

FIRST DIVISION

[A.M. No. P-99-1312, July 31, 2002]

**ERMELINDA ESCLEO, COMPLAINANT, VS. MARITESS
DORADO, COURT STENOGRAPHER II, METROPOLITAN TRIAL
COURT, BRANCH 66, MAKATI CITY, RESPONDENT.**

D E C I S I O N

KAPUNAN, J.:

Before this Court is an administrative complaint instituted by Ms Ermelinda Escleo against Ms Maritess Dorado, Court Stenographer II, Branch 22, Metropolitan Trial Court (MeTC), Makati City. Respondent is alleged to have solicited from complainant's sister the amount of P2,000.00 as down payment of an unauthorized "facilitation fee" to expedite the latter's marriage. Complainant narrates that on January 8, 1998, her sister, Ma. Phoebe Q. Carbon went to the City Hall of Makati to secure a marriage license.

Ms Carbon was then engaged to a Korean citizen. She approached respondent who asked her to fill up some forms and to pay the amount of P5,000.00. After some bargaining, the amount was reduced to P4,000.00. Ms Carbon made a down payment of P2,000.00, and was informed that the marriage ceremony was scheduled for January 12, 1998 at 1:30 p.m.

Upon returning home, Ms Carbon informed complainant of the arrangements. Finding the amount paid by her sister exorbitant, complainant went to respondent's office the following day. She demanded that respondent return the down payment of P2,000.00 and the document evidencing the legal capacity of her sister's fiancé to marry, which had been given to respondent for processing. Respondent, however, refused to return the money and the document allegedly because she had given them to a certain Caloy of Imus, Cavite.

A shouting match ensued between the parties. The Commotion caught the attention of respondent's superior, MeTC Judge Estella Bernabe, who inquired as to the cause of the argument. Complainant explained to the Judge the events that had just transpired. Judge Bernabe informed complainant that no fees are supposed to be charged for the solemnization of marriage and instructed her to put her complaint in writing. Judge Bernabe referred complainant to MeTC Executive Judge Leticia Ulibarri.

When complainant returned the next day, January 11, 1998, respondent still failed to return the money as well as the document. Respondent even told complainant that they should consider themselves fortunate that they were charged only P4,000.00, considering that the so-called "*japayukis*" were ordinarily charged P15,000.00. Complainant said she did not care and demanded the document evidencing the Korean's legal capacity to marry. Respondent told her to withdraw her complaint first. Complainant refused, however.^[1]

Ms. Escleo registered her complaint before Executive Judge Ulibarri. On January 13 and 14, 1998, Judge Ulibarri conducted an investigation of the charges against respondent. Both complainant and respondent were in attendance on both dates. Phoebe Carbon was also present in the investigation held on January 14, 1998. The proceedings before Judge Ulibarri were transcribed and the case was subsequently referred to the Office of the Court Administrator (OCA).

Directed to file an answer, respondent submitted an affidavit vehemently denying the charges. She related that on January 8, 1998, while she was busy transcribing her stenographic notes, a certain Ma. Phoebe Q. Carbon, together with her foreigner-fiancé, approached her. Ms Carbon sought her assistance on how they could be married at the soonest possible time without having to await the lapse of the 10-day period of publication of their application for a marriage license. Ms Carbon explained that the urgency of the wedding was due to the fact that they were already deemed overstaying in the country. Since respondent was allegedly busy at work, she directed Ms Carbon to proceed to the Office of the Local Civil Registrar to secure a marriage license and to return to her only after she already had in her possession the necessary document. Since Ms Carbon, then almost in tears, was quite insistent in her request for assistance, respondent decided to seek the help of a friend from Cavite in securing a marriage license for Ms Carbon and her fiancé.

The next day, a very angry complainant came to respondent's office. Respondent explained to her that, *"hindi ako ang naglalakad ng kasal at wala na sa akin ang legal capacity dahilan sa ipina-process na ni Phoebe ng madalian, at babalik na lamang si Phoebe para magbayad at magpakasal sa January 12 or 13."* Complainant proceeded to report the matter to MeTC Executive Judge Ulibarri, who then ordered respondent to return the documents of complainant's sister.

Respondent denied having done anything wrong or having received money from either complainant or Ms Carbon. On the contrary, she asserted that she was actually trying to be helpful in expediting the couple's application for a marriage license.^[2]

Appended to respondent's affidavit were the affidavits^[3] of Ma. Elvie N. Cruz and Luzviminda C. Sional, who both claimed to be present when the January 9, 1998 encounter between complainant and respondent took place. Affiants stated that complainant shouted at respondent, spewing unpleasant words. Respondent calmly tried to explain to complainant but the latter continued yelling at her.

In a Resolution dated June 9, 1999, the Court resolved to refer the case to Sandiganbayan Justice Romulo Quimbo (Ret.), consultant of the OCA, for investigation, report and recommendation.

Justice Quimbo related in his Report the proceedings that transpired in his investigation:

We set the first hearing on September 13, 1999. Subpoenas were sent to both complainant and respondent. Only the respondent appeared. It does not appear on record whether the complainant received the subpoena mailed to her.

The respondent sought the postponement of the hearing as she wanted to retain the services of a lawyer. For this reason, we reset the hearing to

October 6, 1999 but because respondent suffered a miscarriage and could not be present, we cancelled said hearing. On October 20, 1999, respondent appeared with Atty. Editha Miña of the Public Attorney's Office. Complainant was again absent.

