

SECOND DIVISION

[**A.M. No. P-07-2413 (Formerly OCA-IPI No. 07-2627-P), June 19, 2008**]

JUDGE MANUEL V. GINETE, COMPLAINANT, VS. VILLA M. CABALLERO, CLERK OF COURT AND EDWIN B. ALMOSARA, JUNIOR PROCESS SERVER, RESPONDENTS.

R E S O L U T I O N

TINGA, J.:

The instant administrative complaint arose when respondent Villa M. Caballero (Caballero), clerk of court II of the Municipal Trial Court (MTC) of San Pascual, Masbate, filed a complaint before Judge Manuel V. Ginete (Judge Ginete) against respondent Edwin B. Almosara (Almosara), junior process server of the same court, in relation to an incident that occurred on 6 September 2006 within the premises of the trial court.

Judge Ginete conducted an inquiry on the matter and thereafter submitted a report to the Office of the Court Administrator (OCA) with the following pertinent details:

In the morning of September 6, 2006, all personnel of the Municipal Trial Court (MTC) of San Pascual, Masbate-Villa M. Caballero (Clerk of Court II), Oscar A. Almodiel (Interpreter), Nora M. Abela, Eunice B. Jimenez (Stenographers). Lilia R. Butal (Clerk II), Edwin B. Almosara (Junior Process Server) and Gregorio O. Villar III (Court Aide) were present except Edgar Mahinay (Stenographer).

x x x

In the course of court business, at about 9:00 o'clock in the morning, Caballero asked Almosara about his Daily Time Record (DTR) for the month of August, [sic] 2006 and reminded him that all DTRs must be submitted to her at the end of every month. In response, Almosara complained about the absences incurred by his co-employees not only for the month of August or July, [sic] 2006, but also for prior months and years. But Caballero [referred] him to the Presiding Judge as the latter was the one signing the personnel's DTRs and leaves of absence. Then, Caballero inquired from Almosara about the status of five (5) subpoenas that she gave him for service since July 15, 2006 and demanded their return to her. However, Almosara requested deferment of his return as he was still in the process of completing service. He reasoned out he may opt to return them at least three (3) days before the scheduled trial on October 26 and 27, 2006 as he was prioritizing service thereof depending on the distance of the places where the parties reside. But Caballero stood pat on her demands. And, that started it all. What appeared to be just a routine job turned out into an unnecessary "words war" and

"tongue lashing" incident fueled by uncontrolled temper. Their long standing and subsisting personal animosity may have triggered, and have erupted into, an untoward, unprofessional, discourteous, irresponsible, improper behavior and offensive conduct as their conversation had turned sour and had gone haywire culminating into a verbal tussles[sic]/quarrel thereby swelling their already hot heads and situation. They moves [sic] in and out and around the office while exchanging unwholesome remarks in a LOUD VOICE as if using a megaphone lasting for about forty five (45) minutes x x x displayed over acts amounting to irresponsible, improper and offensive conduct, conduct unbecoming of court employees, misconduct and conduct prejudicial to the best interest of the service.

Almosara's explanations as to how he was doing his job, the surrounding danger and difficulties entailed with it, coupled with request for compassion and understanding of his plight, turned to deaf ears and Caballero insisted on what she wanted that a [lengthy] verbal argument ensued. Almosara then got pissed off with the repetitious insistence of Caballero about the topic they were treating that he wrangled his right hand downward while pleading her to stop or end their arguments. He even suggested to her to just file a complaint, or charge him for anything just to evade their already becoming fiery verbal confrontation.

Couple of days later, Almosara turned over to Caballero the subject processes which were already served and accomplished except for one (Annexes "K", "K-1", "K-2" & "K-3"). The latter caused another subpoena to be prepared and served it to the parties involved after which she informed Almosara not to worry anymore about it as she has already notified the parties. But Almosara retorted that "You did it because you wanted to file a case against me to take me out of the service."

