

EN BANC

[**A.M. No. P-02-1646 (Formerly OCA I.P.I. No. 99-676-P), January 22, 2003**]

JUDGE UBALDINO A. LACUROM, COMPLAINANT, VS. MANUEL J. MAGBANUA, RESPONDENT.

RESOLUTION

PER CURIAM:

The instant case stemmed from a complaint filed by complainant Judge Ubaldino Lacurom, Presiding Judge of Branch 29 of the Regional Trial Court (RTC) in Cabanatuan City, against respondent Manuel J. Magbanua, Court Aide of the said branch.

In his Complaint^[1] dated 25 May 1999, as amended^[2] on 18 August 1999, complainant Judge Lacurom charged respondent with dishonesty on the grounds that (1) on 6, 7 and 8 and January 1999, respondent was absent; yet he later registered his name in the attendance book as present on those dates; and (2) although respondent would leave the office at 3:00 p.m. on Fridays, he would write in the logbook and daily time record (DTR) 5:00 p.m. as the time of his departure, particularly on 20 November 1998. Judge Lacurom further alleged that respondent had been lazy for a very long time and had reformed only recently. Finally, Judge Lacurom asserted that he had totally lost confidence in the respondent.

In his *Kasagutan sa Reklamo*,^[3] respondent denied the charges. He alleged that as early as April 1998, Judge Lacurom talked to him about looking for another job because he wanted to hire a utility worker who could simultaneously act as a personal driver and bodyguard. In this connection Judge Lacurom called him to his office on 6 January 1999 and instructed him to see Atty. Lamberto Aguilar of the Department of Public Works and Highways (DPWH) in Quezon City. Arrangements between Judge Lacurom and Atty. Aguilar had previously been made concerning respondent's transfer to the office of the DPWH. Thinking that his trip to Quezon City was on official business, he signed his name in the attendance logbook as *present* on said dates upon his return to the office on 11 January 1999. However, he later erased these entries when the Officer-in-Charge (OIC) of the Office of the Clerk of Court, Mrs. Emelita Bunag, told him that she would be sending a memorandum to ask him to explain his absence on the dates in question.

Respondent also denied complainant's allegation that he failed to perform his duties as utility worker. He alleged that in addition to his regular duties, he would drive for Judge Lacurom and his children and run other errands for him. He would not leave the office earlier than 5:00 p.m., unless it was upon the instruction or with the consent of Judge Lacurom himself.

In compliance with our Resolution^[4] of 30 August 2000, Executive Judge Johnson L.

Ballutay of the Regional Trial Court in Cabanatuan City conducted an investigation and thereafter submitted his report. His findings and conclusion are herein reproduced verbatim:

From the documentary and testimonial evidence presented by both the complainant Judge Ubaldino A. Lacurom and the respondent Manuel J. Magbanua, it was established that the respondent is remiss [in] his duty under the Civil Service Rule[s] to sign and enter his time of arrival in the logbook upon his correct time of arrival in the office as the logbook shows that there are instances that he signed after the logbook was already closed and to strictly observe the prescribed office hours of 8:00 o'clock to 12:00 o'clock in the morning and 1:00 o'clock to 5:00 o'clock in the afternoon as it was found out that he really usually goes home to Bulacan at about 2:00 o'clock or 3:00 o'clock in the afternoon during Fridays.

As regards the charge of laziness, there was no clear and convincing evidence presented by the complainant to support the same except the testimony of the complainant and one of his witnesses, but the same was refused by the respondent and it was established that although the complainant Judge Ubaldino Lacurom employed a boy to do the cleaning for about two (2) weeks, yet the respondent had already finished cleaning before the complainant Judge Ubaldino Lacurom and the boy arrived in office and that Judge Ubaldino Lacurom made the respondent Manuel J. Magbanua drive for him on some office hours time.

In connection with the charge of falsification of the logbook particularly on November 20, 1998, it was established that although the respondent made it appear in the logbook and in his Daily Time Record that he was in the office until 5:00 o'clock in the afternoon, when in truth and in fact, he was already gone at about 3:00 o'clock in the afternoon especially during Fridays, yet, the Branch Clerk of Court has verified and signed the same to be true and correct.

Likewise, as to the charge of falsification against the respondent allegedly committed on January 6, 7 and 8, 1999, it was established that it is a mutual agreement between the complainant and the respondent for the respondent to go to Region IV to find another job and the respondent asked verbally for leave of absence on those dates which the herein complainant granted, but when the respondent returned for work, he entered in the logbook that he was present on those dates which is a clear showing of falsification, but it was contended by the respondent that what he knows was that he was then on official business considering that it was Judge Ubaldino Lacurom who instructed him to go to Region IV, nevertheless, when the respondent was made to explain why he entered in the logbook that he was present on said dates when in truth and in fact he was not, he erased the entry in the logbook and entered the true and correct fact that he was absent on said dates and that what he placed in his daily time record was that he was absent on those dates which is clear showing of a lack of intent to commit an act of falsification on the part of the respondent coupled by the fact that the respondent was not able to reach higher education. Considering, however, the close

relationship between the complainant and the respondent and the respect due to the complainant Judge Ubaldino A. Lacurom that the respondent should have observed being a Court Aide as well as the fact that respondent should not have abused his close relationship with Judge Ubaldino Lacurom and the trust and confidence that Judge Ubaldino Lacurom has bestowed upon the respondent, such actuation of the respondent cannot be tolerated and it requires a corresponding disciplinary action.

