

## THIRD DIVISION

**[ A.M. No. RTJ-10-2253 (FORMERLY A.M. OCA IPI NO. 02-1557-RTJ), December 08, 2010 ]**

**ATTY. PERSEVERANDA L. RICON, CLERK OF COURT, REGIONAL TRIAL COURT, BRANCH 39, MANILA, COMPLAINANT, VS. JUDGE PLACIDO C. MARQUEZ, REGIONAL TRIAL COURT, BRANCH 40, MANILA, RESPONDENT.**

**[A.M. NO. P-06-2138 (FORMERLY A.M. OCA IPI NO. 05-2208-P)]**

**JUDGE PLACIDO C. MARQUEZ, COMPLAINANT, VS. ATTY. PERSEVERANDA L. RICON, RESPONDENT.**

### DECISION

**BRION, J.:**

We resolve the present consolidated administrative complaints - (1) A.M. No. RTJ-10-2253, filed, on August 22, 2002, by Atty. Perseveranda L. Ricon, Clerk of Court, Regional Trial Court (RTC), Branch 39, Manila, charged Judge Placido C. Marquez, RTC, Branch 40, Manila, with *Grave Abuse of Discretion/Authority, Grave Misconduct and Conduct Unbecoming a Judge*;<sup>[1]</sup> and (2) A.M. No. P-06-2138, dated May 13, 2005<sup>[2]</sup> filed by Judge Marquez against Atty. Ricon, for *Gross Mismanagement and Neglect, and Falsification*.

#### Factual Antecedents

The material facts are set forth below.

#### **A.M. No. RTJ-10-2253, *Ricon v. Marquez***

When Atty. Ricon filed her complaint against Judge Marquez, she was the Clerk of Court of Branch 39, RTC Manila, whose presiding judge at the time, Judge Leticia E. Sablan, retired on February 24, 2002. Atty. Ricon alleged that before Judge Sablan retired, the two of them paid a courtesy call on Judge Marquez, then the pairing judge of Branch 39.

Thereafter, or in the first week of March 2002, Judge Marquez set a meeting with the staff of Branch 39 and Judge Sablan. The first thing Judge Marquez asked at the meeting was who among the staff had already rendered five (5) years of service in the government. Most of the staff proudly raised their hands, but they felt insulted when Judge Marquez said that employees who have been in the public service for five years are "*corrupt, gago, tamad at makakapal ang mga mukha*."<sup>[3]</sup>

The staff were shocked, but did not react to Judge Marquez's tirade out of respect for him. Judge Marquez then instructed Atty. Ricon to schedule the court's cases for

hearing on Thursdays and Fridays, which she did, but Judge Marquez commenced hearing the cases only in June 2002.

Atty. Ricon further alleged that Judge Marquez laid down so many rules and regulations in the court, and one such rule required the changing of the covers of case records, which she found unreasonable. Every time Judge Marquez discovered case records not prepared according to his specifications, he would get mad and voice out offensive remarks like "*tamad, hindi ginagawa ang mga trabaho*"<sup>[4]</sup> and the staff would be insulted even in the presence of other people and even during hearings. Judge Marquez told the staff that all the judges who preceded him had not minded the records well and it was only he who had done good things in the office. He described his predecessors as "*nilalahat ko na ang mga huwes na naupo dito, walang nagawang tama! Mali silang lahat, mga walang alam,*"<sup>[5]</sup> a characterization Atty. Ricon disagreed with as she believed that Judge Marquez's predecessors were all honest, efficient and considerate, unlike Judge Marquez who treated them like the lowest kind of animal and would address them "*lalamon na naman kayo.*"<sup>[6]</sup> Atty. Ricon also claimed that Judge Marquez would often tell people that he is a "*basurero*"<sup>[7]</sup> in the office, picking all the mess left by his predecessors and the staff.

Further, Atty. Ricon claimed that she received the biggest blow in her life when Judge Marquez gave her an "unsatisfactory" rating, together with other members of the staff. Atty. Ricon bewailed Judge Marquez's negative evaluation, stressing that in her 27 years in the government service, the lowest rating that she got from the previous judges was "very satisfactory" and, before she retired, Judge Sablan gave her a rating of "outstanding."

Atty. Ricon wondered how Judge Marquez could correctly rate the staff, as he did, when he conducted hearings only two days a week and the longest time that he stayed with them was five hours, inclusive of the hearing of cases; in short, when Judge Marquez made the ratings, he had stayed with the staff for only 40 hours. Atty. Ricon and the other members of the staff contested the poor ratings Judge Marquez gave them as they believed it was a clear violation of the civil service law and rules. Atty. Ricon pleaded with Judge Marquez about her rating, telling him that it would definitely blemish her record as she was then considering an early retirement. She pointed out that under the civil service law, a rating could not abruptly be downgraded from "outstanding" to "unsatisfactory" without warning and confrontation with the rate, and without a valid ground.

