

SECOND DIVISION

[A.M. No. P-02-1574, April 17, 2002]

**ATTYS. FIDEL R. RACASA AND OLIVA P. PEDERE,
COMPLAINANTS, VS. NELDA COLLADO-CALIZO, COURT
STENOGRAPHER III, REGIONAL TRIAL COURT, BRANCH 140,
MAKATI CITY, RESPONDENT.**

D E C I S I O N

MENDOZA, J.:

This is a complaint filed against respondent Nelda Collado-Calizo, Court Stenographer III of the Regional Trial Court, Branch 140, Makati City, for conduct prejudicial to the best interest of the service and for violation of R.A. No. 6713, §7(a), which, prohibits public officials and employees from directly or indirectly having any financial or material interest in any transaction requiring the approval by their office, and §5(a), (c), and (d), which require public officials and employees to act promptly and expeditiously in the performance of their functions. The complaint was filed by Attys. Fidel R. Racasa and Oliva P. Pedere, both of the Pastelero Law Office, the counsel for the petitioners in an adoption case (SP Proc. No. M-4871) filed in the RTC, Branch 140, Makati City.

It appears that, on July 21, 1999, an order was issued setting the case for hearing on August 31, 1999 and directing publication of said order in a newspaper of general circulation. In their complaint, complainants allege: Shortly after the issuance of the July 21, 1999 order, Atty. Racasa instructed a messenger of their law firm, Hector Gedocruz, to inquire from the RTC to which newspaper the award for the publication of the order had been given. Atty. Racasa wanted to find out the publication charge so that he could file a motion for reraffle if it was higher than the charges of other newspapers. Twice Gedocruz was told that someone would be going to the complainants' law firm regarding the matter.

On August 2, 1999, respondent Nelda Collado-Calizo went to complainants' law firm and introduced herself as someone from the newspaper *Pilipino Ngayon*, which had allegedly won in the raffle for the publication of the order of the RTC. To verify her claim, Atty. Racasa asked for a copy of the Certificate of Raffle, but respondent said she forgot to bring it with her. She promised to give it the next time she came over to the office. She told Atty. Racasa that the publication charge was P8,000.00. Atty. Racasa then asked, "*Bakit naman ang mahal, may tao bang humihingi ng 'cut' o komisyon sa transaksyong ito? Alam mo, kawawa naman kayong mga taga-diyaryo dahil kayo ang nagtatrabaho samantalang ang ibang tao ay kumikita ng walang kapagod-pagod.*" ("Why is the charge for publication so expensive? Is that because there are people who want to have a commission? You know, you newspaper people are to be pitied. You earn for work you do, but there are those who make money without lifting a finger.")

Eventually, Atty. Racasa agreed to the reduced amount of P5,000.00. Apparently feeling uneasy about Atty. Racasa's remarks and realizing that he would eventually discover her identity, respondent revealed that she was really an employee of Branch 140 of the Makati RTC. For this purpose, she showed her Supreme Court I.D. as Atty. Racasa handed over the payment of P5,000.00. In return for the business given to her, respondent promised that she would help speed up the transcription of the stenographic notes she had taken of the hearings of the adoption case.

Three days later, a representative of a rival publication, Ada Abueme of *Kabayan*, went to complainants' office, claiming to have won in the raffle for the publication of the court's order. Since *Kabayan*, unlike *Pilipino Ngayon*, which was a tabloid, was a broadsheet, its publication charge was P7,000.00. An argument ensued between Ada Abueme and respondent, who was also in complainants' office at that time. Respondent told Abueme that she had already paid *Pilipino Ngayon* and that publication of the first of three notices was forthcoming. Atty. Racasa told respondent and Abueme to settle the matter between themselves because it would be awkward for him to ask the petitioners in the adoption case for an additional amount because he (Atty. Racasa) might be suspected of receiving kickbacks as he had already told petitioner Jorge Alves that he (Atty. Racasa) had already paid the charge for publication.

As Ada Abueme and respondent could not settle their differences, Atty. Racasa asked respondent to pay the P5,000.00 he had paid her to Ada Abueme, while he and Abueme would take care of paying the balance of P2,000.00. He warned respondent that if she failed to produce the money, he would file an administrative complaint against her.

The second incident between complainants and respondent occurred after the hearing on November 26, 1999 of the adoption case. A male employee of the court ran after Atty. Oliva Pedere as the latter was leaving to ask for an advance for the TSN allegedly at the instance of respondent. Remembering their unpleasant experience with respondent, Atty. Pedere refused to pay.

Complainants allege that respondent deliberately did not transcribe her notes of the November 26, 1999 hearing because of the previous incident with them. On January 24, 2000, Atty. Racasa went to the court to complain about the delay. He was told that respondent had already started typing her notes.

Commenting on the allegations against her, respondent alleges that it was actually Atty. Racasa who had been calling her for help in the publication of the RTC order of July 21, 1999 as the time for publication was running short. For this reason, she says she went to Atty. Racasa's law office after the latter's fourth call, telling her: "*Pumunta ka na dito ngayon at baka hindi na aabot ang publication bago mag-hearing.*" ("You come here now as there might not be enough time for publication before the hearing.") Respondent denies having represented to Atty. Racasa that she was a representative of *Pilipino Ngayon*, stating that she even showed to Atty. Racasa her Supreme Court I.D.

As to complainants' claim that she had neglected to transcribe the notes she had taken on November 26, 1999, respondent claims that it was because she was on leave on January 24, 2001 when Atty. Racasa went to see her in the RTC. Respondent denies asking for an advance for the TSN, claiming that her officemate,