

EN BANC

[A.M. No. P-06-2273 [Formerly OCA-I.P.I. No. 06-2435-P], October 24, 2008]

JUDGE REBECCA R. MARIANO, COMPLAINANT, VS. MARISSA R. MONDALA, COURT LEGAL RESEARCHER II, REGIONAL TRIAL COURT, BRANCH 136 MAKATI CITY, RESPONDENT.

DECISION

PER CURIAM:

This is an administrative complaint against respondent Marissa Mondala (respondent), Court Legal Researcher II of the Regional Trial Court (RTC) of Makati City, Branch 136 for violation of the Code of Conduct for Court Personnel.

The instant case stemmed from a missive dated 24 August 25 2008 written by complainant Judge Rebecca R. Mariano (complainant) addressed to Judge Sixto C. Marella, Jr., (Judge Marella, Jr.), Executive Judge of RTC of Makati City, requesting the transfer of respondent to the Office of the Clerk of Court for habitual tardiness, absenteeism and due to an incident on 22 August 2005 which caused an air of animosity among her staff. Thereafter on 26 August 2005, Judge Sixto Marella, Jr. issued a Memorandum to respondent informing her that she was detailed to the Office of the Clerk of Court, RTC of Makati City and directing her to report to Atty. Engracio M. Escasinas, Jr.^[1]

Respondent, for her part, submitted a letter dated 31 August 2005 to detail what allegedly had actually transpired during the said incident on 22 August 2005.^[2]

Subsequently, Judge Marella, Jr. issued a 1st Indorsement for appropriate action on respondent's letter. Then, complainant issued a 2nd Indorsement,^[3] charging respondent with violation of the Code of Conduct for Court Personnel, specifically: (1) insubordination and gross disrespect towards the judge; (2) habitual tardiness and absenteeism; and (3) inefficiency and neglect of duty. Thereafter, complainant requested the OCA for this 2nd Indorsement to be treated as an administrative complaint against respondent.^[4]

The new Executive Judge Winlove M. Dumayas (Judge Dumayas) conducted an investigation on the matter. Complainant presented herself as well as the following as witnesses: Atty. Teodorico L. Diaz, Ryan Jesus R. Mariano, Gerry P. Lagera, Jr., Teodorico A. Duran, Dwight Dichoso, Manuela A.T. Mayor, Marilyn Begantinos-Bercasio, Felomena Isidro and Atty. Gwyn Gareth Mariano.

The evidence for complainant showed that on 22 August 2005, complainant asked respondent regarding the status of a case as it was due soon. When respondent replied that she was still working on it, complainant told her off that she could not

finish her tasks on time due to her frequent disappearances from the office.^[5]

Afterwards, complainant went inside the chambers and respondent, with a case folder in hand, followed her. Respondent then banged the case files on the table and shouted out loud that complainant had been unfair to her and demanded to know why she was being monitored.

Complainant replied that her actions were due to respondent's tardiness, frequent disappearances during official time and the information that she had been extorting money from litigants allegedly to be given to the complainant and to the prosecutor. Moreover, news had reached complainant that respondent was seen by some people talking to clients or lawyers outside the court. Complainant also pointed out to respondent that even her co-workers had expressed their dislike for her and in fact, they had all signed for her transfer.^[6]

The incident occurred in the presence of complainant's visitors, Manuela A.T. Mayor and Teodorico Duran. Atty. Teodorico Diaz also entered the chambers to pacify respondent. And even outside the chambers, respondent continued her tirade against complainant.

As proof of respondent's frequent tardiness and absenteeism, complainant presented her daily time record. And it was shown that respondent had been late 13 times in February 2005, 18 times in March 2005, 12 times in April 2005, 10 times in May 2005, 11 times (plus four (4) absences) in June 2005, 13 times in July 2005 and 11 times in August 2005.^[7]

Dwight Dichoso also testified that he was frequently asked to pitch in as court interpreter whenever respondent was late or absent during hearings requiring the services of an interpreter.^[8]

To prove that respondent frequently left the office without permission or official reason, her co-workers Gerry Lagera and Ryan Jesus R. Mariano testified that they had seen her at 1:30 p.m., on 19 August 2005, a working day, walking toward J.P. Rizal.^[9]

As proof that respondent had asked money from litigants, Marilyn Begantinos-Bercasio testified that respondent had told her that if she wanted to have a favorable decision in her case, she should give respondent P40,000.00, to be given to complainant and the assistant city prosecutor. However, as she did not have such amount, Ms. Begantinos-Bercasio decided to just await the court decision.^[10] Likewise, Atty. Gwyn Gareth Mariano testified that respondent had approached him offering assistance in two (2) cases he was handling--one in which respondent had assured him that she could secure the denial of the motion of the opposing party for the price of P200,000.00, and the other in which respondent had intimated that she could facilitate the denial of the prosecution's documentary exhibits for a fee of P50,000.00. Atty. Mariano, however, declined respondent's offer.^[11]

After respondent was detailed to the Office of the Clerk of Court, she allegedly continued to harass complainant by giving out her residential address to one of the litigants before her sala, well aware that she was not supposed to. She also

allegedly held on to a particular decision without the knowledge of complainant and even while fully aware that said decision had been included in the monthly report prepared for and submitted to the Supreme Court. Upon her transfer to the Office of the Clerk of Court, respondent reported to the Supreme Court that complainant had falsified her monthly report and for which infraction, complainant was meted out a fine.