Finally, Atty. Ricon alleged that there were reports that Judge Marquez was using his chambers as living quarters, sleeping and eating within the court's premises and was, in fact, accosted by a roving policeman at the Manila City Hall at about two o'clock in the morning.

### **Judge Marquez's Comment**

As required by the Office of the Court Administrator (OCA),<sup>[8]</sup> Judge Marquez submitted his Comment on October 7, 2002.<sup>[9]</sup> He contended that the present complaint is Atty. Ricon's countercharge against him for the unsatisfactory rating she received from him. By way of an answer, Judge Marquez brought up the

Resolution of this Court dated June 3, 2002,<sup>[10]</sup> in regard to the judicial audit and physical inventory of cases at Branch 39, RTC, Manila. The Resolution directed:

(a) the Acting Presiding or Pairing Judge, Regional Trial Court, Manila, Branch 39 to: (1) DECIDE Civil Cases Nos. x x x within ninety (90) days from notice hereof; (2) RESOLVE the pending incidents in x x x; (3) TAKE APPROPRIATE action on x x x which had no further action or setting for an unreasonable length of time[; and (4)] Criminal Cases Nos. [7 cases] and Civil Cases [Nos. (5 cases),] in accordance with Administrative Circular No. 7-A-92 dated June 21, 1993; and

(b) the Branch Clerk of Court, same court, TAKE FULL CONTROL and active management and supervision of the case records that would result in a simple yet more efficient filing system thereof.

Judge Marquez prayed that the findings of the OCA Judicial Audit Team be treated as his formal complaint against Atty. Ricon. He alleged that the "outrageous state of records"<sup>[11]</sup> of Branch 39 was not the product of only a semester of gross mismanagement, neglect and incompetence, but had been going on for many years and is continuing until the present.

The respondent judge denied that he took over Branch 39 only in June 2002; as he did so on February 27, 2002, and commenced hearing cases as early as March 13, 2002. He also denied having uttered degrading and offensive remarks during his first meeting with the Branch 39 staff. He could not recall what he exactly said during the meeting, but he claimed he told the staff the following:

Alam n'yo may perception ang marami sa ating mamamayan, kasama na ako, na ang marami sa atin sa gobyerno kapag matagal na sa servicio ay kumakapal na ang mga puso, nawawala na ang sensitivity sa tawag ng servicio, kumakapal na rin ang mga mukha, nagiging walang hiya, tamad o gago at nagiging corrupt pa. Sana huwag kumapal ang ating mga puso at mukha kahit matagal na tayo sa gobyerno. Lalo na tayong nasa Judiciary na lubhang maselan ang ating gawain[.]<sup>[12]</sup>

Judge Marquez likewise denied having referred to any of the former judges of Branch 39 when he said he is the "*basurero*" of the court trying to clean the "*basura*" in the filing system of the voluminous case records in the court; he never cast aspersions against any one of the former judges of the court; Atty. Ricon's allegations concerning his other unsavory remarks were a twisted and perverted version of the truth and were pure concoctions, malicious and devilish.

Further, Judge Marquez denied using his chambers as living quarters. He explained that he had to work overnight to beat the 90-day deadline in deciding cases; during those sleepless nights, he stayed in his chambers and had oats for dinner. He alleged that he had not been accosted by any roving security guard or policeman for it was he who approached a policeman on one occasion, but he identified himself and asked where the nearest restaurant could be found.

In regard to the staff's performance ratings, Judge Marquez explained that he had nothing to do with the signing of the rating forms, as it was the clerk of court who took charge of the matter; he was not aware of any rule requiring confrontation between the supervisor and the ratee or between him and the whole staff regarding the unsatisfactory ratings he gave them. The judge claimed that he attempted to meet and discuss the ratings not only with Atty. Ricon but also with the other members of the staff, but nothing happened with his overtures as Atty. Ricon would not even accept his invitations.

Judge Marquez, in turn, accused Atty. Ricon of having falsified the Urgent Motion to Lift Order of Warrant of Arrest and Order of Forfeiture of Bail dated May 14, 2002<sup>[13]</sup> filed by the accused's counsel in Criminal Case No. 00-180098, *People v. Benigno Salvador, et al.*, pending in Branch 39; it appeared that Atty. Ricon noted the Motion for hearing on "May 20, 2002 at 8:30 a.m.," at the upper left-hand corner of page one of the motion, following the intercalation "or May 20, 2002 at 8:30 a.m.," made after the period (.) on page two of the motion, which intercalation was not there when the motion was filed on May 15, 2002, and when earlier signed by the counsel for the accused, thereby curing the deficiency in the scrap of paper, as it then had a notice of hearing.

