

JUDGE PERFECTO A.S. LAGUIO, BRANCH IX, CITY COURT OF QUEZON CITY, COMPLAINANT, VS. HERMINIA C. DIAZ, RESPONDENT.

Adm. Mat. No. (3167-V) P-2195. May 29, 1981

Ponente: AQUINO, J.

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AQUINO, J.:

Justice Lorenzo Relova, the Court Administrator, submitted the following report on these two cases:

"The complaint against Herminia C. Diaz is predicated on 'inefficiency, impulsiveness, irascibility, discourtesy, insolence and arrogance, as well as for failure to report for duty.'

"It appears that Diaz was appointed on April 18, 1976 as deputy clerk of court of Branch IX, city court, Quezon City. Judge Perfecto Laguio was and still is the presiding judge of Branch IX and at the time of the appointment of respondent Diaz, her husband Leopoldo Diaz, was the trial fiscal in that sala. In fact, Judge Laguio did not know respondent Diaz personally, but he recommended her for the position upon the request of Fiscal Diaz. She was given a city budget item. Thereafter, another branch clerk of court (National Government Item) to the same sala was appointed in the person of Celedonio Roden.

"On the other hand, the complaint against Judge Perfecto A. S. Laguio, Jr., by Herminia C. Diaz is for 'oppression, ignorance of the law, inefficiency, violation of the civil service laws, discourtesy, grave abuse of discretion and grave misconduct in office.'

"The relationship of the personnel in Branch IX did not appear to be harmonious. There was a conflict in the versions as to who was the cause of it. On the one hand, respondent Diaz blames Oscar Trivifio, a janitor in Branch IX; on the other hand, the lack of harmony was attributed to Diaz. The open break between Judge Laguio and Deputy Clerk Diaz began on April 3, 1978 when the work of the deputy clerk of court of Branch IX was divided between Deputy Clerk of Court Celedonio Roden to whom was assigned five (5) employees, and to Diaz to whom was assigned only three (3) employees.

"Roden was given the responsibility of the criminal cases, whereas Diaz was designated to take charge of the administrative aspect of the civil cases.

Judge Laguio justifies the division of work as necessary because of what he claims to be 'inefficiency and discourtesy of Diaz.'

"On April 12, 1978, then Executive City Judge Minerva C. Genovea, now a CFI Judge of Rizal, stationed at Pasig, issued, upon recommendation of Judge Laguio, a memorandum assigning Diaz to the Office of the Clerk of Court. This was followed by a notice which was posted in the courtroom of Judge Laguio informing the public that Herminia C. Diaz had been permanently assigned to the Office of the Clerk of Court and that Deputy Clerk Roden was to take charge of the administrative aspect of all criminal and civil cases.

"Diaz considered her transfer to the office of the clerk of court as an act of oppression by Judge Laguio. She went on leave for an indefinite period beginning May 1, 1978. However, upon instruction of Judge Laguio, the

leave period was fixed from May 1 to June 30, 1978. Diaz extended her leave to September 30, 1978. Upon termination of her leave, she reported for work but on October 3, 1978 she again applied for vacation leave, from October 4, 1978 to December 31, 1978. The application was submitted to Clerk of Court Vitaliano Valdellon who referred the same to Judge Laguio and to the Executive Judge. Both Judge Laguio and then Executive City Judge Genovea denied the leave application.

"On October 5, 1978, Judge Laguio issued a memorandum recalling Diaz to Branch IX and she was to be given legal research work as well as such other functions as may be assigned to her from time to time by Roden. Instead of reporting to Branch IX, she applied for sick leave for three (3) months beginning October 6, 1978, attaching thereto a medical certificate of Dr. Edilberto Lopez that Diaz was under treatment for hypertensive vascular disease. Further, she wrote of the uncivil and unchristian treatment from the Presiding Judge. Specifically, she complained that she was assigned to room away from the personnel; that she was given a dilapidated table; that she was to receive orders from Roden who holds a position of equivalent rank and who was her junior. She described her assignment as a 'demotion tantamount to dismissal.'

"When Diaz did not report for work, Judge Laguio sent her a memorandum dated October 23, 1978, requiring her to explain within 72-hours why no disciplinary action should be taken against her for her absences notwithstanding denial of her leave application since October 6, 1978. Replying, Diaz expressed her grievances and the harassment she received relating to her assignment to the Office of the Clerk of Court.

"Judge Laguio ordered her suspension without pay for five (5) days, effective November 11, 1978. Diaz questioned the suspension order as erroneous and informed the judge that 'I shall report for duty as soon as my physical condition warrants and upon advice of my physician.'