The undersigned asked respondent whether she made answers to questions propounded by Hon. Leticia Querubin-Ulibarri, Executive Judge of the Makati MeTC and contained in two transcripts of stenographic notes taken at an investigation of the complaint of the present complainant which the said Judge Ulibarri conducted on January 13 and 14, 1998. These two transcripts now form part of the record of this case having been transmitted by Judge Ulibarri. Respondent's counsel manifested that the said answers were given under duress. We, therefore, called Judge Ulibarri to appear and testify in the investigation. On December 1, 1999, Judge Ulibarri, under oath, assured the undersigned that the answers which respondent gave and which appear in the two transcripts were voluntarily made and that no compulsion was exerted to extract the same.

After the declaration of Judge Ulibarri, the respondent opted not to testify in her own behalf nor to present evidence. Instead she prayed for time to file a "position paper" which the undersigned received on December 21, 1999.^[4]

In her Position Paper dated December 15, 1999, respondent prayed that the complaint be dismissed for lack of evidence. She argued that the failure of the complainant to attend the investigation violated her right to cross-examine her accuser. She added that the complaint is based merely on hearsay, complainant not having personal knowledge of the transaction between respondent and complainant's sister.

Respondent likewise contended that she was deprived of her right to due process. In the investigation by Judge Ulibarri, which was conducted a day after the complaint was filed, respondent was not given the opportunity to answer the complaint in writing. Neither was she given the usual three days to prepare for trial. Moreover, the Judge did not inform her of her right against self-incrimination.

The acts complained of, respondent also pointed out, are not within her duties and, hence, could not be punished therefor. Finally, it was complainant's sister who solicited respondent's help and respondent should not be penalized for merely helping one in need.

Respondent attached, as Annex 1 to her Position Paper, an Affidavit executed by one Felicitas Sanje, who claimed to be a Minister/Reverend of the Spiritual Filipino Catholic Church and, as such, was authorized to conduct marriages within Metro Manila. The authority was evidenced by a Certificate of Registration and Authority to Solemnize Marriage^[5] signed by the Civil Registry Coordinator (for the Civil Registrar General).

Sanje alleged that he frequents the City Hall of Makati. He is regularly approached by those who wish to get married but whose papers are not in order and, hence, cannot be married by a judge. He stated that he usually charges P2,000.00 for Filipinos and P5,000.00 for foreigners. The fee covers the processing of the marriage

license, counseling, and other requirements, including a certified photocopy of the marriage certificate.

On January 8, 1998, at around 2:30 to 3:00 p.m., Sanje saw respondent talking to two persons. One of them, the woman, was on the verge of tears as she talked to respondent who was then busy with her typewriter. Sanje claimed that he overheard the woman pleading for respondent to help them. The woman said that they needed to get married (right away), otherwise, they would be deemed overstaying in the country. Sanje heard respondent say, "*[A]ng alam ko P5,000.00 ang bayad kapag foreigner ang ikinakasal, kasama na ang lahat ng papeles, pero hindi ako masyadong sigurado, kaya bahala ng kayong mag-usap.*" The couple then handed respondent the document evidencing the Korean's legal capacity to marry and their application for a marriage license. They asked respondent to wait for them while they had their money converted to local currency. Respondent and Sanje waited for the two until 5:00 p.m. but the couple did not return. As Sanje had overheard their conversation, respondent gave him the documents. Sanje had the papers processed since he would be conducting the marriage ceremony.

When Sanje returned to City Hall the next day, he learned that the couple had not returned. Instead, one Esmerlinda (sic) Escleo demanded from respondent the document evidencing the foreigner's legal capacity to marry. Respondent informed her that the document had already been filed in Imus, Cavite, where the marriage license was to be obtained. Sanje subsequently discovered that Escleo had filed a complaint against respondent for charging exorbitant fees, although no money had been even actually paid. Despite such failure to pay, Sanje gave the couple their marriage license. He did not solemnize their marriage, however, because they were "*magulong kausap.*"

In his Report, dated January 7, 2000, Justice Quimbo found respondent guilty of misconduct, "although it may not be characterized as gross misconduct." He recommended that respondent be suspended for a period of three (3) months, without pay, and that she be warned that the commission of the same or similar act would merit a more severe punishment.^[6]

The Court concurs with the Hearing Officer's findings and recommendation, save for the penalty.

Whether or not the complaint is hearsay, and whether or not respondent was deprived of her right to cross-examine complainant, who failed to attend the hearing called by Justice Quimbo, are largely immaterial. Respondent's purpose in raising these issues is obviously to exclude the evidence presented by complainant. But assuming these arguments are meritorious, there is still ample evidence to establish respondent's guilt -evidence provided by respondent herself.

In the investigation conducted by Judge Ulibarri, respondent bared that she had the papers processed, handing the document and the amount of P2,000.00 to a certain Raquel from the "property." She also revealed that, by merely antedating the marriage license, the 10-day posting requirement could be skirted. The "agent" or go-between justified the large fee.

Maritess Dorado

- Kasi Ma'am, magpapakasal daw sila. Tapos, sabi ko, dito pwede ten days, sabi ko sa kanila, tapos sabi ko...