In her Reply dated January 2, 2003,<sup>[14]</sup> Atty. Ricon reiterated the allegations she made in her complaint that Judge Marquez had the penchant for using foul, offensive and insulting language in addressing the personnel of Branch 39 and in criticizing the performance of the former judges of the court. She denied the allegation that she falsified the Urgent Motion to Lift Order of Warrant of Arrest, submitting a copy of the affidavit executed by the counsel for the accused, Atty. Gilbert Fabella,<sup>[15]</sup> stating that it was Atty. Fabella who inserted the alleged falsified words.

Upon recommendation of the OCA, the Court resolved to refer the case to Justice Rosmari Carandang of the Court of Appeals, for investigation, report and recommendation.<sup>[16]</sup>

#### **A.M. No. P-06-2138, *Marquez v. Ricon***

During the pendency of A.M. No. RTJ-10-2253, Judge Marquez filed an Urgent Ex-Parte Motion for Clarification and/or Reconsideration, dated December 2, 2003,<sup>[17]</sup> for the Court to treat as a formal complaint the affirmative claims/reliefs mentioned in his comment, as follows: (1) the Court's directive, contained in its Resolution of June 3, 2002,<sup>[18]</sup> for Atty. Ricon to take full control and active management and supervision of the case records of Branch 39; and (2) his falsification charge against Atty. Ricon, formalized into a letter/complaint dated May 13, 2005.<sup>[19]</sup>

#### **Atty. Ricon's Comment**

As required by the OCA,<sup>[20]</sup> Atty. Ricon submitted her Comment on September 6, 2005.<sup>[21]</sup> She alleged that Judge Marquez's complaint is simply a rehash of the counterclaims she made in the pending administrative complaint she lodged against him (A.M. No. RTJ-10-2253). The filing of the complaint, Atty. Ricon argued,

constituted forum shopping and for this reason, the complaint should be dismissed summarily, without prejudice to the imposition of appropriate sanctions on Judge Marquez. She added that Judge Marquez filed the complaint to harass her, even as it was entirely frivolous and devoid of factual and legal basis.

### ***The mismanagement charge***

In connection with the Court's directive for her "to take full control and active management and supervision of the case records that would result in a simple yet efficient filing system,"<sup>[22]</sup> Atty. Ricon argued that the directive itself cannot give rise to any administrative liability until and unless it is shown that she violated it. She claimed that she has actually complied with the directive as she continued "to take full control and active management of the case records, and she continues to do so as borne out by the lack of any admonition or sanction from the Court."<sup>[23]</sup>

### ***The falsification charge***

Atty. Ricon bewailed the absence of a copy of the document that she was supposed to have falsified, the *Urgent Motion to Lift Order of Warrant of Arrest and Order of Forfeiture of Bail*, dated May 14, 2002, in Criminal Case No. 00-180098. She pointed out that Judge Marquez had not established nor alleged her supposed participation in the falsification of the document or that the document was falsified in the first place. This notwithstanding, she denied that the urgent motion was in any way falsified; she had no participation in the preparation and submission of the motion, as would be seen in the affidavit of Atty. Gilbert M. Fabella,<sup>[24]</sup> which explained the circumstances surrounding the filing and submission of the alleged falsified document.

On March 15, 2006, the Court resolved to (1) re-docket the present administrative case as a regular administrative matter; (2) consolidate A.M. No. P-06-2138 with A.M. No. RTJ-10-2253; and (3) refer the administrative matter to Justice Carandang to whom A.M. No. RTJ-10-2253 was assigned.

### **Justice Carandang's Report/Recommendation**

On September 8, 2008, Justice Carandang submitted her report/recommendation<sup>[25]</sup> whose salient portions are summarized below.

### ***The Findings***

#### **A.M. No. RTJ-10-2253**

Regarding the first charge (grave abuse of discretion/authority), Justice Carandang opined that Judge Marquez's unsatisfactory rating of Atty. Ricon is not indicative of grave abuse of discretion/authority. She explained that while Atty. Ricon indeed received "very satisfactory" ratings twice and a rating of "outstanding" from Judge Sablan, that fact alone does not preclude Judge Marquez from giving her a lower rating if, in his judgment, she failed to measure up to pre-determined efficiency standards; Judge Marquez is given the discretion to give Atty. Ricon and the staff such ratings which, in his honest assessment, are commensurate to their performance in office.