

## SECOND DIVISION

**[ A.M. No. P-08-2559 (FORMERLY OCA IPI NO. 08-2940-P), March 19, 2010 ]**

**RYAN S. PLAZA, CLERK OF COURT, MUNICIPAL TRIAL COURT, ARGAO, CEBU, COMPLAINANT, VS. ATTY. MARCELINA R. AMAMIO, CLERK OF COURT, GENOVEVA R. VASQUEZ, LEGAL RESEARCHER AND FLORAMAY PATALINGHUG, COURT STENOGRAPHER, ALL OF THE REGIONAL TRIAL COURT, BRANCH 26, ARGAO, CEBU, RESPONDENTS.**

### D E C I S I O N

**DEL CASTILLO, J.:**

*The court and its premises shall be used exclusively for court or judicial functions and not for any other purpose. As temples of justice, their dignity and sanctity must be preserved at all times.*

#### ***Factual Antecedents***

On July 25, 2007, Ryan S. Plaza (Plaza), Clerk of Court II of the Municipal Trial Court of Argao, Cebu, filed a complaint<sup>[1]</sup> against Atty. Marcelina R. Amamio (Amamio), Clerk of Court; Genoveva R. Vasquez (Vasquez), Legal Researcher, and Floramay Patalinghug (Patalinghug), Court Stenographer, all of the Regional Trial Court (RTC) of Argao, Cebu, Branch 26, for intentional violation of Administrative Circular No. 3-92<sup>[2]</sup>, when they allowed Sara Lee, a private company selling beauty and fashion products, to hold a party and raffle draw inside the Argao Hall of Justice on July 14, 2007.

The facts as summarized by the Office of the Court Administrator (OCA) are as follows:

The complainant alleges that sometime in the first week of July 2007, he heard that some of the personnel of RTC (Branch 26) were planning to hold a Sara Lee party in the Argao Hall of Justice and that upon learning of the plan, he informed the personnel of the said court about Administrative Circular No. 3-92 prohibiting the use of the Halls of Justice for residential or commercial purposes.

The complainant claims that in the morning of July 14, 2007, a Saturday, the security guard on duty, Mr. Roger O. Jimenez, telephoned him with the information that there were persons from Sara Lee who wanted to enter the Argao Hall of Justice to put up the decorations, sound system and catering equipment for the Sara Lee party. The complainant states that he directed Mr. Jimenez not to allow the persons to enter the

premises. He then called up Atty. Amamio to inform her of the situation and of the infraction that would be committed should the Sara Lee party push through. The complainant alleges that Atty. Amamio insisted that she had authorized the Sara Lee party and raffle draw.

The complainant then recounts the events that transpired as recorded in the security logbook of the Argao Hall of Justice x x x. In the logbook, Mr. Jimenez wrote that at around 11:05 in the morning of July 14, 2007, he received a telephone call from Ms. Vasquez approving the use of the entrance lobby for the raffle draw which she claimed was authorized by Atty. Amamio. According to the entries in the logbook, the raffle draw started at around 2:00 p.m. and ended at 5:00 p.m., with fifty-one (51) participants attending the event.

The complainant adds that even the security guards on duty who recorded the Sara Lee event in the logbook were later subjected to x x x harassment by the respondents who questioned the guards [as to] why the said event was recorded in the logbook. He claims that Atty. Amamio even reprimanded the guards x x x, castigating the latter for also jotting down in the logbook court personnel who were not in uniform.

The complainant stresses that holding the party and raffle draw inside the Argao Hall of Justice was a clear violation of Administrative Circular 3-92 and had exposed the properties and records contained within it to risk of damage and loss.

The joint comment (denominated as Compliance) dated August 21, 2007 of respondents Amamio, Vasquez and Patalinghug "vehemently and strongly RESIST the charges against them for utter lack of both legal and factual bases x x x."

The respondents do not deny that they allowed the holding of the Sara Lee raffle draw on July 14, 2007 at the ground floor lobby of the Argao Hall of Justice, but only after respondents Amamio and Vasquez had fully discussed the matter upon receipt of the letter dated June 4, 2007 of Mrs. Virginia C. Tecson, business manager of the Fuller Life Direct Selling and Personal Collection, requesting permission to hold the raffle draw of Sara Lee at the Argao Hall of Justice.

The respondents argue that similar activities had been held before at the Argao Hall of Justice. They said that during the fiesta of Argao in September 2006, a stage for beauty pageant was put up right at the entrance of the Argao Hall of Justice. The contestants and other participants used the ground floor lobby, the stairs and the second floor lobby of the said building. On January 28, 2007, the Municipality of Argao held a Sinulog parade which culminated in the town plaza. Since the Argao Hall of Justice fronts the town plaza, some spectators entered the building and went up the second floor to watch the performance in the plaza. They add that on the ground floor lobby, several persons, including the barangay tanods, were taking alcoholic beverages.

