

## **FIRST DIVISION**

**[ A.M. No. P-16-3541 [Formerly OCA IPI No. 12-3915-P], August 30, 2016 ]**

**SYLVIA G. CORPUZ, COMPLAINANT, VS. CEFERINA B. RIVERA, COURT STENOGRAPHER III, REGIONAL TRIAL COURT OF DAVAO CITY, DAVAO DEL SUR, BRANCH 12, RESPONDENT.**

**[A.M. No. P-16-3542 [FORMERLY OCA IPI No. 13-4049-P]]**

**PRESIDING JUDGE RUFINO S. FERRARIS, JR., MUNICIPAL TRIAL COURT IN CITIES OF DAVAO CITY, BRANCH 7, COMPLAINANT, VS. CEFERINA B. RIVERA, COURT STENOGRAPHER III, REGIONAL TRIAL COURT OF DAVAO CITY, DAVAO DEL SUR, BRANCH 12, RESPONDENT.**

**[A.M. No. P-16-3543 [FORMERLY OCA IPI No. 13-4074-P]]**

**IRINEO F. MARTINEZ, JR., COMPLAINANT, VS. CEFERINA B. RIVERA, COURT STENOGRAPHER III, REGIONAL TRIAL COURT OF DAVAO CITY, DAVAO DEL SUR, BRANCH 12, RESPONDENT.**

**[OCA IPI No. 14-2731-MTJ]**

**CEFERINA B. RIVERA, COURT STENOGRAPHER III, REGIONAL TRIAL COURT OF DAVAO CITY, DAVAO DEL SUR, BRANCH 12, COMPLAINANT, VS. PRESIDING JUDGE RUFINO S. FERRARIS, JR., MUNICIPAL TRIAL COURT IN CITIES OF DAVAO CITY, BRANCH 7, RESPONDENT.**

## **D E C I S I O N**

**PERLAS-BERNABE, J.:**

For the Court's resolution are four (4) consolidated administrative cases, namely: (1) A.M. No. P-16-3541 (Formerly OCA IPI No. 12-3915-P); (2) A.M. No. P-16-3542 (Formerly OCA IPI No. 13-4049-P); (3) A.M. No. P-16-3543 (Formerly OCA IPI No. 13-4074-P), respectively initiated by Sylvia G. Corpuz (Corpuz), Presiding Judge Rufino S. Ferraris, Jr. (Judge Ferraris, Jr.) of the Municipal Trial Court in Cities of Davao City, Branch 7, and Irineo F. Martinez, Jr. (Martinez, Jr.), against Ceferina B. Rivera (Rivera), Court Stenographer III of the Regional Trial Court of Davao City (RTC), Branch 12 concerning the latter's money-lending business; and (4) OCA IPI No. 14-2731-MTJ initiated by Rivera against Judge Ferraris, Jr. regarding his complicity to the said money-lending business.

### **The Facts**

In the Complaint in A.M. No. P-16-3541 (Formerly OCA IPI No. 12-3915- P),<sup>[1]</sup> it was alleged that in February 2011, Rivera convinced Corpuz to invest the aggregate amount of P252,500.00 in the former's money-lending business with the promise that Corpuz will earn a monthly interest of two and a half percent (2.5%), which interest will be deposited to her account at the end of each month. Rivera never fulfilled her promise, which prompted Corpuz to verify Rivera's aforesaid business. After discovering that no such money-lending business existed, Corpuz immediately demanded the return of her money, and in response, Rivera gave her two (2) checks amounting to P130,000.00 each. However, the checks were dishonored for being drawn against insufficient funds. After her demands for payment went unheeded, Corpuz filed two (2) counts of *Estafa* and violation of *Batas Pambansa* Blg. 22<sup>[2]</sup> against Rivera,<sup>[3]</sup> as well as the instant administrative complaint.

