

EN BANC

[A.M. No. P-16-3578 [Formerly A.M. No. 14-6-203-RTC], September 01, 2020]

**LYDIA C. COMPETENTE AND DIGNA TERRADO COMPLAINANTS,
VS. CLERK III MA. ROSARIO A. NACION, REGIONAL TRIAL
COURT (RTC), BRANCH 22, MALOLOS CITY, BULACAN,
RESPONDENTS.**

RESOLUTION

INTING, J.:

For resolution is the written-complaint^[1] dated May 26, 2014 filed by Lydia C. Competente (Competente) and Digna C. Terrado (Terrado) (collectively, complainants) against Ma. Rosario A. Nacion (respondent), Clerk III of Branch 22, Regional Trial Court (RTC) of Malolos City, Bulacan for violation of Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act.

The Antecedents

In the 3rd Indorsement^[2] dated June 16, 2014, Executive Judge Ma. Theresa V. Mendoza-Arcega (EJ Arcega) of RTC Malolos City, Bulacan transmitted to the Office of the Court Administrator (OCA) for appropriate action the 2nd Endorsement^[3] dated June 11, 2014 of Presiding Judge Grace V. Ruiz (Judge Ruiz) of the RTC relative to the Incident Report^[4] dated May 27, 2014 prepared by Branch Clerk of Court Eddielyn L. Gatdula (BCC Gatdula).

In the Incident Report, BCC Gatdula narrated that on March 6, 2014, when a commitment order was issued in Criminal Case No. 965-M-2014 entitled *People of the Philippines v. Aldie Terrado y Cope*, respondent offered to Competente and Terrado, the live-in partner and mother of Aldie C. Terrado (accused), respectively, her assistance in securing bail for the accused. Respondent represented herself to complainants as the clerk-in-charge of criminal cases whose function is to secure and/or assist the accused in securing bail which includes receiving cash bonds.^[5]

On May 14, 2014, complainants filed a Motion to Reduce Bond,^[6] which the respondent received. On May 16, 2014, complainants entrusted to respondent the amount of P20,500.00 representing 50% of the bail recommended.^[7] However, despite having received the amount of P20,500.00 for the cash bond, respondent failed to secure the release of the accused. Respondent explained that it was because the RTC had not yet granted their Motion to Reduce Bond. Consequently, complainants brought the matter to the attention of BCC Gatdula who, in turn, referred it to Presiding Judge Grace V. Ruiz (Judge Ruiz). Thus, Judge Ruiz explained to complainants that she could not have acted on their Motion to Reduce Bond because there was no motion on file. With that, Competente showed to Judge Ruiz a

copy of their motion which was stamped "received" and a mimeographed paper evidencing respondent's receipt of P20,500.00. Thereafter, Judge Ruiz instructed BCC Gatdula to prepare an order granting the subject motion based on the copy presented to her by complainants, and to assist complainants in formalizing their complaints against respondent. Subsequently, Judge Ruiz brought the matter to the attention of EJ Arcega.^[8]

During the meeting called by Judge Ruiz in her office, Terrado demanded respondent to return the P20,500.00 since she needed it to post the required bail. Respondent said that the amount would be returned the following day. However, respondent did not make good her promise. as she only gave P10,500.00 to complainants. 'Initially, Competente refused to receive the amount tendered as it was not the exact amount that they demanded from respondent. Later on, Competente accepted the amount of P10,500.00 on the condition that respondent would execute a letter-receipt evidencing the amount paid.^[9]

In compliance with the Memorandum^[10] dated May 27, 2014 issued by EJ Arcega directing respondent to comment on the allegations, respondent submitted a letter^[11] dated June 6, 2014 manifesting that she had no intention to defraud complainants.^[12]

Meanwhile, in the Resolution^[13] dated March 18, 2015 in A.M. No.15-01-26-RTC, the Court, Third Division, dropped respondent from the rolls effective May 2, 2014. The resolution was based on the Report dated December 10, 2014 of the Office of the Court Administrator (OCA) which found that respondent had not been submitting her Daily Time Records and had been absent without approved leave since May 2, 2014.^[14]

Report and Recommendation of the OCA

The OCA, in its Report and Recommendation^[15] dated August 1, 2016, found respondent guilty of Grave Misconduct and declared that respondent would have been dismissed from the service had she not been earlier dropped from the rolls pursuant to A.M. No. 15-01-26-RTC. The OCA instead recommended that: (a) respondent's civil service eligibility be cancelled; (b) her retirement and other benefits, except accrued leave credits, be forfeited; and (c) that she be perpetually disqualified from reemployment in the government agency as well as in government-owned and -controlled corporations.^[16]

In the Resolution^[17] dated October 10, 2016, the Court resolved to:

1. NOTE the complaint filed by Lydia C. Competente and Digna Terrado against respondent Rosario A. Nacion, Clerk III, Regional Trial Court (RTC), Br. 22, Malolos City, Bulacan for violation of R.A. No. 3019 or the Anti-Graft and Corrupt Practices Act, and the Incident Report dated 11 June 2014 by Atty. Eddielyn L. Gatdula, Branch Clerk of Court, RTC, Br. 22, Malolos City, Bulacan;
2. RE-DOCKET the instant complaint against respondent Ma. Rosario A. Nacion, Clerk III, RTC, Br. 22, Malolos City, Bulacan as a regular

administrative matter; and

3. REQUIRE the parties to MANIFEST to this Court whether they are willing to submit this matter for resolution on the basis of the pleadings filed within ten (10) days from notice.^[18]

In a Resolution^[19] dated June 19, 2017, the Court resolved to deem as served the Resolution dated October 10, 2016 sent to complainants and await respondent's manifestation. In the Resolution^[20] dated January 31, 2018, the Court resolved to require BCC Gatdula to furnish the Court with the correct and current address of respondent.

In compliance with the Resolution dated January 31, 2018, Nestor S. Dela Rosa, Jr., Officer-in-Charge of the RTC submitted a letter^[21] dated June 4, 2018 stating that he is not in a position to either ascertain or verify the complete and current address of respondent considering that per available records, the latter is locally known to be a resident of Pinagpala St., Tonsuya, 1473, Malabon City. However, per respondent's January 12, 2012 Personal Data Sheet, it appears that she has another address, which is at B13 L3 Belmont Pare Vill., Caypombo, Sta. Maria, Bulacan.^[22]

The Issue Before the Court

The primordial issue for the Court's resolution is whether respondent is guilty of Grave Misconduct.

The Courts Ruling

At the outset, while respondent was ordered to be dropped from the rolls "effective May 2, 2014"^[23] and the instant complaint was filed only on May 26, 2014 or 24 days after respondent was retroactively dropped from the rolls, the Court notes that jurisdiction over the instant administrative complaint has already attached considering that respondent was deemed a *de facto* employee of the Court when the written-complaint was filed on May 26, 2014.

For one, the Resolution which ordered the dropping of respondent from the rolls was issued only on March 18, 2015.^[24] For another, the records of the case clearly show that respondent was still active in the plantilla records at the time that the instant complaint was filed.^[25]

"Jurisprudence is replete with rulings that in order for the Court to acquire jurisdiction . over an administrative proceeding, the complaint must be filed during the incumbency of the respondent public official or employee. This is because the filing of an administrative case is predicated on the holding of a position or office in the government service. *However, once jurisdiction has attached, the same is not lost by the mere fact that the public official or employee was no longer in office during the pendency of the case.*"^[26] Consequently, the supervening Resolution retroactively dropping respondent from the rolls is not a reason to exculpate her from administrative liability.