime before the hearing of the motion for the issuance of a temporary restraining order, complainant Samonte went to court "very mad" because of the issuance of the order stopping the execution of the decision in the ejectment case. Respondent tried to calm her down, and assured her that the restraining order was only temporary and that the application for preliminary injunction would still be heard. Later the Regional Trial Court granted the application for a writ of preliminary injunction. The complainant went back to court "fuming mad" because of the alleged unreasonableness of the court in issuing the injunction.

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Respondent Gatdula claims that thereafter complainant returned to his office, and informed him that she wanted to change counsel and that a friend of hers recommended the Law Firm of "Baligod, Gatdula, Tacardon, Dimailig and Celera," at the same time showing a calling card, and asking if he could handle her case. Respondent refused as he was not connected with the law firm, although he was invited to join but he chose to remain in the judiciary. Complainant returned to court a few days later and told him that if he cannot convince the judge to recall the writ of preliminary injunction, she will file an administrative case against respondent and the judge. The threat was repeated but the respondent refused to be pressured. Meanwhile, the Complainant's Motion to Dissolve the Writ of Preliminary Injunction was denied. Respondent Gatdula claims that the complainant must have filed this administrative charge because of her frustration in procuring the ejectment of the defendant lessee from the premises. Respondent prays for the dismissal of the complaint against him.

The case was referred to Executive Judge Estrella Estrada, RTC, Quezon City, for investigation, report and recommendation.

In her report, Judge Estrada states that the case was set for hearing three times, on September 7, 1997, on September 17, and on September 24, 1997, but neither complainant nor her counsel appeared, despite due notice. The return of service of the Order setting the last hearing stated that complainant is still abroad. There being no definite time conveyed to the court for the return of the complainant, the investigating Judge proceeded with the investigation by "conducting searching questions" upon respondent based on the allegations in the complaint, and asked for the record of Civil Case No. Q-96-28187 for evaluation. The case was set for hearing for the last time on October 22, 1997, to give complainant a last chance to appear, but there was again no appearance despite notice.

The respondent testified in his own behalf to affirm the statements in his Comment, and submitted documentary evidence consisting mainly of the pleadings in MTC Civil Case No. 37-14552, and in RTC Civil Case No. Q-96-28187 to show that the questioned orders of the court were not improperly issued.

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The investigating judge made the following findings:

"For failure of the complainant to appear at the several hearings despite notice, she failed to substantiate her allegations in the complaint, particularly that herein respondent gave her his calling card and tried to convince her to change her lawyer. This being the case, it cannot be established with certainty that respondent indeed gave her his calling card and even convinced her to change her lawyer. Moreover, as borne by the records of Civil Case No. Q-96-28187, complainant was duly notified of all the proceedings leading to the issuance of the TRO and the subsequent orders of Judge Prudencio Altre Castillo, Jr. of RTC, Branch 220. Complainant's lack of interest in prosecuting this administrative case could be an indication that her filing of the charge against the respondent is only intended to harass the respondent for her failure to obtain a favorable decision from the Court.

However, based on the record of this administrative case, the calling card attached as Annex "B" of complainant's affidavit dated September 25, 1996 allegedly given by respondent to complainant would show that the name of herein respondent was indeed included in the BALIGOD, GATDULA, TACARDON, DIMAILIG & CELERA LAW OFFICES. While respondent denied having assumed any position in said office, the fact remains that his name is included therein which may therefore tend to show that he has dealings with said office. Thus, while he may not be actually and directly employed with the firm, the fact that his name appears on the calling card as a partner in the Baligod, Gatdula, Tacardon, Dimailig & Celera Law Offices give the impression that he is connected therein and may constitute an act of solicitation and private practice which is declared unlawful under Republic Act No. 6713. It is to be noted, however, that complainant failed to establish by convincing evidence that respondent actually offered to her the services of their law office. Thus, the violation committed by respondent in having his name included/ retained in the calling card may only be considered as a minor infraction for which he must also be administratively sanctioned."

and recommended that Atty. Gatdula be admonished and censured for the minor infraction he has committed.

Finding: We agree with the investigating judge that the respondent is guilty of an infraction. The complainant, by her failure to appear at the hearings, failed to substantiate her allegation that it was the respondent who gave her the calling card of "Baligod, Gatdula, Tacardon, Dimailig and Celera Law Offices"

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and that he tried to convince her to change counsels. We find however, that while the respondent vehemently denies the complainant's allegations, he does not deny that his name appears on the calling card attached to the complaint, which admittedly came into the hands of the complainant. The respondent testified before the Investigating Judge as follows:

> "Q: How about your statement that you even gave her a calling card of the "Baligod, Gatdula, Pardo, Dimailig and Celera law Offices at Room 220 Mariwasa building?
>
> A: I vehemently deny the allegation of the complainant that I gave her a calling card. I was surprised when she presented (it) to me during one of her follow-ups of the case before the court. She told me that a friend of hers recommended such firm and she found out that my name is included in that firm. I told her that I have not assumed any position in that law firm. And I am with the Judiciary since I passed the bar. It is impossible for me to enter an appearance as her counsel in the very same court where I am the Branch Clerk of Court."

The above explanation tendered by the Respondent is an admission that it is his name which appears on the calling card, a permissible form of advertising or solicitation of legal services.[1] Respondent does not claim that the calling card was printed without his knowledge or consent, and the calling card[2] carries his name primarily and the name of "Baligod, Gatdula, Tacardon, Dimailig and Celera with address at 220 Mariwasa Bldg., 717 Aurora Blvd., Cubao, Quezon City" in the left corner. The card clearly gives the impression that he is connected with the said law firm. The inclusion/retention of his name in the professional card constitutes an act of solicitation which violates Section 7 sub-par. (b)(2) of Republic Act No. 6713, otherwise known as "Code of Conduct and Ethical Standards for Public Officials and Employees" which declares it unlawful for a public official or employee to, among others:

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[1] *Ulep vs. Legal Clinic, Inc.*, 223 SCRA 378, Bar Matter No. 553, June 17, 1993.

[2] Annex B, Complaint.

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"(2) Engage in the private practice of their profession unless authorized by the Constitution or law, provided that such practice will not conflict or tend to conflict with official functions."

Time and again this Court has said that the conduct and behavior of every one connected with an office charged with the dispensation of justice, from the presiding judge to the lowliest clerk, should be circumscribed with the heavy burden of responsibility. His conduct, at all times must not only be characterized by propriety and decorum but above all else must be above suspicion.[3]

WHEREFORE, respondent Rolando R. Gatdula, Branch Clerk of Court, RTC, Branch 220, Quezon City is hereby reprimanded for engaging in the private practice of law with the warning that a repetition of the same offense will be dealt with more severely. He is further ordered to cause the exclusion of his name in the firm name of any office engaged in the private practice of law.

SO ORDERED.

Romero (Chairman), Vitug, Panganiban, and *Purisima, JJ.,* concur.

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[3]*Annang vs. Vda. de Blas,* 202 SCRA, 635; *Mirano vs. Saavedra,* 225 SCRA, 77.