Similarly, the affidavit-complaints in A.M. No. P-16-3542 (Formerly OCA IPI No. 13-4049-P)<sup>[4]</sup> and A.M. No. P-16-3543 (Formerly OCA IPI No. 13-4074-P)<sup>[5]</sup> alleged that Rivera convinced Judge Ferraris, Jr. and Martinez, Jr. to invest in her money-lending business the respective amounts of P100,000.00 and P50,000.00 with the promise that their money would earn monthly interest of five percent (5%). As guarantee, Rivera issued checks to Judge Ferraris, Jr. and Martinez, Jr. corresponding to their investments in her business. After paying Judge Ferraris, Jr. and Martinez, Jr. the agreed interest for four (4) and three (3) months, respectively, Rivera failed to pay the succeeding interests and even the principal amounts. Judge Ferraris, Jr. and Martinez, Jr. then tried to encash their respective checks, but both were dishonored for being drawn against a closed account. Ultimately, Rivera failed to pay her liabilities despite demands, thus, constraining Judge Ferraris, Jr. and Martinez, Jr. to file separate criminal cases against her.<sup>[6]</sup>

For her part,<sup>[7]</sup> Rivera openly admitted having engaged in money-lending activities, albeit offering the excuse that her business was done in good faith and with no intention of blemishing the good name of her office, as the same was done mainly to augment her meager salary and accommodate the monetary needs of other court personnel. She likewise explained that her business took a downward spiral when majority of her borrowers failed to pay their monthly obligations. Worse, she herself suffered financial troubles when her family and relatives were hit by the Typhoon Pablo in 2012, which took much of her time and financial resources in order to support them.<sup>[8]</sup> As a result, she defaulted in her obligations to Judge Ferraris, Jr., Martinez, Jr., and Corpuz. Rivera also averred that Judge Ferraris, Jr. went to her office several times while she was on leave and threatened to have her killed if she did not pay up.<sup>[9]</sup> Lastly, she clarified that she had already amicably settled her obligations with Judge Ferraris, Jr., Martinez, Jr., and Corpuz resulting in the provisional dismissal of the criminal case Corpuz filed against her;<sup>[10]</sup> and the affidavits of desistance executed by Judge Ferraris, Jr.<sup>[11]</sup> and Martinez, Jr.<sup>[12]</sup> withdrawing their criminal complaints against her.<sup>[13]</sup>

In view of Rivera's claim that she received threats from Judge Ferraris, Jr., the Office of the Court Administrator (OCA) recommended that: (a) Rivera's counter-affidavits in A.M. No. P-16-3542 (Formerly OCA IPI No. 13-4049-P) and A.M. No. P-16-3543 (Formerly OCA IPI No. 13-4074-P) be treated as a separate administrative complaint against Judge Ferraris, Jr. to determine his involvement in Rivera's money-lending

business; and (b) Judge Ferraris, Jr. be ordered to comment on the administrative case against him.<sup>[14]</sup> Said recommendations were approved and adopted by the Court in its Resolution dated October 8, 2014<sup>[15]</sup> and the counter-affidavits were, thereafter, docketed as OCA IPI No. 14-2731-J.

Pursuant to the Court's directive, Judge Ferraris, Jr. submitted a Counter-Affidavit<sup>[16]</sup> dated September 17, 2015, vehemently denying Rivera's accusation that he threatened Rivera's life. He then clarified that after finding out that Rivera has other creditors who were after her, he merely commented that "good that she is not in the danger of being killed by reason of her non-payment of her account to other creditors."<sup>[17]</sup>

In view of the similarities in the factual milieu of the complaints, the OCA further recommended that the four (4) administrative cases be consolidated.<sup>[18]</sup> Thus, the Court, in its Resolutions dated October 1, 2014,<sup>[19]</sup> October 8, 2014,<sup>[20]</sup> and March 18, 2015,<sup>[21]</sup> ordered, *inter alia*, the consolidation of the said cases and the referral of the same to the First Vice Executive Judge of the RTC for a joint investigation, report and recommendation.<sup>[22]</sup>

In a Report and Recommendation<sup>[23]</sup> dated October 4, 2015, First Vice Executive Judge Retrina E. Fuentes (Judge Fuentes) found both Rivera and Judge Ferraris, Jr. administratively liable, and accordingly, recommended that they be meted the penalties of suspension of six (6) months and reprimand, respectively.

