

SECOND DIVISION

[A.M. No. P-01-1528, December 07, 2001]

**CELESTIAL D. REYES, COMPLAINANT, VS. ERLINDA M. PATIAG,
CLERK OF COURT, MUNICIPAL TRIAL COURT, GAPAN, NUEVA
ECIJA, RESPONDENT.**

D E C I S I O N

MENDOZA, J.:

This is a complaint for misconduct and discourtesy. Respondent Erlinda Patiag is Clerk of Court, Municipal Trial Court, Gapan, Nueva Ecija, while the complainant, Celestial D. Reyes, is the private complainant in Criminal Case No. 292-97 and the plaintiff in Civil Case No. 4482, both of the MTC, Gapan. Complainant alleges that she went to see respondent to follow-up on the criminal case but respondent, in a very rude manner, denied her request to see the record, and treated her as if she was not an interested party. Complainant alleges further that respondent and Gerardo S. De Leon, public prosecutor in charge of Criminal Case No. 292-97, conspired to make her lose her case.^[1]

In a supplemental complaint, complainant made the further claim that without notice to her, the hearings set on May 20 and July 17, 1997 in the civil case were cancelled; that her counsel filed a motion to declare the defendants in default but that the same was arbitrarily denied; and that the criminal case which she filed was not set for hearing until a month after the arraignment.^[2]

Respondent denies the allegation against her. She recalls having dealt with complainant on June 19, 1997 when the latter went to the court to request a copy of the warrant of arrest in Criminal Case No. 292-97. She claims, however, that because the judge had a standing order that warrants of arrest should be released only to the warrant officer, she told complainant to wait for the warrant officer to come. Respondent added that she only dealt with complainant very briefly as she referred her to one of the court stenographers. Respondent denies that she refused complainant's request to be allowed to see the records of the case.^[3]

Anent complainant's claims regarding the postponements of hearings, respondent states that contrary to what complainant stated, there was no hearing scheduled on May 20, 1997 and, therefore, there was nothing to reset. On the contrary, it was complainant's counsel who moved for the postponement of the preliminary investigation of the criminal case from July 7, 1997 to June 16, 1997. Lastly, respondent denies knowing or having dealt with the public prosecutor in Criminal Case 292-97.^[4]

Complainant filed a letter-reply. She contends that she is not questioning the trial court's policy regarding the release of warrants of arrests. She claims that her complaint pertains to respondent's conduct in sarcastically telling her that she

seemed to know more than the court when she asked why another "preliminary investigation" had to be conducted when one had already been held by the public prosecutor. Complainant said she erred in alleging that a hearing was scheduled on May 20, 1997 and explained that she meant a hearing conducted on May 22, 1997.

[5]

The case was referred to Executive Judge Arturo M. Bernardo of the Regional Trial Court, Gapan, Nueva Ecija, for investigation, report, and recommendation. After the parties had filed position papers, the case was submitted for resolution. On February 4, 1999, Judge Bernardo submitted his report finding the allegations of misconduct to be without any basis but recommending that respondent be censured for "discourtesy and disrespect."

In the resolution of August 16, 1999, the Court returned the case to Judge Bernardo for further investigation, including, if necessary, the holding of hearings. Consequently, the Investigating Judge scheduled the case for hearing, but, out of several hearings set, complainant attended only one. On respondent's motion, therefore, the case was considered submitted for resolution.

On September 3, 1999, the Investigating Judge submitted his second report in which he reiterates the findings in his original report of February 4, 1999, the pertinent portions of which read:

[T]he position paper of the complainant expounding her charges was not accompanied by supporting affidavits.

. . . .

There's also no showing that complainant was deprived of access to the records of the case. What appears is complainant's request for a copy of the warrant of arrest in connection with the criminal case for Falsification of Public Document, docketed as Criminal Case No. 292-97, which respondent Clerk of Court denied due to the standing directives of the Presiding Judge that warrant[s] of arrest should only be delivered or entrusted to [the] proper warrant officer.

Likewise, the records do not show that respondent cancelled scheduled hearings of the case either on the civil or criminal, as there were none set for . . . May 20, 1997, July 5, 1997 and November 20, 1997. While there was a resetting of the hearing on July 17, 1997 in the morning to . . . the afternoon o[f] the same date, it was through the instance of Atty. Diosdado [Padilla] And the circumstances of the resetting was aptly explained in the Order of September 26, 1997 of the Municipal Trial Court of Gapan, Nueva Ecija. Even the hearing on July 17, 1997 was [moved to another date] through the instance of counsel [for complainant] who had the duty to notify the other parties.

What happened is simply the result of common misunderstanding. For want of knowledge on the existing procedure in our courts[,] complainant became too sensitive when she was not satisfied [with] the answer of the respondent on the need for preliminary examination to determine probable cause for the issuance of the warrant of arrest. Under our