Onlookers witnessed Caballero and Almosara in their verbal quarrel, heard what they uttered, and saw their actuations.^[1]

Judge Ginete reported that the enmity between the respondents is hinged on the following: (1) the unfair and unequal treatment of Caballero towards her co-employees; (2) the oppressive management style of Caballero; (3) and the bias and partiality of Caballero regarding the release of salary checks and other benefits to some of the court's employees. Judge Ginete moreover narrated that at one time, respondent Almosara's loan from the Judiciary Savings and Loan Association (JUSLA) was not released due to the information from Caballero that he had a pending administrative case.^[2] Almosara, for his part, seeing the situation as unbearable, tendered his resignation from his office which Judge Ginete opposed.^[3]

Judge Ginete asserted that his employees are of good moral character, respectful, god-fearing, industrious and hardworking. He narrated that his staff were working harmoniously until respondent Caballero assumed the position of clerk of court in 1995. Caballero turned out to be cantankerous, bossy, arrogant, lazy and inefficient. In time, the rest of the staff became vocal about their complaints regarding her behavior. To address the situation, Judge Ginete called staff conferences to thresh out their professional as well as personal conflicts. Further, Judge Ginete stated that

he withdrew from Caballero the authority to sign the daily time records (DTRs) and leave applications.^[4]

Judge Ginete included in his report the testimonies of Court Stenographer Nora M. Abela (Abela) and Court Interpreter Oscar A. Almodiel (Almodiel) which he recommended to be considered as complaints against respondent Caballero.

Abela, in her testimony taken on 26 September 2006, stated that she had seen the heated exchange between the respondents which occurred on 6 September 2006. Abela also testified that a day after the said incident, Caballero asked her to sign a joint affidavit to support the complaint against respondent Almosara for insubordination, gross misconduct and negligence of duty. When Abela refused to sign the document, Caballero advised her to be on guard as they would still be working together for another four (4) years.^[5]

Almodiel, in his testimony taken on 28 September 2006, alleged that he witnessed the incident that happened on 6 September 2006. Almodiel also stated that the morning following the incident, Caballero told him that she would not file a case against Almosara provided that he voluntarily retire from office. Caballero moreover required Almodiel to sign a joint affidavit which he refused to do. In response, Caballero warned him that they would still be working together for yet another four (4) years. Almodiel likewise reported an incident wherein Caballero refused to hand him an order for the release of fishing vessels, which required immediate service, to the consternation of and damage to their owners.^[6]

Finally, Judge Ginete reported that the copy of the joint affidavit attached to Caballero's letter-complaint which she submitted to the Executive Judge of the Regional Trial Court of Masbate contained the following notation: "Note: the signature of other employees is held in abeyance per instruction of Judge Manuel V. Ginete for he will come to investigate the case on the third week of Sept. according to Oscar Almodiel ... V.M. Caballero." Notably, said notation does not appear on the original copy of the document. Judge Ginete alleged that Caballero merely included the notation in the copy of the said joint affidavit that was submitted to the Executive Judge as an attempt to mislead the latter.^[7]

In her Comment^[8] dated 5 May 2007, Caballero alleged that on 6 September 2006, when she asked Almosara about his DTRs and the progress of his service of five (5) subpoenas, the latter admitted that he had failed to serve the subpoenas as he had no money and he was infirm. Caballero then advised him to find means to serve the subpoenas but Almosara suddenly pointed, his finger at her and in a loud voice urged her to file a case against him. Subsequently on 12 September 2006, noting that only four (4) subpoenas had been returned, Caballero prepared a subpoena and personally served the same. She informed Almosara of this development and again, in an outburst, the latter complained of a stomach ache, challenged her to file a case against him and arrogantly went out of the office. Thus, Caballero filed a complaint before Judge Ginete against Almosara for the latter's behavior.

According to Caballero, at the investigation conducted by Judge Ginete, she personally disputed the charges of grave misconduct, dishonesty, oppression and other violations, and pointed out that in her service as clerk of court for twelve (12) years not a single administrative case had been filed against her. Unlike her,