

## EN BANC

[ A.M. No. P-07-2409, April 07, 2010 ]

**RUFINA CHUA, COMPLAINANT, VS. ELEANOR A. SORIO, CLERK OF COURT, METROPOLITAN TRIAL COURT, BRANCH 57, SAN JUAN CITY, RESPONDENT.**

### RESOLUTION

#### PER CURIAM:

This is an administrative case involving court officials in the Metropolitan Trial Court (Branches 57 and 58) of San Juan City, namely, Clerk of Court Eleanor A. Sorio, Interpreter II Mary Lou C. Sarmiento, and Sheriff Arturo F. Anatalio.

Complainant Rufina Chua filed in the MeTC (Branch 57) of San Juan City two criminal cases, docketed as Criminal Case Nos. 44739 and 51988, for alleged violation of the Bouncing Checks Law, involving two Interbank checks amounting to P9,563,900.00 issued by William Chiok, the accused in both cases. Upon the inhibition of Presiding Judge Leodegario Quilatan, the two cases were transferred to Branch 58. The presiding judge of Branch 58, Judge Maxwell Rosete, directed the consolidation of the two cases. After trial, Judge Rosete rendered a decision<sup>[1]</sup> acquitting the accused. Judge Rosete held that the two Interbank checks, which were not drawn to apply on account or for value, were not within the contemplation of the Bouncing Checks Law.

When complainant read the decision, she noticed that the cited check numbers, dates, and amounts of the two Interbank checks were interchanged.<sup>[2]</sup> Thinking that this mistake was used as basis in acquitting the accused, complainant asked for the records of the case, specifically Criminal Case No. 44739. She discovered that (i) in the formal offer of evidence by the accused, the exhibit markings of several items of the documentary evidence had been altered; (ii) exhibits 26, 27, 28, 29, 30, and 31 had missing pages when compared with her photocopy of the evidence marked during trial, and (iii) the transcript of stenographic notes (TSN) dated 17 February 1999, which contained an admission by the accused that he negotiated the settlement of the cases with the complainant,<sup>[3]</sup> was missing.

The complainant wrote the Office of the Court Administrator (OCA) requesting an investigation on the changes found on the exhibits and the missing TSN dated 17 February 1999 in the records of Criminal Case No. 44739.<sup>[4]</sup> The OCA directed Executive Judge Elvira D.C. Panganiban of the MeTC of San Juan City to investigate.<sup>[5]</sup>

In her report,<sup>[6]</sup> Judge Panganiban confirmed the missing TSN, which was no longer included in the Table of Contents when the records of the case were forwarded to Branch 58 upon the inhibition of Judge Quilatan of Branch 57. Judge Panganiban

also found that exhibit markings in the formal offer of evidence were not consistent with the TSN. The demand letter dated 25 October 1995 was inserted as exhibit 12 in lieu of another document marked as exhibit 12 during the trial on 6 November 1998. Judge Panganiban also confirmed that exhibit 26, marked during trial, was changed in the formal offer of evidence and did not include pages 2 and 3. Judge Panganiban further confirmed that exhibits 27, 28, 29, 30, and 31 were all changed, had missing pages, and bore no signature of the court officer in the formal offer of evidence.

Lastly, Judge Panganiban observed that a portion of the decision, particularly pages 11-12, mistook check no. 03020694 as issued ahead of check no. 03020693. In her report, Judge Panganiban quoted that portion of Judge Rosete's decision:

One thing more, the prosecution claims that the checks in suit were issued by the accused simultaneously or at least on the same occasion although it is unclear whether it was July 11, 1995 or August 15, 1995. But be that as it may, why is it that Interbank Check No. 03020694 appears to have been issued ahead of the other check despite the fact that following the sequential numbers of the checks, the latter check must have been issued ahead of Interbank Check No. 03020694 because Interbank Check No. 03020693 would have or fall due on a later date which was on August 15, 1995? With such another unexplained circumstance, no other possibility could be said to have happened except a conclusion that the checks in suit were not issued on one and the same occasion and they did not pertain to one and the same transaction contrary to the claim of the prosecution.<sup>[7]</sup>

However, from the records of the case, Judge Panganiban verified that check no. 03020693 bore the date 11 July 1995 while check no. 03020694 was dated 15 August 1995.<sup>[8]</sup>

The OCA directed the sole named respondent in the complaint,<sup>[9]</sup> Clerk of Court Eleanor A. Sorio, to submit her comment. Failing to submit her comment as directed, Sorio was ordered to comply with the directive. However, Sorio still failed to submit her comment. The Court, on recommendation of the OCA, issued a Resolution on 14 August 2006 ordering that (1) Sorio be directed to show cause why she should not be held in contempt of court for failure to file her comment despite having received two directives from the OCA, and to submit the required comment; and (2) Judge Rosete be furnished with a copy of the complaint for his comment on the alterations made in the exhibits.

Despite having received the resolution on 19 September 2006, Sorio still failed to comply with the Court's directive. Thus, the OCA recommended that she be found guilty of contempt of court and fined P5,000.00.

