

## FIRST DIVISION

[ A.M. No. P-02-1565, October 18, 2004 ]

**JUDGE MA. MONINA S. MISAJON, MUNICIPAL TRIAL COURT, SAN JOSE, ANTIQUE, COMPLAINANT, VS. CLERK OF COURT LAGRIMAS A. FERANIL, RESPONDENT.**

[A.M. NO. MTJ-02-1408]

**LAGRIMAS A. FERANIL, COMPLAINANT, VS. JUDGE MA. MONINA S. MISAJON, MUNICIPAL TRIAL COURT, SAN JOSE, ANTIQUE, RESPONDENT.**

[A.M. NO. P-04-1900]

**JUDGE MA. MONINA S. MISAJON, COMPLAINANT, VS. LAGRIMAS A. FERANIL, CLERK OF COURT II, WILLIAM YGLESIAS, PROCESS SERVER, AND CONRADO RAFOLS, JR., COURT AIDE, MUNICIPAL TRIAL COURT, SAN JOSE, ANTIQUE, RESPONDENTS.**

### D E C I S I O N

**YNARES-SATIAGO, J.:**

These are three consolidated administrative matters which involved charges and counter-charges between and among the same parties.<sup>[1]</sup>

In A.M. No. MTJ-02-1408, Clerk of Court II Lagrimas A. Feranil of the Municipal Trial Court of San Jose, Antique charged Presiding Judge Ma. Monina S. Misajon with Gross Ignorance of the Law and Abuse of Power. She averred that, ever since she testified against respondent judge in two administrative complaints, the latter has displayed hostility towards her. Respondent judge gave her a performance rating of "Satisfactory"<sup>[2]</sup> and refused to sign her Daily Time Records for January 1998<sup>[3]</sup> and August 1999.<sup>[4]</sup> Respondent judge also surreptitiously caused the preparation of a derogatory letter requesting for her immediate transfer and instigated court employees Merlyn Villavert, Jingkey Nolasco and Elizabeth Banusing to sign and file the same with the Office of the Chief Justice and the OCA.<sup>[5]</sup> Further, respondent judge, on several occasions, humiliated and harassed her in front of court personnel, litigants and the public.<sup>[6]</sup>

In her Comment,<sup>[7]</sup> respondent judge countered that it was complainant who displayed "arrogance and insolence" by ignoring her verbal instructions and refusing to perform her duties. Respondent avers that she gave complainant a "Satisfactory" rating because the latter neglected her duties as Clerk of Court by failing to calendar cases or attend court sessions; and failing to keep a record of cases submitted for decision or to keep abreast of the status of the cases.

Respondent also learned that complainant also offered the Provincial Prosecutor money in exchange for the dismissal of a criminal case. Complainant also demanded one month's pay from Merlyn Villavert for helping her get employed as court stenographer.<sup>[8]</sup> On account of these, respondent decided not to delegate the ex parte hearing of cases to complainant, which caused the latter to bear a grudge against her. On one occasion, when respondent judge asked complainant about irregularities in the docket numbers of cases, the latter insulted and shouted at her in front of court personnel and litigants.

Additionally, respondent alleges that complainant allowed the process server of the Municipal Trial Court to do the work of her husband and son, who were process servers of the Regional Trial Court.

Respondent judge's averments against complainant were treated as a counter-charge, which was docketed as A.M. No. P-02-1565.

In her Rejoinder, complainant refuted respondent judge's accusations and alleged that the same were motivated by vengeance. She denied that she demanded one month's wages from Merlyn Villavert. Anent the ex parte hearings, she was grateful that the same were not delegated to her as it lessened her workload. She also denied the allegation that the Municipal Trial Court Process Server was utilized to implement the court orders and processes of the Regional Trial Court.

Complainant alleges that respondent was appointed as Sales Counselor of the Equitable Pension Plans and even asked her to be one of her underwriters. She refused to accept her offer, which angered respondent.

Regarding her alleged incompetence, complainant states that an actual inspection of all records of each case would show that it is respondent who neither examines nor initials the case records in her court.