"Judge Laguio sent his letter of November 22, 1978, imposing a one (1) month salary fine on Diaz for failure to report after a lapse of the suspension period, with the warning that if she should insist in not reporting for work a heavier penalty would be imposed. The judge did not consider her explanation as satisfactory because Diaz enrolled in the bar review classes of the; University of the Philippines.

"Diaz, on December 4, 1978, wrote Executive Judge Genovea by way of a detailed answer to Judge Laguio's order of November 22, 1978, imposing upon her one (1) month salary fine, pointing out what she felt were the errors in the said order. She asked that the order of Judge Laguio be 'dissolved' and, in the event Judge Genovea felt she could not resolve a case of this nature, the matter be referred to the Supreme Court. Following the letter of Diaz, Judge Laguio issued his dismissal order on December 6, 1978 which per resolution of the Supreme Court was treated as a complaint of the judge against Diaz.

"In the meantime, Judge Laguio had occasion to try cases wherein some lawyers complained about the conduct of respondent judge. Atty. Bernardo Cuaresma complained of the tardiness of Judge Laguio in the hearings of the cases before him which usually begin at 10:00 in the morning; that respondent judge acted as prosecutor and judge in his case and at times shouted at his witnesses. Atty. Camilo Flores also complained about the latter's late arrival. Atty. Manuel Yusoc mentioned of an incident during the trial of case when both counsel and witness was scolded by respondent judge. These lawyers did not file their complaint against Judge Laguio but, except for Atty. Flores, they testified in the administrative investigation conducted by Executive Judge Ernani Cruz Paflo of the Court of First Instance of Quezon City.

"Judge Laguio justified the transfer of Diaz because he did not find her work satisfactory as some pleadings were lost or misplaced. He also found objectionable the change in style effected in his orders by Diaz without his consent. Further, he said that Diaz tried to influence him in an ejectment case when she even prepared the draft of the decision in favor of the defendant; that Diaz is irritable for which reason he had to call a meeting of his staff to settle the misunderstanding between her and the other employees; that she receives complaints of discourtesy by Diaz from judges and fiscals; that the stenographers complained that Diaz failed to turn over to them the fees of the transcript of stenographic notes.

"Executive Judge Ernani Cruz Pafio of the Court of First Instance of Rizal, in Quezon City, to whom these two cases were referred for investigation, made the following report:

'In brief it would appear that the charges against Diaz by Judge Laguio contained in the letter of December 6, 1978, (except that of failure to report for work) are rooted in the lack of rapport between Diaz on one hand and the majority of the personnel of Branch IX. The acts characterized by Judge Laguio as "inefficiency, impulsiveness, irascibility, discourtesy, insolence and arrogance," in their totality do not appear to warrant any disciplinary sanction because Judge Laguio himself as of April 12, 1978, did not find cause to charge Diaz for such acts; rather, he felt the situation remedied by the transfer of Diaz to the office of the clerk of court.

'The situation in Branch IX of the city court prior to April 12, 1978, appears to be traceable to the inevitable personnel disorientation that would arise when the wife of a former trial fiscal of Judge Laguio was appointed deputy clerk; there arises what sociologists would call a confusion of roles; on one hand, as the wife of an assistant city fiscal, Diaz would naturally feel superior to all the personnel of Branch IX; she would thus ignore talks against her because "I don't stoop to their level being the' wife of an asst. city fiscal; I don't go to their level" (TSN, Nov. 5, 1980, p. 8). On the other hand, she is also a subordinate employee of Branch IX who must be treated as any other employee.

'Before Roden was appointed, and while she was new in her work, she was given very broad authority by Judge Laguio, but later with Roden coming in, somehow her authority was eroded, and this brought about misunderstanding with other court personnel of Branch IX.

'Her authority was further undermined with the division of the work in Branch IX between Diaz and Roden. This must have placed too much stress on Diaz, and because of her illness made her irritable. The Inquest Judge perceives no misconduct at this point; even the alleged discourtesies to certain judges and fiscals are not really acts of discourtesy, even if the reports made to Judge Laguio were true. The failure of a court personnel to greet superiors may indicate lack of desire to promote social intercourse; it should not be considered as deserving of disciplinary sanction.

'To the mind of the investigator, the misconduct of Deputy Clerk Diaz consists of her refusal to report for work after her original leave expired on September 30, 1978. What is abundantly clear is that she did not want to return to Branch IX; if she felt that conditions of work in Branch IX would be unwholesome, she should have either resigned or protested thru proper channels.