In his compliance,<sup>[10]</sup> Judge Rosete denied any knowledge of, much less participation in, the unlawful alteration in the markings of exhibits as alleged by complainant. He claimed that when he rendered his decision, all the exhibits offered by the prosecution and the defense were intact, without any alterations. Complainant had earlier filed an administrative case, docketed as OCA IPI No. 02-

1202-MTJ, against Judge Rosete in relation to Criminal Case Nos. 44739 and 51988. It was dismissed for lack of merit in a Court Resolution dated 18 November 2002. [11]

This Court referred the case to Executive Judge Amelia Manalastas of the Regional Trial Court (Branch 268) of Pasig City for further investigation. At the hearing conducted on 9 March 2009, Sorio testified that she knew nothing about the missing TSN and the alterations made in the exhibits as she was then on leave. She claimed she was merely prevailed upon by Sarmiento to drop by the office to sign the transmittal letter of the records. Sorio further testified that Sarmiento was the one in charge of marking the exhibits and that Anatalio was the one who retrieved the TSN. Thus, Judge Manalastas summoned Sarmiento and Anatalio to attend the hearing set on 23 March 2009 to clarify Sorio's allegations.

At the hearing, Sarmiento admitted she was the one who marked the exhibits presented in Criminal Case No. 44739. She also stated that she collated all the TSN into a separate volume. The first volume consisted of the case records of Criminal Case No. 44739, while the second volume contained the TSN. She claimed she had finished the index of the first volume, the transmittal letter of which Sorio had signed, when Anatalio arrived, asking permission to borrow the TSN dated 17 February 1999 because Judge Rosete needed them. Sarmiento admitted she allowed Anatalio to get the TSN even if she had not numbered them yet, hoping he would return them as soon as possible. Sarmiento testified that Anatalio never returned the TSN to her. For his part, Anatalio testified he could not remember having borrowed the TSN. However, his signature appeared on the transmittal letter of case records, which indicated he indeed received the TSN.

In her report, [12] Judge Manalastas found Sorio liable for falsification of the records in Criminal Case No. 44739 and recommended Sorio's dismissal from the service for gross dishonesty and grave misconduct.

The OCA, in its Report and Recommendation, [13] held that Sorio was liable only for simple neglect of duty for her failure to supervise the persons under her and to check that the records she was transmitting were true, accurate, and complete. The OCA recommended that Sorio be suspended for one month and one day, with a stern warning. The OCA also recommended that Sorio be fined P5,000.00 for willfully disregarding the Court's order. As for Sarmiento and Anatalio, the OCA recommended that they be included as respondents, for conduct prejudicial to the best interest of the service and for violation of office rules, respectively. For Sarmiento, the OCA recommended suspension for six months and one day with a stern warning while for Anatalio, the OCA recommended reprimand with a stern warning. Thus:

1. Respondent Eleanor A. Sorio, Clerk of Court, Metropolitan Trial Court (Branch 57), San Juan City be found GUILTY for simple neglect of duty and be SUSPENDED for one (1) month and one (1) day, with a stern warning that the commission of the same or similar offense in the future shall be dealt with more severely; she must likewise be found GUILTY of contempt of court and be FINED the amount of five thousand pesos (P5,000.00) for repeatedly

ignoring the court's directives to submit her Comment;

2. Ms. Mary Lou C. Sarmiento, Interpreter II, Metropolitan Trial Court (Branch 57) and Mr. Arturo F. Anatalio, Sheriff, Metropolitan Trial Court (Branch 58), both of San Juan City be INCLUDED as respondents in the instant administrative case;
3. Ms. Mary Lou C. Sarmiento, Interpreter II, Metropolitan Trial Court (Branch 57), San Juan City be held GUILTY of conduct prejudicial to the best interest of the service and be SUSPENDED for six (6) months and one (1) day, with a stern warning that the commission of the same or similar offense in the future shall be dealt with more severely;
4. Mr. Arturo F. Anatalio, Sheriff, Metropolitan Trial Court (Branch 58), San Juan City be held ADMINISTRATIVELY LIABLE for violation of office rules and regulations and be REPRIMANDED, with a stern warning that the commission of the same or similar offense in the future shall be dealt with more severely.<sup>[14]</sup>

We agree with the OCA's recommendation that Sarmiento and Anatalio should be made respondents. The two were not formally included as respondents because they were not named in the complaint. It was only in the course of the investigation conducted by Judge Manalastas that their direct involvement in the missing TSN and the alterations made on the exhibits was ascertained. However, they should first be formally charged and given a chance to file their comments. Due process requires that they be afforded an opportunity to answer the charges against them. We thus direct Executive Judge Amelia Manalastas of the Regional Trial Court (Branch 268) of Pasig City to conduct further investigation with Sarmiento and Anatalio as proper respondents and to submit her report and recommendation within 45 days from receipt of this Resolution.

As for Sorio, after a thorough review of the records of the case, we find reasonable grounds to hold her liable for grave misconduct and conduct highly prejudicial to the best interest of the service.

The case of *Almario v. Resus*,<sup>[15]</sup> which ruled on the liability of court officials in instances affecting the authenticity and integrity of court records, is the applicable jurisprudence in the present case. The respondents in that case were the clerk of court and stenographic reporter in the Regional Trial Court (Branch 15) of Naic, Cavite. We stated therein that we had reason to believe the clerk of court and stenographic reporter prepared in advance a TSN of a hearing yet to take place and inserted the "ghost" TSN into the records of the case even though the hearing did not push through. We held respondents therein guilty of grave misconduct and conduct highly prejudicial to the best interest of the service. For their deplorable acts, which tarnished the authenticity and integrity of court records, we did not hesitate to dismiss them from the service with forfeiture of all benefits and with prejudice to reemployment in the Government or any subdivision, instrumentality, or agency thereof, including government-owned or-controlled corporations.