Complainant clarified that her request for respondent's transfer was not motivated by ill will but was the result of respondent's behavior, including her habitual tardiness and absenteeism. Complainant averred that respondent had ceased to be an effective and efficient worker and as such, she prayed for her dismissal from service.

For her defense, respondent testified on her behalf and presented the following as witnesses: Jadi Hatab,^[12] Tessie P. Clavejo,^[13] Venus L. Florida and Myrna Dacapio. The testimony of Maricor Viegan was dispensed with being merely corroborative of Dacapio's testimony.

Respondent admitted that an altercation did occur between her and complainant but countered that it was complainant who started it by scolding her in the presence of around three (3) other court personnel. Respondent also confirmed that the confrontation in the chambers took place in the presence of a female visitor and that the shouting had prompted the Branch Clerk of Court to come inside the chambers and help address the situation. Respondent, however, asserted that the affidavit Manuela A.T. Mayor had executed should not be given credence for being partial and biased as she allegedly had a close relationship with complainant.^[14]

Respondent likewise alleged that the affidavit executed by her co-workers was a ceremonial act done to appease complainant.

Respondent refuted complainant's allegations of inefficiency by attaching several decisions she had drafted and which bore complainant's corrections.^[15] Respondent also refuted the allegations of her habitual tardiness and absenteeism by presenting her daily time record. In addition, she contended that the charge that she had asked or demanded money from litigants on behalf of the complainant and the city prosecutor is totally false.

Respondent presented Jadi Hatab to attest to her good character based on his personal experience and relationship with respondent.

After hearing both complainant and respondent and their respective witnesses, as well as going over the documentary evidence submitted by the parties, the Investigating Judge found that all the charges imputed to respondent had been substantiated. As such, he recommended that respondent be meted out the penalty of suspension for a period of one (1) year without pay.

The Court adopts the findings and conclusions of the Investigating Judge but finds the penalty too lenient in light of the circumstances.

As to the charge of insubordination and gross disrespect for the complainant, the

Court agrees that indeed, the altercation between complainant and respondent has been established by evidence. Complainant pertinently testified as follows:

Q: Madam witness, you claim in your Affidavit that the respondent is disrespectful to you specially on August 22, 2005, the date of the incident, correct?

A: Yes.

Q: Ma'am, prior to the date of the incident, how was your relationship with the respondent?

A: We have bad blood relationship.

Q: Would you tell exactly the period that you have bad relationship with respondent prior to the incident happened?

x x x

A: I first reported to Makati City Hall in 2001, since then the respondent acted as my interpreter but she had not been doing her job. Every now and then I would remind her, do not be late and perform your duty but her action did not change until she voluntarily applied as the [sic] legal researcher. She knows very well, that I am not wanting [sic] her to be appoint as legal researcher because of her past action but she warned me that being ahh... what do called it, ah.. an employee Ahh... next in rank, she could be appointed due to the resignation of my former legal researcher. In short, there is no voluntariness on my part in appointing her because of her... well, of her action, of not doing her job, her performance.

x x x

A: Well, the bad relationship sometime in 2002 or 2003 after I have observed your performance in the office.^[16]

Respondent, on the other hand, on cross-examination testified as follows:

Q: So at any rate, you tell Judge Mariano, "**bakit mo ko mino-monitor?**"

A: On that incident happened?

Q: Yes, you asked this right? Why would [sic] asked your boss this kind of question?

A: I would say that I was a victim that time and any reasonable man would do the same when you are confronted with any accusation, which was no basis at all. Do not compare that to any person who would accused [sic] you of anything because we were surprise by that accusation, you know.

x x x

Q: Did it not occur to you to defer asking Judge [sic] in the presence of this person or wait for a time for you to visit her in her room?

A: Honestly, the presence of that visitor who listened [in] her presence, give me more reason to do that way, to ask and clear myself with Judge Mariano [sic].

Q: Why [sic] the presence of that visitor compel you to do that way?

A: As I said earlier, I don't want that person to leave the office with that idea stuck on her mind.

Q: And why, this person is important to you?

A: Of course.

Q: Why?

A: I don't have any control over her. How can I defend myself if she is already outside of the building. How can I ever de[f]end myself if she is already out and saying those things she witnesses.

x x x

A: I had that conversation with Judge Mariano, I had (to) explain myself, right then and there before that person leave for me not to go or exert any more effort of explaining, that's what I'm trying to prevent.

Q: What are you trying to prevent?

A: Explaining myself because I have no control with the action of that person, if she would be in the outside of the office, *di ba?* She's just a visitor *eh*.^[17]

The Court finds reprehensible respondent's verbal assault on her superior, the complainant, inside the latter's chambers and worse, in the presence of a guest of the latter. It should be stressed that shouting at one another in the workplace and during office hours is arrant discourtesy and disrespect not only towards co-workers, but to the court as well.^[18] Respondent and all court personnel for that matter should be reminded that the image of the judiciary is mirrored in the kind of conduct, official or otherwise, which the personnel within its employ display, from the judge to the lowliest clerk. Any fighting or misunderstanding becomes a disgraceful sight reflecting adversely on the good image of the judiciary. Professionalism, respect for the rights of others, good manners and right conduct are expected of all judicial officers and employees. Thus, all employees are required to preserve the judiciary's good name and standing as a true temple of justice.^[19]

The Court also agrees with the Investigating Judge's finding that respondent exploited her position to obtain monetary concessions from lawyers and litigants.^[20] Respondent likewise used her position and her access to court records to make it appear that complainant had falsified the report of cases she submitted to the Supreme Court on top of the many false accusations and allegations she had leveled