'The claim that she was ill is a mere device to justify her absence— because she continued to attend her bar review; also, Dr. Lopez, as earlier pointed out was not called to give testimony in this case. It was the defiance of the recall order which provoked Judge Laguio into asserting that he believed was his disciplinary power over Diaz. It was thus the intransigence of Diaz which prompted Judge Laguio to dismiss her. Such conduct is certainly prejudicial to the orderly management of the court.

'On the other hand, Judge Laguio cannot be faulted for desiring to maintain peace in his court with the detail of Diaz to the office of the clerk of court. As a good subordinate, had Diaz accepted the assignment the matter would have ended right there and then.

'However, Diaz chose to consider herself blameless on her supposition that she was a victim of office intrigues and instead of taking the proper remedial measures over the matter she has seen fit to defy the order by not reporting for work except on October 3, 1978. At the very least, Diaz has shown insubordination with her attempt to evade compliance with the order detailing her to the office of the clerk of court and later, her recall to Branch IX.

'Considering, that she was the wife of Judge Laguio's former trial fiscal, it is difficult to believe that Judge Laguio would treat her in any manner except with deference. As the investigating judge see it, Judge Laguio was treating Diaz too gingerly; instead of being severe with her, Judge Laguio was content with recommending her assignment to the Clerk of Court's office.

'Also, while Judge Laguio may have misconstrued the provisions of P.D. 807 and his authority to dismiss Diaz, not every error of judgment may be considered as a ground for disciplinary action against a judge.

'In the matter of the disciplinary measures imposed by Judge Laguio on Diaz, the same may be considered merely as proposals or recommendations, as it appears that the letter suspending Diaz dated November 3, 1978, was furnished the Executive Judge of the city court, Quezon City and through Atty. Arturo Buena then Executive Officer, Administrative Supervision of Court, Supreme Court; the same procedure was observed when a fine was imposed upon Diaz on November 22, 1978, and finally when the letter of dismissal was issued on December 6, 1978.

'The posting of notices on the personnel movement of Diaz may likewise not be considered as oppression because on its face there does not appear to be any derogatory statements on said notices. The apparent purpose was simply to notify the parties and litigants with whom they should deal in the matter of making inquiries on the work of the personnel of Branch IX.

'The belief of Judge Laguio that he is the disciplining authority, is not entirely indefensible and may not be considered gross ignorance of law. In his textbook 'Disciplinary Rules and Procedures in the Philippine Service,' the late Commissioner Abelardo Subido interpreting *Garcia vs. Teehankee*, 27 SCRA 1142, expressed the view that a presiding judge of a court and as chief of the office, may hear and decide cases of her personnel and give final decisions involving the imposition of a penalty of suspension of not more than thirty (30) days or a fine in an amount not exceeding 30 days salary.

'Their decisions, however, imposing the penalty of suspension of more than 30 days or fine in an amount exceeding 30 days' salary, or transfer, or demotion in rank or salary, or dismissal from office, are reviewable by the Supreme Court. (See Subido, *Disciplinary Rules and Procedure in the Civil Service*, P. 180).

'Also, in *Bagatsing vs. Herrera*, (65 SCRA 434) the issue posed was whether Vicente S. Pulido who was occupying the position of chief deputy sheriff, City of Manila, was a city employee subject to the disciplining authority of the City Mayor or is a personnel of the Court subject to the disciplining authority of the Supreme Court. As Pulido was not a provincial sheriff but is a city employee, he was deemed to be under the administrative control of the Mayor of the City of Manila.

'In the case of Diaz as deputy clerk of court of the City Court of Quezon City, her appointment under the Judiciary Act is vested in the City Judge, even in cases where salary is paid by the government, (Sec. 75 of the Judiciary Act as amended by Republic Act 3828). Diaz, however, occupies the position of a local government item so that until the Supreme Court sets aside the dismissal of Diaz, it cannot be said that the action taken by Judge Laguio was "gross ignorance of the law" or that it was an act of usurpation.

'The issue as to whether Judge Laguio had the authority to dismiss her may at the very least be considered a difficult point of law. Even judges may err in their construction of difficult questions of law. (See *In Re Filart*, 40 Phil. 205).

'Neither may Judge Laguio be said to be ignorant of the law when he cited the case of *Garcia vs. Teehankee*, 27 SCRA 1142, because it appears that in citing the said decision he was only bolstering his position that he should be considered as the head of the office.

