

SECOND DIVISION

[A.M. No. MTJ-92-710, June 19, 2003]

PEDRITA M. HARAYO, COMPLAINANT, VS. JUDGE MAMERTO Y. COLIFLORES, RESPONDENT.

D E C I S I O N

BELLOSILLO, J.:

Complainant Pedrita M. Harayo, former clerk-stenographer, Municipal Trial Court, Minglanilla, Cebu, in a sworn complaint dated 15 September 1992, charged respondent Judge Mamerto Y. Coliflores, Presiding Judge of the same court, with grave misconduct for (a) dismissing for monetary consideration Crim. Case No. 2307 for violation of PD No. 1866^[1] and Crim. Case No. 2308 for violation of RA No. 6425;^[2] (b) assigning Court Aide Jose M. Agosto as domestic helper and driver of respondent's passenger jeepney; (c) solemnizing illegal marriages and collecting fees therefor; (d) allowing her name (complainant's) to be placed as witness in a marriage contract by forging her signature; (e) falsifying the date when he signed the verification portion of the complaint and the joint affidavit of the arresting officers in Crim. Case No. 2388; and, (f) changing for monetary consideration the joint affidavit of arresting officers Jerome Abatayo, Erasmo Gako and Eugene Hernani relative to Crim. Cases Nos. 2307 and 2308.

In a related letter-complaint dated 7 September 1992 complainant Pedrita Harayo charged respondents Josefina R. Hermosa and Jose M. Agosto, Clerk of Court and Court Aide respectively, of MTC, Minglanilla, Cebu, with falsification of entries in their daily time record and daily attendance book.

By way of comment, respondent Judge denied the allegations in the complaint and countered that complainant might have been prompted to file the instant complaint after he indorsed Josefina Hermosa over complainant for the position of Clerk of Court II. He added that complainant likewise vented her ire on Hermosa and Agosto when Hermosa did not accede to her request not to pursue her application for Clerk of Court, and the latter, when he chided her about her belligerent attitude towards Hermosa and his remark that after all she (complainant) was not qualified for the position she was seeking and even as court stenographer since she had no knowledge of steno-typing.

On the matter of the illegal marriage, charged in the complaint, respondent claimed that he desisted from officiating the marriages upon discovery that the documents were not complete despite assurances by complainant to the contrary.

This Court in a resolution dated 23 February 1993 referred the instant case to the Office of the Court Administrator (OCA) for evaluation, report and recommendation. Thereafter, the OCA submitted its memorandum dated 29 March 1993 prepared by Deputy Court Administrator Eutropio Migriño recommending the

dismissal of the complaints for lack of merit.

On 11 May 1993 the Court again passed a resolution referring the instant case to Executive Judge Generoso Juaban of the Regional Trial Court, Cebu, for investigation, report and recommendation. In his report, Judge Juaban recommended that respondent be exonerated on the first and third charges, i.e., that he dismissed cases for monetary consideration, and that he utilized Court Aide Jose Agosto as his domestic helper and personal driver. However, on the charge that he performed illegal marriages, Judge Juaban recommended that respondent be admonished and his salary equivalent to one (1) or two (2) months be suspended for having signed three (3) marriage contracts before the corresponding marriage licenses were obtained by the parties. Judge Juaban reported that —

While there is no hard proof that respondent Judge demanded money in the solemnization of these marriages, suspicion is strong that there could be some monetary consideration. The investigator now seems to doubt the verity of respondent's denial. If the marriage contracts were signed by him and no solemnization ever had, as he alleges, because he desisted from doing so in the first instance, why did he repeat the same procedure in the second and the third time? Signing the marriage contracts before the marriage licenses were so obtained on these three (3) marriages is indicative of respondent's imprudence in this respect that calls for appropriate measures of admonition.^[3]

On 9 August 1994 this Court referred the report of Judge Juaban to the OCA for further evaluation, report and recommendation. Accordingly, on 15 September 1994 the OCA submitted a memorandum essentially adopting the recommendations of Investigating Judge Juaban but with the proposal that with regard to the second charge, respondent be fined in the amount equivalent to his one (1) month salary.

