

EN BANC

[A.M. No. P-20-4035 (Formerly OCA I.P.I. No. 17-4777-P), January 28, 2020]

RACQUEL O. ARCE, CLERK III, BRANCH 122, REGIONAL TRIAL COURT, CALOOCAN CITY, COMPLAINANT, VS. FERDINAND E. TAURO, FORMER COURT INTERPRETER, BRANCH 122, REGIONAL TRIAL COURT, CALOOCAN CITY, RESPONDENT.

D E C I S I O N

PER CURIAM:

Antecedents

The present administrative matter is an offshoot of A.M. No. P-17-3731^[1] which pertained to the complaint-affidavit of Ferdinand E. Tauro charging Racquel O. Arce with serious misconduct. The contents of Tauro's complaint-affidavit were summed in the Court's Resolution dated November 8, 2017 in A.M. No. P-17-3731, viz.:

[Tauro] narrated that on May 3, 2012, he was heckled by [Arce] who was at that time looking for missing records which were supposedly under [Arce's] custody. [Arce] allegedly shouted at [Tauro], "*Ikaw ang kumuha, ikaw ang gumalaw ng mga records, sinungaling, sinungaling ka! Dapat sa iyo mag-resign.*" [Tauro] kept his cool but [Arce] continued berating him for the missing records.

Despite the intervention of other court personnel, [Arce] allegedly continued to throw slanderous and threatening remarks against [Tauro]. When [Tauro] denied the accusations, [Arce] became furious and, seemingly determined to kill [Tauro], attacked him with a kitchen knife. However, the attack was timely prevented by their fellow court employees.

In her Comment/Compliance,^[2] Arce narrated that on May 3, 2012 and in the course of her work, *i.e.*, releasing court orders and processes, she noticed that two (2) case folders were missing from her desk. She needed these case folders for the purpose of preparing the subpoenas for the following week's hearings. She was convinced that Tauro was the one who took those folders as he used to take case records from her table without permission supposedly for the purpose of preparing the court calendar. When she asked him about the missing folders, he gave evasive and unresponsive answers.

An argument ensued between them. Because Tauro kept on provoking her instead of giving straight answers, she got prompted to say "*pinatutunayan mo lang talaga na sinungaling ka*" and "*tumigil ka na, tinatanong lang kita sa dalawang records, kung [anu-ano] na sinasabi mo.*"^[3] But, because Tauro did not stop, she angrily said "*pag hindi ka pa tumigil sa kadadalal ng wala namang kinalaman sa tanong ko sa [iyo],*

sasaksakin na kita." Although she admitted she was holding a knife at that time, she denied ever aiming it at Tauro. It was only out of frustration that she uttered those heated words because that was not the first time Tauro took records from her table without permission and lied about it. She attached Affidavits^[4] from their workmates who corroborated her version of the incident.

She was also spurred by fear that she would get mixed up in Tauro's blunders and her job would be jeopardized. His dishonesty and inefficiency were well-known to everyone in their office. In fact, the case records that were missing and for which she was unable to issue subpoenas were later found in his possession. She did not have the capacity to harm anyone. If Tauro were truly scared for his life, why would he continue staying in the office as late as she did, as shown by the logbook entries? Besides, it was absurd that a man of his built (5'8") would be threatened by a diminutive lady (5'2") like her.

She believed that if what she did was gross misconduct then fairness demanded that her accuser be charged with gross inefficiency. As a court interpreter, Tauro was so inept with his work that lawyers often complained to the judge and interpreted their own questions for accuracy. He regularly made errors or missed out items on the court calendar. Cases that should be listed in the agenda were not included and those that should not be in the agenda were included. She enumerated other instances of Tauro's mistakes, *viz.*:

- (a) As an example of Tauro's inefficiency in preparing the court calendar, a land registration case was dismissed due to absence of petitioner and counsel during the hearing but it turned out petitioner and counsel were informed that the case was scheduled for another date according to the minutes Tauro prepared.
- (b) In a civil case, the testimony of a witness was stricken off from the record for non-appearance of the witness and counsel when the case was called in open court. The minutes of the previous hearing, however, showed that the case should not have been called in open court as the party was supposed to present evidence *ex parte* before the branch clerk of court. The judge had to recall the open court order and issue a new one.
- (c) A lawyer in another civil case had to explain why he failed to move for correction of the stipulation of facts in the pre-trial order within the period given as he relied on the entries in the minutes of the pre-trial conference that were not reflected in the pre-trial order that was subsequently issued.
- (d) In one case, counsel made an oral formal offer of exhibits but these exhibits were not listed by Tauro in the minutes although they were listed and admitted in evidence in the order issued by the judge in open court.
- (e) He received exhibits from lawyers in defiance of the presiding judge's directive that the staff should not receive evidence

that had not been formally offered.

- (f) He let the parties sign the minutes for the next scheduled hearing but he would fail to enter the schedules in the calendar book. His minutes also often needed to be corrected because he entered the wrong dates which made the minutes inconsistent with court orders.
- (g) He calendared a criminal case for hearing on a demurrer to the evidence when no such demurrer was filed. Worse, he erased the minutes and placed thereon "demurrer resolved."
- (h) Another civil case was dismissed for Tauro's failure to inform the judge that the plaintiff asked permission from him [Tauro] to call his lawyer and the case was called while the plaintiff was still outside talking to counsel.
- (i) There was no day that their court calendar was perfectly done despite the hours that Tauro spent working on it and the quantity of bond paper he used up to print and reprint just a one-day calendar. Mistakes in the calendar were still discovered in open court because Tauro did not seem to understand what was stated in the court order.

She substantiated the foregoing charges with photocopies of minutes, orders, pleadings, and transcripts of stenographic notes (TSNs) from the subject cases.

In closing, she admitted her lapse in judgment for her outburst and hoped for clemency as this was the first time she committed such a lapse. At the very least, she believed she and Tauro were both at fault. She urged the Court to take action on Tauro's dishonesty, gross neglect of duty, and gross inefficiency, and prayed that her Comment/Compliance be considered as her administrative complaint against Tauro.

The Office of the Court Administrator (OCA) repeatedly required Tauro to submit his own Comment on Arce's Comment/Compliance, but he failed to comply despite due notice.

Meanwhile, two (2) important developments occurred in this case. **First**, in an *En Banc* Resolution dated October 7, 2014 in A.M. No. 14-09- 307-RTC, **Tauro was dropped from the rolls** for his unsatisfactory performance ratings for the periods July-December 2011, January-June 2012, July-December 2012, and January-June 2013. **Second**, in the Resolution dated November 8, 2017 in A.M. No. P-17-3731 involving the same altercation incident that took place on May 3, 2012, the Court's Second Division found **both Tauro and Arce guilty of conduct unbecoming of a court employee and imposed a fine of Php5,000.00** on each of them. Hence, this Resolution only refers to the remaining administrative case against Tauro for dishonesty, gross neglect of duty and gross inefficiency.

The OCA Report and Recommendation dated August 27, 2019

The OCA found that Arce was able to substantiate most of her allegations against Tauro. Although there were some charges that the OCA found unmeritorious, there