Judge Ballutay found respondent guilty of gross violation of Section 5,^[5] Rule XVII of the Omnibus Civil Service Rules and Regulations and recommended that respondent be suspended for a period of six (6) months without pay.

In its Memorandum dated 13 September 2001, the Office of the Court Administrator concurred with the findings, conclusion and recommendation of Judge Ballutay. However, it found that respondent's transgressions had been going on for a long time, with neither Judge Lacurom nor the Acting Branch Clerk of Court taking any action thereon, much less imposing disciplinary measures against the respondent. It thus recommended that Judge Ubaldino A. Lacurom and Acting Branch Clerk of Court Mrs. Bunag be required to explain why no administrative charges should be filed against them for being remiss in the performance of their administrative functions.

We concur with the finding of the investigating judge that there is insufficient evidence to substantiate the charge of laziness or neglect in the performance of respondent's duties. We, however, find respondent guilty of gross dishonesty and falsification of public documents; and hence, we modify the penalty recommended by the investigating judge.

The testimonies of Pedro Annang and Judge Lacurom, as corroborated by the Acting Branch Clerk of Court, show that it was common knowledge that respondent was in the habit of leaving before 5:00 p.m. on Fridays. We find these testimonies credible especially in light of the fact that these witnesses testified in effect against their own interest as hereafter elaborated.

It is clear to us that respondent made it appear in his DTRs that on Fridays he was present at his workstation up to 5:00 p.m., when the truth was otherwise. It is also established in this case that, in complainant's court, it has been the practice of the employees to record their attendance in a logbook wherein they indicate the time of their arrival and departure. At 8:30 a.m. and at 2:00 p.m., the branch clerk of court draws a line under the last entry and writes the word "Closed." In many instances, ^[6] respondent would write his name after the word "Closed" but would, nevertheless, state his time of arrival in the morning as 8:00 a.m. or in the afternoon, 1:00 p.m. Obviously, no further evidence or argument is needed to show that respondent arrived after 8:30 a.m. or after 2:00 p.m. Had he arrived earlier than 8:30 a.m. or 2:00 p.m., his logbook entries would not have appeared after the entry "Closed." Worse, in those instances, he wrote in his DTRs 7:30 a.m. and 12:30 p.m. as his time of arrival in the morning and in the afternoon, respectively.^[7]

The unreported undertime and tardiness of respondent are tantamount to falsification of DTRs. Each false entry in respondent's DTR's constitutes falsification

of official documents^[8] and gross dishonesty.^[9]

In *Amane v. Mendoza-Arce*^[10] and *Marbas-Vizcarra v. Bernardo*^[11] wherein the court employees involved were found guilty of tampering of their DTRs, we applied Section 23, paragraph (f), Rule XIV of the Omnibus Civil Service Rules and Regulations, providing that falsification of official documents is punishable with dismissal from the service even for the first offense. The same is true in cases of gross dishonesty.^[12]

Dishonesty is a malevolent act that has no place in the judiciary.^[13] We have repeatedly emphasized that every employee of the judiciary should be an example of integrity, uprightness and honesty.^[14] The conduct and behavior of every person connected with an office charged with the dispensation of justice, from the presiding judge to the lowest clerk, is circumscribed with a heavy burden of responsibility. It must, at all times, be characterized not only by propriety and decorum but also, and above all else, be above suspicion^[15] because the image of a court of justice is mirrored in the conduct, official or otherwise, of the men and women who work thereat.^[16]

On the matter of respondent's alleged unauthorized absences on 6, 7 and 8 January 1999, we agree with the finding of the investigating judge that respondent acted in good faith when he entered his name in the logbook as present on those dates, in the belief that he was away from his workstation on official business. Suffice it to say that the complainant had a penchant for requiring the respondent to leave the office to attend to complainant Judge's request on unofficial matters, such as driving complainant home, picking up his glasses, driving him to fiestas, or running similar errands to which respondent entered as time spent on "official business." This is admitted by the complainant and claimed by him as a prerogative of his position. Since respondent was given the task of looking for another job at the instance and upon arrangement by the complainant, it would then be understandable that, even if he was aware that these errands, as with others, were outside his own official duties, respondent would treat all similar instructions or assignments as within the scope of "official business."

That respondent corrected his entries on these dates^[17] only after a previous warning by the Clerk of Court that a memorandum was to be issued is of no moment. The correction was made and properly reflected in respondent's DTR. And in reply to the memorandum later issued asking him as regards the correction,^[18] respondent explained his prior confusion.^[19]

We agree with the Office of the Court Administrator that abhorrent in the administration of justice is the failure of complainant Judge and the Clerk of Court to take proper action against the misdeeds of notorious employees. More telling than the infractions of the respondent in this case was the fostering of a "father and son" relationship^[20] with the respondent which, while not wrong per se, appeared to have caused the complainant indifference to the grievances of the other employees against respondent, the tolerance of acts of other employees, and his own liberal interpretation of a judge's power of supervision over the employees of his court.