

## SECOND DIVISION

**[ A.M. No. P-06-2206, March 16, 2011 ]**

**EXECUTIVE JUDGE LEONILO B. APITA, REGIONAL TRIAL COURT,  
BRANCH 7, TACLOBAN CITY, COMPLAINANT, VS. MARISSA M.  
ESTANISLAO, COURT LEGAL RESEARCHER II, REGIONAL TRIAL  
COURT, BRANCH 34, TACLOBAN CITY, RESPONDENT.**

### R E S O L U T I O N

**CARPIO, J.:**

#### The Case

This is an administrative complaint for insubordination filed by Executive Judge Leonilo B. Apita of the Regional Trial Court (Branch 7) of Tacloban City against respondent Marissa M. Estanislao, Court Legal Researcher II in Branch 34 of the same court.

#### The Facts

In 2004, Atty. Pamela A. Navarrete, Court Interpreter in Branch 7 of the RTC of Tacloban City, was appointed as Clerk IV under Justice Pampio Abarintos of the Court of Appeals, leaving the position of Court Interpreter in Branch 7 vacant. Judge Apita designated respondent to act as Court Interpreter in the said Branch **until the vacancy was filled up.**<sup>[1]</sup>

However, respondent refused to act as Court Interpreter claiming that her designation was a demotion tantamount to removal from the service without cause; that interpreting during trials was not included in the duties and responsibilities of her present position; and that she was not defying Judge Apita's directive, but merely asserting her right as a civil service employee holding a permanent appointment.<sup>[2]</sup>

In his Complaint<sup>[3]</sup> for insubordination filed in the Office of the Court Administrator (OCA), Judge Apita requested the OCA to rule whether his directive designating respondent as Court Interpreter in Branch 7 was valid and if so, whether respondent may be subjected to administrative sanctions for insubordination.

The Complaint was docketed as OCA-IPI No. 04-2051-P. The OCA forthwith required respondent to submit her Comment.<sup>[4]</sup>

In her Comment,<sup>[5]</sup> respondent maintained that acting as Court Interpreter was outside the scope of her job description as Legal Researcher and constituted a demotion tantamount to removal from the service without cause.

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

The OCA, in its Report and Recommendation,<sup>[6]</sup> found respondent liable for insubordination. According to the OCA, Judge Apita acted well within his authority in designating respondent as Court Interpreter in view of the vacancy in the position. The OCA explained that respondent had no right to defy Judge Apita's directive in the absence of any showing of abuse of discretion or any proof that the designation was due to some improper motive. The OCA recommended that respondent be suspended from the service for one (1) month and one (1) day with a warning that a repetition of the same or similar act in the future shall be dealt with more severely, thus:

Respectfully submitted for the consideration of the Honorable Court are our recommendations that:

1. This matter be FORMALLY DOCKETED as an administrative complaint against Marissa M. Estanislao, Legal Researcher, RTC, Branch 34, Tacloban City; and
2. Marissa M. Estanislao be SUSPENDED for one (1) month and one (1) day for insubordination with a WARNING that a repetition of the same or similar act in the future shall be dealt with more severely.<sup>[7]</sup>

## **The Court's Ruling**

This is an administrative complaint of first impression involving the designation of court personnel by an executive judge. Judge Apita admitted he was unsure whether he could designate a Legal Researcher from one branch to act as a Court Interpreter in another branch of the same court. Hence, he brought the matter to the OCA for a ruling.

In *Castro v. Bague*,<sup>[8]</sup> the Sheriff IV of the RTC (Branch 1) of Tagbilaran City was designated to act as Deputy Sheriff in the Office of the Clerk of Court to fill a temporary vacancy. The Court did not question the designation since the duties of a Sheriff IV are identical with the duties of a Deputy Sheriff as described in the 2002 Revised Manual for Clerks of Court<sup>[9]</sup> (Manual), which defines the general functions of all court personnel in the judiciary.

Under 2.2.4 of Chapter VI, Volume I of the Manual, the Sheriff IV is tasked with serving writs and processes of the court; keeping custody of attached properties; and maintaining the record book on writs of execution, writs of attachment, writs of replevin, writs of injunction, and all other processes. Under 2.1.5 of the same Chapter, the Deputy Sheriff serves writs and processes of the court; keeps custody of attached properties; and maintains the record book on writs of execution, writs of attachment, writs of replevin, writs of injunction, and all other processes. Unarguably, the Sheriff IV and the Deputy Sheriff perform exactly the same functions.

The duties of a Legal Researcher in the RTC are described under 2.2.1 of Chapter VI,

Volume I of the Manual, to wit:

- 2.2.1.1.verifies authorities on questions of law raised by parties-litigants in cases brought before the Court as may be assigned by the Presiding Judge;
- 2.2.1.2.prepares memoranda on evidence adduced by the parties after the hearing;
- 2.2.1.3.prepares outlines of the facts and issues involved in cases set for pre-trial for the guidance of the Presiding Judge;
- 2.2.1.4.prepares indexes to be attached to the records showing the important pleadings filed, the pages where they may be found, and in general, the status of the case;
- 2.2.1.5.prepares and submits to the Branch Clerk of Court a monthly list of cases or motions submitted for decision or resolution, indicating therein the deadlines for acting on the same; and
- 2.2.1.6.performs such other duties as may be assigned by the Presiding Judge or the Branch Clerk of Court.

On the other hand, 2.2.3 of Chapter VI, Volume I of the Manual describes the functions of a Court Interpreter in the RTC thus:

- 2.2.1.1.acts as translator of the court;
- 2.2.1.2.attends court hearings;
- 2.2.1.3.administers oath to witnesses;
- 2.2.1.4.marks exhibits introduced in evidence and prepares the corresponding list of exhibits;
- 2.2.1.5.prepares and signs minutes of the court session;
- 2.2.1.6.maintains and keeps custody of record book of cases calendared for hearing;
- 2.2.1.7.prepares court calendars and the records of cases set for hearing; and
- 2.2.1.8.performs such other functions as may, from time to time, be assigned by the Presiding Judge and/or Branch Clerk of Court.

Notably, the duties of a Legal Researcher are vastly different from those of a Court Interpreter. A Legal Researcher focuses mainly on verifying legal authorities, drafting memoranda on evidence, outlining facts and issues in cases set for pre-trial, and keeping track of the status of cases. On the other hand, a Court Interpreter is limited to acting as translator of the court, administering oaths to witnesses, marking exhibits, preparing minutes of court session, and preparing the court calendar.

While the Manual provides that court personnel may perform other duties the presiding judge may assign from time to time, said additional duties must be directly related to, and must not significantly vary from, the court personnel's job description. However, in case of a sudden vacancy in a court position, the judge may temporarily designate a court personnel with the competence and skills for the position even if the duties for such position are different from the prescribed duties of the court personnel. The temporary designation shall last only for such period as