Judge Fuentes found that Rivera was indeed engaged in money-lending activities as she herself had admitted, and as attested to by various court employees. According to Judge Fuentes, Rivera's actions constitute conduct prejudicial to the best interest of the service as her money-lending business put the image of the judiciary in a bad light, especially in view of the fact that she performs her transactions during office hours and within the court's premises.<sup>[24]</sup>

Anent Judge Ferraris, Jr., Judge Fuentes did not find any evidence that would show his active participation in Rivera's money-lending activities or that he exploited his position in order to gain monetary benefit therefrom. These notwithstanding, Judge Fuentes opined that Judge Ferraris, Jr. should have known that engaging in money-lending activities is directly prohibited under prevailing Civil Service Rules and, thus, should have taken steps to prevent Rivera from doing such activities. On the contrary, he even invested capital therein. Consequently, he should be reprimanded for his lack of concern in the money-lending activity of Rivera and his act of investing therein.<sup>[25]</sup>

### **The OCA's Report and Recommendation**

In a Memorandum<sup>[26]</sup> dated March 30, 2016, the OCA recommended, *inter alia*, that: (a) Rivera be held administratively liable for her money-lending activities, and accordingly, be meted the penalty of one (1)-month suspension without pay with a stern warning that a repetition of the same or similar acts will be dealt with more severely; and (b) the complaint against Judge Ferraris, Jr. be dismissed, but he be admonished for tolerating and not taking steps to prevent Rivera from engaging in

such business.<sup>[27]</sup>

The OCA ratiocinated that as a court employee, Rivera is required to serve with maximum efficiency and with the highest degree of devotion to duty in order to maintain public confidence in the judiciary. Thus, Rivera's act of engaging in her money-lending business cannot be countenanced as it tends to distract her from devoting her entire time to official work so as to ensure the efficient and speedy administration of justice. However, considering that this was Rivera's first offense in her more than thirty-six (36) years of government service, the OCA deemed it appropriate to impose upon her the penalty of one (1)-month suspension without pay.<sup>[28]</sup>

As regards Judge Ferraris, Jr., the OCA agreed with the conclusion of Judge Fuentes that there is not enough evidence to show that he took advantage of his position as a judge in order to receive any monetary gain from Rivera's money lending business. This notwithstanding, the OCA recommended that Judge Ferraris, Jr. be admonished for his lack of concern in taking steps to prevent Rivera from conducting her trade and even expressly supporting it by investing money therein.

### **The Issue Before the Court**

The issue raised for the Court's resolution is whether or not Rivera and Judge Ferraris, Jr. may be held administratively liable for Rivera's money-lending activities.

### **The Court's Ruling**

The Court agrees with the findings and conclusions of the OCA, except as to the penalty to be imposed on Rivera.

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment and must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office. In order to differentiate gross misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in the former.<sup>[29]</sup> Stated differently, if the misconduct does not involve any of the aforesaid qualifying elements, the person charged is only liable for the lesser offense of simple misconduct.<sup>[30]</sup>

In this case, Rivera ought to have known that as a public servant, she is expected at all times to exhibit the highest sense of honesty and integrity, as expressly commanded by no less than Section 1, Article XI<sup>[31]</sup> of the 1987

Constitution.<sup>[32]</sup> Moreover, as an employee of the Judiciary, she should be well aware that the nature of her work demands her highest degree of efficiency and responsibility, and that she would only be able to meet this demand by devoting her undivided time to government service. Essentially, this is the reason why court employees have been enjoined to strictly observe official time and to devote every