On May 28, 2001,<sup>[9]</sup> respondent judge filed another administrative complaint, docketed as OCA-IPI No. 01-1241-P, charging Clerk of Court Lagrimas S. Feranil, Process Server William Yglesias and Court Aide Conrado Rafols, Jr. with Gross Misconduct, Dishonesty, Insubordination, Incompetence, Inefficiency and Conduct Prejudicial to the Best Interest of the Service. She alleges that respondent clerk of court and respondent court aide Conrado Rafols, Jr. committed delay in the deposit of court fees with the bank, irregularities in the issuance of official receipts of the court, and tampering with the office logbook of attendance. Respondent clerk of court was often late, on under time or absent. Respondent process server, on the other hand, falsified his daily time records because he was frequently absent from work.

In her Comment dated July 17, 2001, respondent clerk of court denied the accusations against her. She alleged that their office logbook records the accurate account of her whereabouts and that, on the contrary, it is complainant judge who tolerates the act of her favored employees of being out during office hours. Complainant judge even issued a memorandum directing her "not to mark absent" Court Interpreter Jingkey Nolasco and Court Stenographers Merlyn Villavert, Elizabeth Escanillas and Caroline Magno whenever they were out with complainant.

As to her alleged tardiness and absences, respondent explained that she had to attend to her husband who suffered a stroke and was afflicted with Alzheimer's disease. She, however, emphasized that all her absences and tardiness were reflected in her daily time records.

In his Comment, respondent court aide Conrado Rafols, Jr. denied the charges of Insubordination and Dishonesty, and alleged that his daily time records were duly signed by complainant judge. He was always out of the office because the nature of his job is messengerial, and he serves orders and court processes in the absence of the court's process server. Sometimes he is sent on errands by his fellow court employees.

Respondent process server likewise denied the charges of Habitual Absenteeism and Insubordination. He claims that he was only absent in 2001 because he developed anxiety and depression due to the tension created by complainant in their office, a condition which was aggravated by the death of his mother.

The Court ordered that the three administrative matters be consolidated and referred to the Executive Judge for investigation, report and recommendation.<sup>[10]</sup>

Subsequently, respondent judge manifested her willingness to have the case submitted for resolution based on the pleadings filed on the condition that the adverse parties would similarly manifest their conformity; otherwise she would be constrained to present other witnesses and relevant evidence.

After investigation, the Executive Judge submitted her report and recommendations as follows:

In A.M. No. MTJ-02-1408, it was recommended that a fine of P12,000.00 be imposed upon Judge Misajon for Violation of Administrative Circular No. 5, dated October 4, 1988, and for unbecoming conduct in humiliating complainant several times in the presence of court personnel and party-litigants; and that all other charges against respondent were ordered dismissed.

In A.M. No. P-02-1565, it was recommended that a fine of P15,000.00 be meted on Clerk of Court Feranil for Misconduct due to Inefficiency in the Performance of her Duties, Discourtesy in the Course of Official Duties and Habitual Tardiness.

In A.M. No. OCA-IPI-01-1241-P, it was recommended that a fine of P12,000.00 be imposed on Clerk of Court Feramil for Violation of Administrative Circular No. 3-2000; that a fine of P15,000.00 be imposed on Process Server Yglesias for Inefficiency and Insubordination; and that a fine of P21,000.00 be imposed upon Court Aide Rafols for Dishonesty.

We agree with the findings and recommendations of the Investigating Judge.

Judge Misajon has the prerogative to gauge the performance of her clerk of court. The reasons for the "Satisfactory" rating she gave to Feranil can be gleaned from the various memoranda and orders which contains in detail the latter's infractions and omissions. This observation of Judge Misajon is shared by the other first-level judges in Antique who, in a letter to the Court Administrator, stated that the rift

between Judge Misajon and her Clerk of Court disrupted the effective administration of justice in the Municipal Trial Court of San Jose, Antique, for which reason they requested for the transfer of said Clerk to the 2nd Municipal Circuit Trial Court.<sup>[11]</sup>

Undeniably, the bitterness of the dispute between the feuding parties left bruised egos and wounded feelings in its wake. Still, the escalation of such a conflict could have been avoided had Judge Misajon acted with that degree of equanimity demanded of her stature. As a member of the Bench, she should have adhered to the standard of behavior expected of being a “cerebral” individual who deliberately holds in check the tug and pull of purely personal preferences and prejudices which she shares with the rest of her fellow mortals.<sup>[12]</sup>

Judge Misajon humiliated complainant in the presence of other court personnel, the parties or the public. All judges should always observe courtesy and civility.<sup>[13]</sup> They should be temperate, patient and courteous, both in conduct and in language.<sup>[14]</sup> Indeed, Judge Misajon can hold her colleagues in the Bench and her staff to the efficient performance of their duties without being offensive in her speech, remembering always that courtesy begets courtesy.