In an *En Banc* resolution dated 30 May 1995, the Supreme Court noted that the report of Judge Juaban failed to address certain key issues which were likewise raised in the complaint, namely: (a) that respondent allowed complainant's name to be placed as witness in the marriage contract signed by Emmanuel Plantar and Elizabeth Nacor on 10 May 1989 by forging her signature; (b) that he falsified the date when he signed the verification portion of the complaint and the joint affidavit of the arresting officers in Crim. Case No. 2388 by making it appear that he was in the office and signed the documents on 15 August 1992 when in fact it was only on 20 August 1992 that he went to the court and signed the same; and, (c) that for monetary consideration, he changed the joint affidavit of the arresting officers in order to lay the groundwork for the dismissal of Crim. Cases Nos. 2307 and 2308.

In justifying the inclusion of the above-mentioned charges, the Court opined that these accusations should have been included in the investigation as they were embodied in the reply of complainant to the comment of respondent Judge. Consequently, the Court directed the National Bureau of Investigation (NBI), Cebu City, to conduct an investigation and submit its report and recommendation on the (a) alleged forgery of complainant's signature on the marriage contract signed by Emmanuel Plantar and Elizabeth Nacor on 10 May 1989; and (b) purported falsification of the joint affidavit of the arresting officers in Crim. Cases Nos. 2307 and 2308, and of the date affixed in the verification of the complaint in Crim. Case No. 2388.

In partial compliance with the Court's directive, the NBI through Regional Director Florencio Villarin submitted a report on 2 November 1995 which contained its findings and conclusions on the examination of the marriage contract containing complainant's alleged forged signature. It concluded that "(t)he questioned signatures 'Pedrita Harayo' and the standard/sample signatures and handwritings of one 'Pedrita Harayo' were not written by one and the same person."^[4]

With respect to the alleged falsification of the joint affidavit of the arresting officers, and of the date affixed in the verification of the complaint in Crim. Case No. 2388, the NBI reports disclosed the following: " (a) as regards the joint affidavit executed on 23 August 1991, ". . . *indicative that they were not typed from one and the same source/ typewriter;*"^[5] (b) as regards the joint affidavit executed on 15 August 1992 ". . . *indicative that they were not typed from one and the same source/typewriter;*"^[6] and (c) "*the questioned and the standard sample/signatures (of) Jesus P. Carel were written by one and the same person. The questioned typewritten entries/figures reading '15' is NOT altered.*"^[7]

Upon receipt of the last report of the NBI, the Second Division of this Court again referred the matter to the OCA which in turn recommended that the matter be "REFERRED BACK" to the executive judge of RTC, Cebu, for a more exhaustive investigation, report and recommendation, particularly on those matters raised by the complainant but were not touched in the investigation conducted by former Executive Judge Generoso Juaban.

On 8 January 2003, Investigating Judge Galicano Arriesgado, who replaced Judge Generoso Juaban as Executive Judge, RTC-Cebu, together with Judges Isaias Dicdican and Pampio Abarintos, First Vice-Executive Judge and Second Vice-Executive Judge, respectively, submitted their report with the recommendation that all the charges against respondent Judge be dismissed for lack of merit.^[8] In arriving at their findings and conclusions, the Investigating Judges said —^[9]

On the charge that respondent judge allowed the forging of complainant's signature in the marriage contract x x x x no sufficient proof was adduced that respondent judge had personal knowledge, much less, allowed the commission of the forgery. While it is true that the NBI result impliedly reported a forgery, however, the same cannot be directly pointed to respondent x x x x

On the second charge of falsifying the date in the verification portion of the joint affidavit of the police officers in Criminal Case 2388, the investigation revealed a total lack of evidence to support the same x x x x In the absence of proof to the contrary, the best evidence is the document, which has been, for all intents, proven not only to be regular, but also to be without any alterations. Hence, in the normal course of things, it is logical to presume that the document was signed by respondent on the 15th and have been filed with and received by the court on the 18th as appearing on the official stamp x x x x

On the charge that respondent judge changed the joint affidavits of the