

THIRD DIVISION

[**A.M. No. P-00-1430 (Formerly OCA IPI No. 97-225-P), October 03, 2000**]

ATTY. JOSEPHINE MUTIA-HAGAD, COMPLAINANT, VS. IGNACIO DENILA, CLERK OF COURT II AND JAIME DAYOT, COURT INTERPRETER.

RESOLUTION

MELO, J.:

In a letter-complaint addressed to the Office of Atty. Adelaida Cabe-Baumann, Chief Administrative Services of the Supreme Court, dated November 22, 1995, complainant Atty. Josephine Mutia-Hagad, Clerk of Court II, Regional Trial Court, Branch 62, Bago City, charged herein respondents Ignacio Denila and Jaime Dayot with gross malfeasance. Complainant requested that respondent Denila's appointment as Clerk of Court in the Municipal Circuit Trial Court of Valladolid, Pulupandan and San Enrique and his transfer thereto be held in abeyance and his salary withheld, until he has been cleared of his duties, responsibilities, as well as property accountabilities as Legal Researcher in Branch 62 of the Regional Trial Court stationed in Bago City, particularly with respect to Civil Case No. 07 entitled "Armando Soberano vs. Andres Guansing, et al."

In a resolution dated March 17, 1997, the Court resolved to refer the matter to Acting Presiding Judge Edgardo L. Catilo, Regional Trial Court, Negros Occidental, Bago City, Branch 62, for investigation. Not satisfied with the result of investigation, the Court authorized on January 26, 1998, Deputy Court Administrator Zenaida N. Elepaño to reinvestigate the matter.

Deputy Court Administrator Elepaño summarized the factual background of the case at hand in the Memorandum duly approved by the Court Administrator, thusly:

According to Atty. Hagad, Denila sought a certificate of clearance of accountabilities from her in connection with his impending appointment as Clerk of Court of MCTC Valladolid-Pulupandan-San Enrique, Negros Occidental. She refused to issue the same because he could not account for and return to the court the records of Civil Case No. 07 entitled "Armando Soberano vs. Andres Guansing, et al." which were handed over to him by the late Judge Marietta Hobillo Aliño for the drafting of a Statement of Facts and research. She later on learned that during her maternity leave of absence, Jaime Dayot issued the clearance to Denila who was his first cousin, despite knowledge that Denila could not account for the missing case record. Atty. Hagad requested Atty. Baumann that Denila's transfer be held in abeyance, his salary be withheld pending clearance and that both cousins be sanctioned for their malfeasance.

In his Comment dated 11 December 1995, Denila claimed that the

refusal of Atty. Hagad to issue him a clearance was unreasonable and arbitrary as she had no basis whatsoever to hold him responsible for the missing records since he was not the court's record custodian. He admitted though that Dayot issued him the clearance while the latter was officer-in-charge of the court so that his initial salary as new MCTC Clerk of Court could be released.

In a reply dated 15 January 1996 to the protestations of Denila, Atty. Hagad explained that the missing *expediente* was last known to be in Denila's possession. Although Denila was not assigned to keep records of cases of the court, this particular *expediente* was turned over to him for research upon instructions of Judge Alinio. Isabelita Tijon, Staff Assistant II and Clerk-in-Charge of Civil Cases of the Court issued a certification to this effect. The issuance of the clearance by Jaime Dayot to his cousin Denila therefore was clearly highly irregular since Dayot's alleged designation was not official.

(pp. 69-70, Rollo.)

After a thorough examination of the record of the case, we are in complete agreement with the findings and recommendation of the Office of the Court Administrator that:

To constitute malfeasance, the act performed by the person must be one which he ought not to do. From the established facts, we find that Denila and Dayot committed malfeasance for which they cannot escape administrative accountability.

Wherefore, premises considered, it is respectfully recommended to the Honorable Court that:

(a) Ignacio Denila be FINED in the amount of FIVE THOUSAND PESOS (P5,000.00) for his negligence and for his cavalier attitude towards the recovery of a case record under his custody by refusing to help look for it;

(b) Jaime Dayot be SUSPENDED for two (2) weeks without pay for his precipitate haste in issuing such clearance without prior consultation with either Atty. Mutia Hagad or the Executive Judge; and

(c) both respondents be sternly warned that a repetition of the same or similar acts will be dealt with more severely.

(*Ibid*, p. 74.)

The conduct and behavior of everyone connected with an office charged with the dispensation of justice, from the presiding judge to the lowliest clerk, should be circumscribed with the heavy burden of responsibility.

It is beyond question that the administration of justice is a sacred task so that respondent Denila, the last person to hold the missing expediente, by the very nature of his duties and responsibilities as legal researcher, should have borne in mind that his arrogant and insolent attitude in refusing to help locate and find the