

FIRST DIVISION

[A.M. No. P-09-2676, December 16, 2009]

JUDGE JUANITA T. GUERRERO, COMPLAINANT, VS. TERESITA V. ONG, RESPONDENT.

D E C I S I O N

BERSAMIN, J.:

Litigant Reynaldo N. Garcia, a plaintiff in Civil Case No. 03-045, entitled *Spouses Reynaldo and Lydia Garcia v. Spouses Joselito and Merle Arevalo*, brought an administrative complaint against Judge Juanita T. Guerrero, Presiding Judge of Branch 204 of the Regional Trial Court (RTC) in Muntinlupa City, charging her with bias and irregularities in relation to her disposition of the application for a writ of preliminary prohibitory and mandatory injunction in said case.

Answering Garcia's administrative complaint, Judge Guerrero incorporated a formal charge for improper conduct against respondent Teresita V. Ong, Court Stenographer of Branch 260, RTC, in Parañaque City, which is now the subject matter of this decision.

Antecedents

In his complaint-affidavit against Judge Guerrero,^[1] Garcia averred that he and his wife, the plaintiffs in Civil Case No. 03-045, had sought the enforcement of an easement of right of way. He imputed the following acts of impropriety to Judge Guerrero, namely: (1) that she had issued an unjust order in the action; (2) that her process server had been seen in the premises involved in the litigation looking for Lito Arevalo, the defendant; and (3) that in another case involving him (Garcia) and the Manila Electric Company (Meralco), she had urged him (Garcia) to settle his obligations by telling him: "*Kinakalaban po namin ay pader at wala kaming magagawa.*"

Required by the Office of the Court Administrator (OCA) to comment on Garcia's complaint,^[2] Judge Guerrero denied the imputed improprieties, averring that she resolved the incidents in Civil Case No. 03-045 based on the evidence presented by the parties during the hearings; that no bias or partiality could be noted on the assailed orders; that her process server had gone to see the defendant in Civil Case No. 03-045 only to serve the court notices; that although she had said that "Meralco was a *pader*," she denied saying: "*Wala kayong magagawa;*" and that she had already recused herself from hearing Garcia's cases.

As stated, Judge Guerrero's *comment* incorporated an administrative complaint against Ong. Therein, Judge Guerrero insisted that any acts of impropriety relative to Civil Case No. 03-045 had been committed by Ong, a tenant of Garcia, who had gone to her chambers on several occasions in the guise of making a courtesy call on

her, and had then discussed the merits of the case with her; that Ong had engaged in name-dropping to urge her to resolve in favor of Garcia; that Ong had attended the hearings of the case in her Supreme Court uniform; and that Ong had told her Acting Branch Clerk of Court that she (Judge Guerrero) and the defendants "*ay nagkatapatan na*," which Ong had implied to mean that the "*Judge (had) received consideration from the defendants.*"

In its memorandum dated November 22, 2004,^[3] the OCAAd found that Judge Guerrero had committed no act of impropriety, and recommended that the complaint against Judge Guerrero be dismissed for lack of merit, with a reminder to Judge Guerrero to exercise caution in her utterances, like remarking that Meralco was "*pader*," lest they be misconstrued as bias in favor of a party litigant. The OCAAd further recommended that Ong be required to comment on the allegations of improper conduct made against her by Judge Guerrero.

Through the resolution dated January 19, 2005,^[4] the Court adopted the recommendations of the OCAAd; dismissed the complaint against Judge Guerrero; and required Ong to comment on Judge Guerrero's allegations of impropriety against her within 10 days from notice.

In due course, Ong submitted her comment on July 18, 2005.^[5]

The Court referred Ong's *comment* to the OCAAd for evaluation, report and recommendation.^[6]

In turn, the OCAAd recommended that the administrative matter against Ong be referred for investigation to a consultant of the OCAAd in order to ascertain every act of impropriety imputed against her.

Accordingly, on February 13, 2006,^[7] the Court referred the administrative matter against Ong to retired Justice Narciso T. Atienza for investigation. Justice Atienza submitted his report on July 31, 2006.^[8]

On August 12, 2009, the case was re-docketed as a regular administrative case.

Justice Atienza's Report and Recommendation

During the investigation, Ong explained that her attendance at the hearings and ocular inspection had been made only upon the request of Garcia, whose plea for moral support she could not refuse; that she had not filed applications for leave because her superior had permitted her to attend the hearings and the ocular inspection; and that her sole purpose for talking with Judge Guerrero had been only to inform the latter about the case pending in her *sa/a*.

Justice Atienza regarded Ong's defense as incredible, and observed that Ong's real intention in talking with Judge Guerrero in her chambers while in office uniform had been to influence Judge Guerrero to resolve the pending incident in Garcia's favor. He concluded that Ong had attended several hearings and the ocular inspection in Civil Case No. 03-045 in her office uniform and during office hours; and that on those occasions, she had not filed applications for leave and had not reflected her undertime in her daily time records (DTRs).

Justice Atienza recommended, therefore, that:

- 1) Ms. Teresita V. Ong be reprimanded for improper conduct with a warning that commission of the same or similar acts of impropriety in the future shall be dealt with more severely; and,
- 2) Advise Ms. Ong to log out before leaving the Office during office hours and log in upon return, but when leaving the office is not on official business, the undertime should be reflected in the Daily Time Record.^[9]

Ruling

The Court agrees with the findings of Justice Atienza, which were entirely substantiated by the records, but differs with his recommendation of the penalty. Ong was guilty of grave misconduct, for using her official position as a court employee to secure benefits for Garcia; and of dishonesty, for committing serious irregularities in the keeping of her DTRs.

I. Use of Official Position to Secure Benefits

All court personnel, from the lowliest employees to the clerks of court, are involved in the dispensation of justice like judges and justices, and parties seeking redress from the courts for grievances look upon them also as part of the Judiciary.^[10] In performing their duties and responsibilities, court personnel serve as sentinels of justice, that any act of impropriety they commit immeasurably affects the honor and dignity of the Judiciary and the people's confidence in the Judiciary.^[11] They are, therefore, expected to act and behave in a manner that should uphold the honor and dignity of the Judiciary, if only to maintain the people's confidence in the Judiciary.

A court employee is not prohibited from helping individuals in the course of performing her official duties, but her actions cannot be left unchecked when the help extended puts under suspicion the integrity of the Judiciary.^[12] Indeed, she is strictly instructed not to use her official position to secure unwarranted benefits, privileges, or exemptions for herself or for others.^[13] The evident purpose of the instruction is precisely to free the court employees from suspicion of misconduct.

Ong did not comply with the instruction. Instead, she used her official position as an employee of the Judiciary to attempt to influence Judge Guerrero to rule in favor of litigant Garcia, her landlord. She was thereby guilty of *misconduct*, defined as a transgression of some established or definite rule of action; or, more particularly, an unlawful behavior on the part of a public officer or employee.^[14] Her *misconduct* was *grave*, which the Court explains in *Imperial v. Santiago*,^[15] viz:

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. **To warrant dismissal from the service, the**