As we mentioned earlier, judges are subject to human limitations. Imbedded in their consciousness is the complex of emotions, habits and convictions. Aware of this actuality, it behooves them to regulate these deflecting forces and not to let them loose, either to their own detriment or to that of the courts they serve. This is the high price they have to pay as occupants of their exalted positions.<sup>[15]</sup> (Italics ours)

Moreover, Judge Misajon’s engagement as Sales Counselor/Pension Planner of the Equitable Pension Plans violates Administrative Circular No. 5 dated October 4, 1988, which prohibits all employees and officials of the Judiciary from being commissioned as insurance agents or from any such related activities and “to immediately desist if presently engaged thereat” because “the entire time of the Judiciary officials and employees must be devoted to government service to ensure efficient and speedy administration of justice.”

Indeed, judges have heavy responsibilities.<sup>[16]</sup> They are mandated to regulate their extrajudicial activities in such manner that would not interfere with or affect adversely their judicial functions.<sup>[17]</sup> Rules 5.02 and 5.03 of the Code of Judicial Conduct state:

RULE 5.02 A judge shall refrain from financial and business dealings that tend to reflect adversely on the court’s impartiality, interfere with the proper performance of judicial activities or increase involvement with lawyers or persons likely to come before the court. A judge should so manage investments and other financial interests as to minimize the number of cases giving grounds for disqualification.

RULE 5.03 Subject to the provisions of the preceding rule, a judge may hold and manage investments but should not serve as an officer, director, manager, advisor, or employee of any business except as director of a family business of the judge.

The Revised Rules of Court, as amended, classifies administrative charges as serious, less serious or light. The misconduct of respondent is classified under Section 9, paragraphs 4 and 5 of Rule 140 of the Revised Rules of Court, as amended, as a less serious offense punishable by any of the sanctions enumerated in Section 11 (B) of the same Rule, which provides that:

SEC. 11. Sanctions. – x x x

B. If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

1. Suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or
2. A fine of more than P10,000.00 but not exceeding P20,000.00.

Judge Misajon is, furthermore, liable for her unbecoming conduct which is classified as a light offense under Section 10 (1) of Rule 140 and is punished under Section 11 (C) of the same Rule with –

1. A fine of not less than P1,000.00 but not exceeding P10,000.00 and/or;
2. Censure;
3. Reprimand;
4. Admonition with warning

Therefore, in addition to the fine of P12,000.00 imposed on Judge Misajon for simple misconduct, she should also be ordered to pay a fine of P8,000.00 for unbecoming conduct.

On the other hand, Clerk of Court Feranil should also be held liable for uttering scurrilous words towards Judge Misajon in front of parties-litigants and court personnel. According to an eyewitness, Feranil pointed a dirty finger at Judge Misajon, calling her abusive and oppressive. Judge Misajon ignored the outburst and returned to her chambers because she had a visitor at that time.

Government service is people-oriented.<sup>[18]</sup> Patience is an essential part of dispensing justice and courtesy is a mark of culture and good breeding.<sup>[19]</sup> Belligerent behavior has no place in government service where personnel are enjoined to act with self-restraint and civility at all times even when confronted with rudeness and insolence.<sup>[20]</sup>

It also appears that Feranil was guilty of inefficiency and incompetence in the performance of her duties. These are shown in the various memoranda and orders issued by Judge Misajon, the affidavits of her co-employees,<sup>[21]</sup> as well as the Position Paper submitted by the Judge.<sup>[22]</sup> Along the same vein, mute but eloquent testimonials to Feranil's habitual absenteeism and tardiness are shown by her daily time records,<sup>[23]</sup> which are signed by Judge Misajon.

The gravity of Feranil's offenses in relation to the importance of her position in the administration of justice calls for severe sanctions. The crux thereof goes into the very core of her duties and responsibilities.