

FIRST DIVISION

[A.C. NO. 6491(CBD NO. 03-1060), January 31, 2005]

BENILDA M. MADDELA, COMPLAINANT, VS. ATTY. ROSALIE DALLONG-GALICINAO, RESPONDENT.

RESOLUTION

DAVIDE, JR., C.J.:

Complainant Benilda Madella is a Clerk in the Office of the Clerk of Court, Regional Trial Court (RTC), Bayombong, Nueva Vizcaya, while respondent Atty. Rosalie Dallong-Galicinao is the Clerk of Court and *Ex-Officio* Provincial Sheriff of the RTC, Bambang, Nueva Vizcaya. Their offices are both housed at the Dumlao Hall of Justice within the Capital Compound in Bayombong.

In an affidavit-complaint dated 7 February 2003, filed with the Integrated Bar of the Philippines (IBP) and docketed as CBD No. 03-1060, the complainant prays for the disbarment of the respondent for "acts unbecoming ... a public servant and a lawyer, grave misconduct and slander."

On the basis of the same affidavit-complaint, the complainant filed with the Office of the Court Administrator (OCA) an administrative complaint, which was docketed as OCA IPI No. 03-1554-P. The complaint was referred to Executive Judge Jose Godofredo M. Naui of the RTC of Bambang, Nueva Vizcaya, for investigation, report, and recommendation.

In her affidavit-complaint, the complainant alleged that sometime in July 1999, she received the amount of P40,000 from the respondent by way of a loan at an interest of 5% per month. In November 2001, since part of the loan remained unpaid, the respondent went to complainant's office and took complainant's "cash gift check" amounting to P5,000 in her absence and without her knowledge. There, the respondent "uttered unsavory and humiliating words" against her (the complainant). The respondent was able to encash the check even without her endorsement and applied the proceeds thereof to the interest of complainant's loan. From January to November 2002, the respondent, based on complainant's promissory note, had been collecting from the complainant an amount equivalent to one-half of the face value of the checks she received as benefit from the Judiciary Development Fund (JDF). On 10 December 2002, the respondent went again to the office of the complainant and demanded one-half of the value of the check representing a cash gift of P5,000. The complainant refused, reasoning that it was a cash gift, not a JDF check and, therefore, not covered by their agreement. Complainant's refusal to part with the amount angered the respondent, prompting the latter to raise her voice, utter "unsavory remarks" against the complainant, and bang her fist on top of the complainant's table, causing the glass top of the table to break. Several people witnessed this incident and heard the accusations hurled by

the respondent against the complainant with regard to her failure to pay her debt.

To support her bid to have the respondent stripped of the privilege to practice the noble profession of law, the complainant attached to her affidavit-complaint a copy of a confidential letter-complaint of one Benjamin Rilloraza dated 3 May 2001 addressed to Atty. Ma. Cristina Layusa of the Office of the Bar Confidant, opposing the respondent's admission to the Bar in view of her acts of notarizing documents outside the area of her commission. Mr. Rilloraza claimed that the respondent, although not yet a lawyer, was issued a notarial commission for "Kayapa or (Kasibu)," Nueva Vizcaya. However, the respondent notarized documents in Bayombong, Nueva Vizcaya, outside the area of her commission. To prove his allegation, he attached to the said letter-complaint photocopies of a Deed of Sale of Motor Vehicle dated 31 January 2001 and an Affidavit dated 3 May 2001, both indicating that they were notarized by the respondent in Bayombong, Nueva Vizcaya, and that the respondent's commission as a Notary Public was for Bayombong. Mr. Rilloraza likewise alleged that despite her husband's death, the respondent continued to receive and encash for at least three months checks corresponding to her husband's salaries as *Ex-Officio* Sheriff of the Office of the Clerk of Court of Nueva Vizcaya. He also pointed out that the respondent even continued to claim the higher allowable deductions as a married individual despite the death of her husband.

The complainant also presented a Certification issued on 6 May 2003 by Judge Jose B. Rosales of Branch 27, RTC, Bayombong, Nueva Vizcaya, in his capacity as Executive Judge, stating that the respondent was never appointed as a notary public for Bayombong, Nueva Vizcaya, during the period from 1 January 1997 to December 2003.

For her part, the respondent denied that she is engaged in the business of lending money, the truth of the matter being that the complainant approached her sometime in November 1998 begging that she lend her some money. She then informed the complainant that she knew of somebody who had money. Out of pity and compassion, she agreed to be the guarantor to facilitate her loan. To prove her claim, she presented an affidavit of Mr. Josue B. Licican dated 10 March 2003 stating that he is the creditor of the complainant and that the respondent merely brokered the loan agreement and acted as a guarantor in favor of the complainant. Mr. Licican also claimed that by reason of complainant's failure to pay her obligation after the lapse of more than four years, he tried to collect the loan from the respondent, who acted as a guarantor.

As regards complainant's allegation that she did not authorize the respondent to obtain the cash gift in November 2001, the respondent averred that she had a verbal agreement with the complainant authorizing her to obtain the check. She also presented an authorization signed by the complainant on 8 January 2002 authorizing the respondent to receive the former's JDF checks and to apply half of the amount as installment payment of her loan, with the obligation to return the other half to the complainant. To refute the allegation that she continued to obtain the checks of her deceased husband, the respondent presented a letter dated 2 May 1998 informing the OCA of the death of her husband on 3 April 1998 with a request to stop sending checks issued in his name. She likewise presented her Income Tax Return (ITR) for 1998 filed on 11 January 1999, which showed that she declared herself as "head of the family" and not as a married individual. She forwarded the