

## SECOND DIVISION

**[ A.M. No. MTJ-03-1507 (formerly OCA IPI No. 00-914-MTJ), January 20, 2004 ]**

**CONCERNED CITIZENS OF SAN FRANCISCO, SURIGAO DEL NORTE, PETITIONERS, VS. HON. JUDGE JUANILLO M. PULLOS, CLERK OF COURT MANUEL D. GEALAN, CLERK OF COURT II ESMERALDA L. ANGOB, STENOGRAPHERS I ROSARIO B. GASULAS & ALMEA B. PAYUSAN, MUNICIPAL CIRCUIT TRIAL COURT, SAN FRANCISCO, MALIMONO, SURIGAO DEL NORTE, RESPONDENTS.**

### D E C I S I O N

**AUSTRIA-MARTINEZ, J.:**

Before us is the letter complaint<sup>[1]</sup> filed by the Concerned Citizens of San Francisco, Surigao del Norte, accusing Juanillo M. Pullos, Presiding Judge of the Municipal Circuit Trial Court (MCTC) of San Francisco, Surigao del Norte; Manuel D. Gealan, Clerk of Court II; Esmeralda L. Angob, Clerk II; Rosario B. Gasulas and Almea B. Payusan, both Stenographers I, for allegedly overcharging complainants when the latter secured court clearances.

In their joint affidavit,<sup>[2]</sup> complainants Maria Lina O. Nimez, Mercy V. Nimez, Eleuterio M. Cordonas and Manuel Elandag allege: At around 10:30 a.m. of January 31, 2000, they were at the MCTC of San Francisco, Surigao del Norte, to secure court clearances for their loan purposes. Respondent court employees Angob, Gasulas and Payusan charged them P50.00 each per clearance but were issued two official receipts each in the amount of P8.00 court clearance JDF and P2.00 court clearance General Fund or for a total amount of only P10.00. Noting the discrepancy, complainants asked for clarification and they were told that the amount they paid allegedly covered the payment of three documentary stamps attached to each court clearance which was no longer indicated in the official receipts as it was in accordance with an office memorandum; still dissatisfied, complainants inquired from a BIR collection agent the cost of one documentary stamp and were told that each cost P5.00 thus the three documentary stamps attached to each court clearance amounted only to P15.00. When complainants confronted the respondents about the excessive collection fees, respondent Clerk of Court Manuel D. Gealan intervened and reasoned out that the fees were already fixed and approved by respondent Judge Juanillo M. Pullos.

In her affidavit,<sup>[3]</sup> complainant Filipina J. Platil aver: When she went to the MCTC on January 31, 2000 to secure a court clearance, she was also asked to pay P50.00 for the same. Around 12 o'clock noon of the same day, complainants Maria Lina and Mercy Nimez went to her store complaining about the excessive fees charged by respondents for their clearances. Maria Lina told her that the three documentary stamps cost only P15.00, thus the charge of P50.00 for the clearance was not

justified. After the Nimezes left, she looked at her clearance and found no documentary stamps attached thereto despite her payment of P50.00.

In their joint affidavit,<sup>[4]</sup> complainants Caridad R. Seguis and Teresita L. Mata state: They went to MCTC on February 1, 2000 to secure court clearances when they saw Gregorio Embodo who told them that he was charged P50.00 for his clearance. When they were asked to pay P50.00 for each clearance, they only paid the amounts reflected in the two receipts issued to them for a total amount of only P10.00.

Respondent Judge Pullos filed his Comment<sup>[5]</sup> contending that he did not commit any violation of Republic Act No. 3019. He claims that he issued Office Memorandum No. 2-99<sup>[6]</sup> on November 8, 1999 for the reason that applicants for court clearance refused to pay the amounts of P8.00 and P2.00 for the JDF and the General Fund claiming that the same should be free of charge, and they suspect that said amounts would only be pocketed by the court employees. Thus, he instructed his Clerk of Court that all payments for fees should be receipted and all applications for court clearance must be filed personally by the applicant and not by representatives. He also verbally instructed his court employees not to accept offers for merienda nor join get-together parties especially if sponsored by those who have transactions with their office which instructions were perceived by dirty minded individuals as lack of "pakikisama". Respondent Judge further contends that some of herein complainants were close relative, friends and neighbors of the losing defendants in Civil Case No. 136, which he had decided and is now under execution; that because of his impartial administration of justice, he and his personnel will continue to acquire enemies. Respondent Judge Pullos also filed his counter-affidavit<sup>[7]</sup> reiterating his arguments in his comment and in addition states that there was no overcharging or overpricing of whatever fees being collected as all collections/payments made to the court were duly receipted; that he did not intervene nor participate in the issuance of court clearance, much less, in the collection of fees.

In his Comment,<sup>[8]</sup> respondent Clerk of Court Gealan averred that complainants' accusation that he intervened and reasoned out that the fees were already fixed and were approved by Judge Pullos was a pure misconstruction of motives; that there was no need for the staff to consult him or the Presiding Judge for every receipt issued since Office Memorandum No. 2-99 dated 08 November 1999 is self-explanatory; that he signs the clearance if accompanied by original receipt, documentary stamp, signed and thumbmarked by the applicant; that court stenographer Dapusala was the one who received the fees collected since she was the one bonded by this Court; that he observed that Dapusala had not received more than what was reflected on the official receipts issued. He also filed his counter-affidavit<sup>[9]</sup> where he stated that the allegations that respondents committed corrupt practices by collecting excessive amount of fees is a big lie and quite impossible because all collections were duly receipted since Judge Pullos is very strict; that it is not their obligation to affix documentary stamps but required applicants to affix the same; that complainant Filipina Platil was a former stenographer of the court who resigned after she was recommended for dismissal by former Judge Adriano D. Barbero for inefficiency; that the instant administrative case could be a part of her vengeance to get even with the court employees; that Judge Pullos has nothing to do with the issuance of court clearances, more so with

the collection of fees.

