

SECOND DIVISION

[A.M. NO. P-06-2154 (FORMERLY OCA I.P.I. NO. 01-1217-P), March 22, 2007]

ROBERT R. PASCUA, COMPLAINANT, VS. ATTY. ANGEL P. BELTRAN, CLERK OF COURT VI, REGIONAL TRIAL COURT, OFFICE OF THE CLERK OF COURT, TUGUEGARAO CITY, CAGAYAN, RESPONDENT.

RESOLUTION

QUISUMBING, J.:

When Robert R. Pascua, a utility aide in the Office of the Clerk of Court in the Regional Trial Court of Tuguegarao City, discovered that he would not receive his productivity bonus because Atty. Angel P. Beltran, Clerk of Court VI, evaluated his performance as "unsatisfactory" for two consecutive semesters, July 1 to December 31, 2000, and January 1 to June 30, 2001, as reflected in the Performance Rating Form dated July 10, 2001,^[1] he filed an administrative case against Atty. Beltran. Pascua's Affidavit/Complaint^[2] dated October 7, 2001 charged Atty. Beltran with oppression and/or abuse of authority.

According to Pascua, Atty. Beltran could not have arrived at an objective, honest and impartial evaluation of his performance because the latter seldom reported for work and when he did, Atty. Beltran only stayed half a day before hurrying home to Sto. Niño, Cagayan where he lived. Pascua stated that this was the reason for Atty. Beltran's monicker, "*Phd.*" for "*palaging half day*," or "*Attorney Cash Bond*," in reference to Atty. Beltran's reputation for demanding or extorting money from bondsmen or the accused.^[3]

In addition, Pascua averred that during these half days, Atty. Beltran would often be seen playing *mahjong*; or attending to his family estate; or serving as director of the Veridiano Academy, all in Sto. Niño. Aside from these activities, Atty. Beltran, without filing the required leave of absence, would often go vacationing in Sampaloc, Manila, where he had another home.

In his Answer,^[4] Atty. Beltran denied all allegations and justified the "unsatisfactory" rating he gave to Pascua. He explained that other than wash coffee cups and teaspoons, Pascua had been remiss in his duties like dusting and cleaning the office. He added that Pascua was dishonest, uncooperative, and lacked initiative. He mentioned an incident when Pascua allegedly sold the newspapers subscribed to by a co-worker to buy alcohol, and another incident when Pascua surreptitiously entered in the logbook the filing of a motion that had been belatedly filed for which a memorandum was issued.

Atty. Beltran explained that he was often out of the office and perceived by Pascua to leave after lunch because unknown to the latter, he often had to rush before

lunch to the Land Bank in Tuguegarao to beat the cut-off time for depositing checks received by the office; or accompany the sheriff on official errands. And again, as the accountable officer, it was part of his function to withdraw cash bond deposits from the Land Bank.

Atty. Beltran also averred he no longer played *mahjong*, denied involvement in the family estate as his siblings took care of this, and claimed he only went to Sto. Niño on weekends since he had a boarding house there.

Upon order of the Court,^[5] Judge Vilma T. Pauig investigated, reported and gave her recommendation on the matter.^[6] She found that although Atty. Beltran offered no evidence in his behalf, Pascua for his part, who carried the burden of proving his accusation of oppression and grave abuse in the evaluation of his performance, had not been able to substantiate his charges. Except for the affidavits of the Mayor, the Municipal Secretary of Sto. Niño, a teacher in Veridiano Academy, and the records of the sports activities of Atty. Beltran as Southwestern Cagayan Athletic Association Chairman, Pascua had not convincingly shown that Atty. Beltran's time had been occupied by activities other than his work as a government employee. According to Judge Pauig, the accusations of unreliability, unfairness and bias in the evaluation of Pascua's performance were not sufficiently proven by Pascua. Besides, the investigating judge said, the evaluation was up to Atty. Beltran's discretion which he justified in his Answer.

As to the affidavit and testimony of one witness, a certain Cesar Cabalza,^[7] Judge Pauig averred that these alone are inconclusive concerning the truth of the allegation that Atty. Beltran extorted money.

What Judge Pauig found strange was the manner Atty. Beltran accomplished the Performance Rating Forms. From her investigation, it appeared that Atty. Beltran asked the employees to sign blank forms without discussing nor informing them of the manner he arrived at the final ratings which he alone filled up. She noted that the inclusive rating period should cover only January 1 to June 30, 2001 and not include July 1 to December 31, 2000, as erroneously reported by an office clerk. Judge Pauig concluded that Atty. Beltran had been remiss in following the procedure for accomplishing the Performance Rating Forms. Atty. Beltran did not accomplish these in triplicate; did not have the concurrence of a higher supervisor; did not give one copy to the ratee; but worse, distributed blank forms among the employees, had the ratees sign them without his evaluation, point scores and his signature. Accordingly, Judge Pauig recommended that the appropriate penalties be imposed on Atty. Beltran.^[8]

Upon evaluation of the investigation, report and recommendation of Judge Pauig, the Office of the Court Administrator (OCA) agreed with the findings of the investigating judge and recommended to this Court the following: (1) the charges of oppression and abuse of authority be dismissed; and (2) respondent Atty. Beltran be found guilty of simple neglect of duty which carries a penalty of one (1) month and one (1) day to six (6) months suspension.^[9]

However, since Atty. Beltran had compulsorily retired, the OCA recommends instead, that a fine equivalent to one (1) month salary be imposed on Atty. Beltran, to be deducted from the P50,000 retained from his retirement benefits (A.M. No. 11864