

SECOND DIVISION

[A.M. No. P-09-2622 (A.M. OCA IPI No. 08-2814-P), April 07, 2009]

DOROTHY FE MAH-AREVALO, COMPLAINANT, VS. ELMER P. MAPE, LEGAL RESEARCHER III, REGIONAL TRIAL COURT, BRANCH 17, PALOMPON, LEYTE, RESPONDENT.

DECISION

BRION, J.:

We resolve the present administrative matter, which involves charges and countercharges between two members of the staff of the Regional Trial Court (RTC), Branch 17, Palompon, Leyte.

The Factual Background

In a letter to the Office of the Court Administrator (OCA) dated January 8, 2006, Dorothy Fe Mah-Arevalo (*complainant*), Court Stenographer III of the RTC, Branch 17, Palompon, Leyte, accused Elmer P. Mape (*respondent*), Legal Researcher III of the same court, of gross ignorance of the law and incompetence relative to Special Proceeding Case No. 0239-PN, entitled *Maria Mae Tordillo v. Nah Kok Sun*.^[1] The complainant faulted the respondent for issuing an entry of judgment and a certificate of finality certifying that the decision in Special Proceeding Case No. 0239-PN became final and executory on the very same day the decision was rendered. For this reason, the complainant prayed that the permanent appointment of respondent as Legal Researcher III be denied.

Additionally, the complainant objected (through her letter of December 6, 2006)^[2] to the change of status of the respondent's appointment from probationary to permanent on the following grounds:

1. Falsification of daily time record (*DTR*) - the respondent made it appear in his *DTR* that he was present on October 30, 2006, when he was actually in Cebu City on that day.
2. Grave threats - On November 7, 2006 at around 3:30 in the afternoon, the respondent threatened to kill the complainant and her family, taking out his .45 caliber gun and pointing it upwards. The incident happened in the place of Ms. Asuncion (*Shioney*) Codilla-Sabondo at San Francisco St., Palompon, Leyte.
3. Grave misconduct - the respondent is always seen in court with a .45 caliber gun, creating fear among the court employees.

The OCA referred the December 6, 2006 letter of complaint^[3] to the respondent and required him to comment within ten (10) days from receipt of the indorsement.^[4] The respondent submitted his comment on July 25, 2007, disputing the charges against him.^[5] At the same time, he accused the complainant of dishonesty and malversation of court funds. He claimed that the complainant's grievances against him stemmed from his discovery of the shortage she incurred in the collection of Judiciary Development Fund and Special Allowance for the Judiciary for September 2006.

In a Report dated April 22, 2008, the OCA recommended that the charge against respondent and the countercharge against complainant be referred to Executive Judge Celso L. Mantua, RTC, Palompon, Leyte for investigation, report and recommendation to the Court.^[6]

On June 23, 2005, the Second Division of this Court issued a Resolution referring the matter to Judge Mantua for investigation, report and recommendation within ninety (90) days from receipt of the record.^[7]

The Investigation Report

On February 11, 2009, Judge Mantua submitted his Report and Recommendation, together with the complete records of the case.^[8] The findings of Judge Mantua may be summarized as follows:

On the Charges

1. On the charge of falsification of daily time record, Judge Mantua noted that the complainant submitted copies of the respondent's DTR for October 2006^[9] showing the time-in and time-out entries on October 30, 2006, when he was supposed to be in Cebu City. The respondent admitted that he was in Cebu City on that day, visiting the grave of his father. He explained that he was on leave for the day, thereby making it impossible for him to be in the office; he surmised that somebody with an ill motive had punched in his DTR for the day; he inadvertently overlooked the entry for October 30, 2006, when he signed his DTR because "*it was hard to notice in view of the lack of supply of ribbon for the bundy clock.*" He presented his application for leave which he filed on October 18, 2006. This application was duly approved and signed by Judge Mantua. The judge found that the application for leave of absence "*had negated any suspicion of malice on the part of respondent.*"
2. On the charges of grave threats and grave misconduct against the respondent, Judge Mantua also found no evidence that respondent committed the acts attributed to him by the complainant. The Judge noted that the complainant's allegations were not corroborated by any witness to the incident she had narrated.
3. On the charges of gross ignorance of the law and incompetence, Judge Mantua likewise found no reason to hold the respondent liable. Judge Mantua declared that the immediate issuance by the respondent of the entry of judgment and certificate of finality in SP Case No. 0239-PN was completely proper; the decision of the court (*RTC, Br. 17, Palompon, Leyte*) itself ruled that the case was governed by the Summary Judicial Proceedings in the Family Code; and