The respondents also claim that at the Cebu City Hall of Justice, raffle

draws were being conducted regularly and that the latest, which was held on March 30, 2007, was sponsored by the very same people from Sara Lee. The respondents contend that the prizes to this raffle draw, which included a multicab, were displayed on the ground floor lobby of the building for one week.

According to the respondents, these were all taken into consideration when they decided to grant the request of Mrs. Tecson. They insist that the proposed raffle draw was a relatively minor event compared to the abovementioned activities.

The respondents added that since the building which houses the Argao Hall of Justice has been declared a cultural heritage and is the centerpiece of the said municipality, then the activity planned by Sara Lee was appropriate in promoting the town of Argao. Respondents Amamio and Vasquez maintain that it was their honest belief that the building was not to be used exclusively for court purposes, but also to be shown to visitors who wanted to visit and see the historical building.

Thus, in her letter dated June 11, 2007, respondent Amamio formally granted the request of Mrs. Tecson with the specific instructions to use only the ground floor lobby of the building, to conduct their activity peacefully and orderly, to refrain from causing any damage to the building and its premises and to clean the premises after the raffle draw.

Since respondent Vasquez could not attend the raffle draw, respondent Amamio claims that she requested respondent Patalinghug to be at the Argao Hall of Justice on the day of the raffle draw to make sure that her (Amamio's) instructions would be strictly observed.

Respondent Amamio denies the complainant's allegation that the latter informed the former about violating Administrative Circular No. 3-92. The said respondent declares that she need not be informed about the issuance [of said circular] since she had practically read and studied carefully all circulars that had been issued by the Supreme Court "not only as a dutiful Clerk of Court of the Regional Trial Court, but as a lawyer herself."

The respondents deny that a party was held, saying that only a raffle draw was conducted and that only softdrinks and finger foods were served to the participants. They also claim that there was no danger to the building and the records since the raffle draw was merely held at the ground floor lobby and that those who attended the raffle draw were decent people, majority of them being women. Neither was there any commercial activity or transaction which involved the buying and selling of goods for profit. According to the respondents, Mrs. Tecson's primary reason for requesting the use of the ground floor lobby of the Argao Hall of Justice was for her staff to experience and to imbibe Argao's rich historical past.

The respondents also deny that they harassed and intimidated the security guards who recorded the raffle draw in the logbook. Respondents

Vasquez and Patalinghug only inspected the logbook to find out who attended the raffle draw and respondent Amamio merely called the attention of the guards as to why "even the trivial non-wearing of the office uniform of some employees were entered when Circular No. 49-2007 dated May 15, 2007 directed the optional wearing of uniforms."

Finally, the three respondents maintain that they had performed their duties to the best of their abilities, acted with absolute good faith devoid of malice, and had no intention to prejudice the interests of the Court. They insist that they have never violated any rule, regulation, or law in the execution of their assigned tasks.<sup>[3]</sup>

On July 27, 2007, the matter was indorsed to Judge Maximo A. Perez, RTC of Argao, Cebu, Branch 26, for appropriate action and investigation.<sup>[4]</sup>

### ***Report and Recommendation of the Investigating Judge***

In his Report<sup>[5]</sup> dated August 30, 2007, Judge Perez recommended the dismissal of the complaint for lack of substantial evidence to substantiate the charge. He found that respondents did not violate A.M. No. 01-9-09-SC<sup>[6]</sup> which clarified Administrative Circular No. 3-92, for lack of showing that respondents have used the Argao Hall of Justice for residential, dwelling or sleeping purposes; for lack of proof that respondents have utilized the Argao Hall of Justice for commercial purposes because there was no buying and selling of goods for profit on July 14, 2007; and neither was there selling of tickets. Nonetheless, Judge Perez recommended that the respondents be sternly warned to be more circumspect in complying with the guidelines for the use of the Hall of Justice.

### ***Report and Recommendation of the OCA***

In its Report and Recommendation,<sup>[7]</sup> the OCA did not agree with the findings of Judge Perez. On the contrary, the OCA found that respondents violated Administrative Circular No. 3-92 by allowing the holding of a raffle draw in the lobby of the Argao Hall of Justice. Accordingly, the OCA recommended that-

x x x x

2. Atty. Marcelina R. Amamio, Clerk of Court, Regional Trial Court (Branch 26), Argao, Cebu be SUSPENDED for one month and one day for simple misconduct with a STERN WARNING that a repetition of the same or similar act shall be dealt with more severely.

3. Ms. Genoveva R. Vasquez, Legal Researcher and Ms. Floramay Patalinghug, Court Stenographer, both of the Regional Trial Court (Branch 26), Argao, Cebu be REPRIMANDED for violation of office rules and regulations with a STERN WARNING that a repetition of the same or similar act shall be dealt with more severely.

### **Our Ruling**