

EN BANC

[A.M. NO. P-06-2205 (FORMERLY OCA-IPI NO. 05-2250-P), August 03, 2006]

FELICIDAD D. PALABRICA, COMPLAINANT, VS. ATTY. CECILIA T. FAELNAR CLERK OF COURT VI, RTC, BRANCH M. FORTICH, BUKIDNON, RESPONDENT.

DECISION

PER CURIAM:

An Affidavit-Complaint^[1] dated 19 July 2005 was filed before the Office of the Court Administrator (OCA) by Felicidad D. Palabrica (complainant) accusing Atty. Cecilia T. Faelnar (respondent) of violating the Code of Conduct for Court Personnel, dishonesty, grave misconduct, falsification of official document, conduct prejudicial to the best interest of the service and/or violating the Code of Conduct and Ethical Standards for Public Officials and Employees, violating the lawyer's oath, and acts contrary to legal and judicial ethics. Complainant is the court stenographer of the Regional Trial Court (RTC), Branch 11, Manolo Fortich, Bukidnon, while respondent holds the position of Clerk of Court VI, of the same office.

Complainant alleges the following:

1. On 14 April 2004, respondent took advantage of the vacancy of the Office of the Presiding Judge by requesting the local government unit (LGU) of Manolo Fortich for the release of P8,000.00 trust fund to be used by the Judicial Service Team (JST) of RTC, Branch 11 personnel for the 16-17 April 2004 conference at Camiguin Island. Complainant was ordered by respondent to attach in the payroll a copy of OCA Circular No. 28-2003 to justify the former's request. Upon its approval, respondent directed all personnel to affix their signatures in the payroll to make it appear that they have received the money, when in fact, no money was received. Except for complainant and Sol Santocildes, the rest of the personnel of RTC, Branch 11 were able to leave for Camiguin. However, they used their own money to defray all expenses for travel.
2. No meeting or seminar was conducted. The court personnel merely enjoyed themselves by eating and swimming. When the OCA required then Acting Judge Francisco Rojas the minutes of the JST meeting and the court performance inventory for January to December 2004 and January to March 2005, Judge Rojas merely submitted documents from June 2004 to June 2005. The purported JST meeting in Camiguin Island on April 2004 was not included.
3. On 9 July 2004, respondent requested financial assistance from the IBP, Misamis Oriental Chapter in the amount of P5,000.00 for the purchase of

curtains for the court. The amount spent in Camiguin could have been used for the purchase of the curtain if only respondent were honest in dispensing her duties as an accountable officer of the court.

4. On 5 August 2004, respondent solicited a note to the Office of the Mayor of Manolo Fortich for the meals of Supreme Court (SC) auditors at the Del Monte Clubhouse. The SC auditors declined the offer. Instead of returning the note, respondent, together with companions, went to the Clubhouse the following day and used the same. In the attendance sheet,^[2] respondent falsely and deliberately made it appear that the team of SC Auditors came with respondent to have lunch at the Clubhouse.
5. On 20 August 2004, respondent again requested financial assistance from the Mayor of Manolo Fortich for reimbursement of the expenses incurred in the construction of the record shelves. Complainant was, however, told by respondent that the money for such reimbursement would be taken from the proceeds of the honorarium of Judge Rojas for May 2004.
6. On 5 October 2004, the signature of Judge Rojas was forged by respondent in her Certificate of Service.^[3]
7. On 2 March 2005, respondent requested financial assistance from the LGU for the meals and snacks of the SC auditors on 3-4 March 2005. Respondent affixed her signature above the name of Judge Rojas, who at the time was holding office at Branch 41. Respondent made it appear in the Training Design that the management audit and JST were scheduled for two (2) days, but as a matter of fact, only one (1) day was spent.

In its 1st Indorsement dated 9 August 2005, OCA required respondent to comment on the administrative complaint.

Vigorously denying the allegations of complainant, respondent, in her Comment,^[4] addresses the issues *in seriatim*:

1. On the issue of the JST meeting in Camiguin, respondent claims that based on the payroll,^[5] the amount of P8,000.00 was duly received by the RTC, Branch 11 personnel. They were used to cover expenses for board and lodging, transportation and other miscellaneous expenses for the RTC personnel. While there was no formal agenda made, there was a consultation conducted on 17 April 2004 before the staff went swimming. Thus, the allegation by complainant that there was no seminar or meeting held is false. It was complainant herself who prepared all the necessary papers and attachments for the JST meeting. Respondent was only made to sign the papers. The late submission of the minutes of the JST meeting and court performance inventory is justified on the ground that when the RTC personnel went to Camiguin for its JST meeting, Judge Rojas had not yet assumed the Acting Presiding Judge position until June 2004.
2. Regarding the issue on solicitation by respondent from the IBP President, the amount of P5,000.00 was a donation from the IBP for the cost of the curtains pursuant to a letter request prepared by respondent in behalf of RTC, Branch

11.

3. Respondent used her personal funds for the construction of the record shelves. The P3000.00 honorarium of Judge Rojas did not cover the cost of the construction of these shelves. Consequently, respondent requested the reimbursement of the expenses she incurred, which the LGU granted upon presentation of the necessary papers and official receipts.
4. No note was solicited for the meals at the Del Monte Clubhouse. Respondent offered meals to the auditors on another date and at a different restaurant. But her offer was not accepted by the auditors. The court personnel were provided free meals by the Office of the Mayor after participating in the cleanliness drive sometime in August 2004.
5. Respondent requested P5,000.00 anticipating that the audit would last for two (2) days. The intended JST conference on 4 March 2005 was cancelled upon suggestion of complainant to hold the meeting on 3 March 2005 to save time and maximize the use of the LGU van. Judge Roxas could not attend the meeting and instead put respondent in charge of everything. Respondent attached a certification^[6] from Judge Rojas to substantiate her allegations that she was authorized to seek financial assistance from the LGU.
6. The signing of the name of Judge Rojas by respondent in the certificate of service was authorized by the former and it was done in order to beat the deadline set by OCAD in the submission of attendance reports. In fact this had been the practice with respect to other orders, whereby the text of the orders are read to be him over the cellular phone and the orders were signed later by the judge.
7. The ulterior motive of complainant in filing the case is to avenge respondent's filing on 14 July 2005^[7] of several counts of administrative cases for dishonesty against complainant and her niece.

In her Reply-Affidavit,^[8] complainant emphasizes that while she was the one who prepared the documents relative to the JST meeting in Camiguin, she only did so upon respondent's instructions. Furthermore, the trip was not legal for there was no advice from the Supreme Court to conduct such meeting and to solicit funds from the LGU. According to complainant, respondent's mere act of solicitation from the IBP is proscribed by the Supreme Court, especially when the President of the IBP of Misamis Oriental has pending cases before RTC, Branch 11.

Complainant insists that respondent committed falsification for causing the release of Judge Rojas' honorarium on May 2004 knowing that Judge Rojas assumed the position only in June 2004. Respondent likewise committed forgery in the Certificate of Service. She should have indicated that she was signing the certificate for and in behalf of Judge Rojas, instead of simply affixing the judge's signature.

In her Rejoinder,^[9] respondent stresses that she did not use her official position to secure unwarranted benefits. She clarified that not a single centavo out of the said financial assistance/donations went to her pocket, as the same redounded to the benefit of the court, its personnel, litigants, lawyers and the public in general.