'On the matter of the violation of Civil Service Law anent the assignment of non-clerical position to Oscar Trivifio, it appears from the records that the clerical assignments given to Trivifio were only in addition to his janitorial duties. Considering the volume of work in the City Courts, the respondent judge is not without jurisdiction in availing all personnel in his office to assist in the performance of the work therein.

'On the charge of discourtesy, what is immediately apparent is that the three lawyers who supported this charge did not on their account file any administrative case against Judge Laguio; also all these lawyers appeared to have received unfavorable decisions from respondent judge. In the light of these circumstances, it is easy to

appreciate that they would misconstrue the desire of the respondent judge to act with dispatch on their respective cases as misconduct deserving of disciplinary sanction.

'Oftentimes a presiding judge finds it necessary to raise his voice either to emphasize a point or maintain order in his court. While the respondent judge may have exhibited some impatience in the case of Atty. Bernardo Cuaresma, Atty. Yuzon and Atty. Flores, the investigator is satisfied there was no malicious intent on the part of the respondent judge to expose to ridicule the lawyers who appear before him, particularly considering the testimony given by Attys. Pormento, Tating, Villar-Verzola, Mison and Calvario. It would have been desirable if Judge Laguio had exhibited greater patience in dealing with these three lawyers; these isolated instances however do not call for disciplinary action.

'The same must be said as to the charge that Judge Laguio opens his session at 10:00 o'clock in the morning, even as late as 10:45 a.m. Again the testimony not only of Judge Laguio but of the other lawyers who testified for him indicate that while there may have been occasions where Judge Laguio opens his sessions after 9:00 o'clock, it does not appear that this is a fixed pattern in his official conduct. On the other hand, even a witness for Diaz, Fe Ortaleza, admitted that Judge Laguio stays in his chambers even after his personnel had left. More significantly, there is no suggestion by Diaz that the output of Judge Laguio had ever been below par. What rather appears is that Judge Laguio had been pressing lawyers to expedite the trials of their cases, so that he incurred the ire of lawyers like Atty. Cuaresma, Atty. Yuzon and Atty. Flores.'

'The undisputed fact in this case is that Judge Laguio appears quite efficient in the speedy disposal of cases in his sala, even to the point at times of riding herd on the lawyers and parties.'

and recommended that,

'1. In Administrative Matter No. 3167-V, the charge of "inefficiency, irascibility, discourtesy, insolence, and arrogance" against Mrs. Herminia C. Diaz must be dismissed because Judge Perfecto Laguio himself found that the detail of Diaz to the office of the clerk of court was sufficient remedial measure for the lack of harmony between Diaz and the staff of Branch IX of the city court. However, for the failure of Diaz to report for work when ordered to do so by Judge Laguio, the investigator finds this as misconduct deserving of disciplinary sanction.

'It is recommended that Deputy Clerk Herminia Diaz be considered as under suspension without pay from October 4, 1978 to December 31, 1978, as her vacation leave application for this period was denied by both Judge Laguio and Judge Minerva Genovea. It is also recommended that she be permanently assigned to the office of the clerk of court with the warning that repetition of the offense will be treated more severely.

'2. In Administrative Matter No. 2087-CTJ, the Investigator finds the charges to be without foundation in fact and in law. These charges appear to be a mere offshoot of the dismissal of Diaz by Judge Laguio. However, it is recommended that the respondent judge should be admonished to show more patience and be more temperate in his language when addressing the lawyers and the litigants in his court.' "

The Court Administrator concurs in the investigator's recommendation. We approve that recommendation.

In Administrative Matter No. 3167-V, we hold that respondent Herminia C. Diaz is not entitled to any pay from October 4 to December 31, 1978. She is deemed to be under suspension during that period.

She is hereby permanently transferred to the office of the clerk of court of the city court of Quezon City. The executive judge of the city court is directed to implement the transfer immediately.

The charges against respondent Judge Laguio in Administrative Matter No. 2087-CTJ are hereby dismissed for being unfounded. However, he is admonished to act with decorum and dignity in court, to be temperate, attentive, patient and impartial, to be courteous to counsel and to strive that his official conduct should be free from the

appearance of impropriety and his personal behavior should be beyond reproach. (Nos. 3, 4 and 10, Canons of Judicial Ethics, Administrative Order No. 162, 42 O.G. 1803.)

Copies of this decision should be attached to the personal records of the parties.

SO ORDERED.

Fernando, C.J., Barredo, Guerrero, and De Castro, JJ., concur.

Concepcion Jr., J., is on official leave.

Abad Santos, J., took no part.

Guerrero, J., was designated to sit in the Second Division.

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