In her counter-affidavit,<sup>[10]</sup> respondent Angob alleges that as Clerk II, her work involved checking and verifying of entries in the docket book; that on January 31, 2000, she saw complainants Elandag, Gordonas, Mata and Sequis in the courtroom applying for court clearances and she asked them to wait while she verified the criminal docket book; that they got angry and demanded that they be issued a clearance as they were not criminals; that she refused the application for clearance filed by Maria Lina Nimez in behalf of her husband, Vicente Nimez, Jr. since applications should be filed personally by the applicant; that the allegations against her were purely fabricated and intended to malign her reputation as a public servant.

In their joint counter-affidavit,<sup>[11]</sup> respondents Gasulas and Payusan allege that during their ten years and three years, respectively, in the judiciary, as stenographers, they have rendered good and honest service; that on January 31, 2000, they assisted in the preparation and issuance of court clearances upon the instruction of respondent Clerk of Court; that they deny having received from each applicant the amount of P50.00 but instead claim that they only received the amount of P8.00 for JDF and P2.00 for the General Fund as reflected in the receipts issued to them by Dapusala; that when they required complainants to produce documentary stamps since the BIR of San Francisco (Anao-on), Surigao del Norte, had no more documentary stamps, each complainant tried to give them P20.00 for them to buy stamps but because of their refusal to accept the money, complainants got angry and told them that they (respondents) were indifferent and arrogant; that respondent Clerk of Court had no hand in the collection of fees but merely a signatory of clearances and other documents requested; that Judge Pullos was very strict, considered by some people of San Francisco as indifferent.

All respondents declare that they are contented with their salaries, allowances and benefits received from the Court and would not barter the same with a few pesos that could malign their reputation and standing.

In our Resolution dated August 28, 2000, the case was referred to Executive Judge Floripinas C. Buyser of the Regional Trial Court, Branch 30, Surigao City, for investigation, report and recommendation. A hearing was conducted by the investigating judge where both sides were heard.

The investigating judge submitted his report and recommendation dated June 28, 2002 where he found all respondents, except for Judge Pullos, to have committed an act grossly prejudicial to the best interest of the service and recommended the imposition of the penalty of suspension for a period of six months and one day, they being first offenders. He recommended the dismissal of the complaint against Judge Pullos for lack of evidence.

In the Resolution dated March 24, 2003, the case was referred to the Court Administrator for evaluation, report and recommendation. In his Report dated July 17, 2003, the Court Administrator agreed in toto with the findings and recommendations of the investigating judge but recommended that the guilty respondents be suspended for one year for having committed an act of dishonesty with warning that a repetition of the same or similar act in the future shall be dealt

with more severely.

The case against respondent Judge Pullos should be dismissed for lack of evidence. No evidence was presented to show the respondent judge's culpability. In fact, all the complainants declared that respondent judge was not at the courtroom when they applied for their court clearances. The respondent judge did not commit any act that would point to his culpability except that as complainants had stated, he was merely included in the complaint because he was the chief of the court and because respondents were referring to his office memorandum as the basis for such overcharging. A reading of the said memorandum, however, only showed the requirements for securing clearance and other documents.

We agree with the Court Administrator and the investigating judge that all the other respondents are guilty of dishonesty in overcharging complainants for court clearance fees.

We have gone over the records of the case and found no cogent reason to disturb the factual findings of the investigating judge and the Court Administrator that the other respondents were positively identified by the complainants as the persons who charged the latter the amount of P50.00 or P30.00 each for court clearance but issued official receipts for a total amount of P10.00 only.

As correctly found by the investigating judge:

In the instant administrative case, substantial evidence exists linking respondents Rosario Gasulas, Almea Payusan, Esmeralda Angob and Manuel Gealan directly to the illegal exaction and corruption charged.

Complainant Filipina Platil positively identified respondent Rosario Gasulas as the very person from whom she secured a court clearance on 28 January 2000 (Exhibit "G"), for which Platil, upon Gasulas' demand, paid P50.00, but the latter gave the former two receipts in the total sum of only P10.00, broken down as follows: Clearance Gen. Fund, P2.00 (Exhibit "E"); and Clearance JDF, P8.00 (Exhibit "F").

Complainant Teresita Mata also positively identified respondent Rosario Gasulas as the person from whom she procured a court clearance on 1 February 2000. Gasulas charged Mata P30.00 which amount the latter paid to the former. Gasulas gave Mata two official receipts for the total amount of only P10.00 (Exhibits "C" and "D").

In regard to respondent Almea Payusan, complainant Filipina Platil positively declared that when she secured a court clearance on 31 January 2000, Payusan made her pay P50.00, but issued two official receipts for the total amount of only P10.00 (Exhibits "H" and "I"). Complainant Caridad Seguis likewise testified that respondent Almea Payusan charged her P30.00 for the court clearance Seguis secured on 1 February 2000, but because Payusan issued two official receipts for the total amount of only P10.00, Seguis paid only P10.00 and not the P30.00 charged by said respondent.

Relative to respondent Esmeralda Angob, complainant Maria Lina Nimez