

SPS. RAYMUND AND JULIE ANN MIÑOSO, COMPLAINANTS, VS. FREDDIE PAMULAG, CLERK OF COURT, MTCC-BRANCH 4, ILOILO CITY, RESPONDENT.*A.M. NO. P-05-2067 (FORMERLY OCA IPI NO. 04-1851-P). August 31, 2005*

Ponente: CHICO-NAZARIO, J.

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The instant administrative case arose from the affidavit-complaint^[1] of Spouses Raymund and Julie Ann De Los Santos-Miñoso, charging Freddie Pamulag, Clerk of Court, Municipal Trial Court in Cities (MTCC) of Iloilo City, Branch 4, with usurpation of authority, partiality and conduct unbecoming of a public officer.

The records of the case disclose that Julie Ann De Los Santos-Miñoso (Miñoso) is the private complainant in Criminal Case No. 581 (99) entitled, "People v. Desiree Espino," for violation of Batas Pambansa Blg. 22, pending before MTCC, Branch 4, Iloilo City.

Private complainant Miñoso alleged that at about 9:30 a.m. of 08 September 2003, respondent called her by phone and told her to proceed to MTCC, Branch 4, Iloilo City. Instead of going alone, Miñoso took her husband with her and proceeded directly to MTCC, Branch 4. Upon arrival, accused Desiree Espino greeted them. Respondent approached and told them to follow him to the judge's chambers. Thinking that he was the judge, complainants followed.

While inside the judge's chambers, respondent requested the court personnel to leave. He sat on the judge's chair while complainant Raymund greeted him "Good Morning Judge." Respondent did not say anything but appeared seemingly satisfied and elated. He was addressed as "Judge" repeatedly about four (4) times by the complainant with nary any resistance from the respondent. Respondent then tried to convince complainant (Miñoso) and accused to settle their case immediately and sign right away an amicable settlement, as basis for dismissing the complaint.

Complainants claimed that by posing as the trial judge, and intervening in the settlement of their case, respondent committed serious misconduct, usurpation of authority, conduct unbecoming of a public officer and bias and partiality.

In his comment, respondent denied the allegations against him. He alleged that Criminal Case No. 581 was filed on 18 February 1999, prior to his appointment as Clerk of Court in November 2000. He further averred that he was properly introduced as the Clerk of Court of Branch 4, thus, it was impossible to have mistaken him as the presiding judge. He claimed that he was at the chambers of the judge because he was then conducting the inventory of records. He denied that accused was his neighbor. As Clerk of Court, he said that it is his duty to assist the parties in the management of court dockets.

On 24 June 2004, the Office of the Court Administrator (OCA) recommended^[2] that the case be referred to the Executive Judge of MTCC, Iloilo City, for investigation, report and recommendation.

On 10 January 2005, Executive Judge Amalik P. Espinosa, Jr., after investigation, submitted his report,[3] pertinent portions of which read:

From the foregoing, the incident was brought forth when the accused, Desiree Espino was arrested and brought to Branch 4, MTCC-Iloilo City in the morning of September 8, 2003, and as a result thereof, said accused contacted through telephone, the private complainant for the criminal case, Julie Ann Minoso, and the respondent, Freddie Pamulag, invited her to come over to their Office that same morning, for which the complaining spouses, came over. Since the respondent most of the time, stays inside the Chamber (sic) of the Presiding Judge, and that at that day, the Acting Presiding Judge has not yet reported to Office, he took liberty of inviting the opposing parties inside the Judge's Chamber (sic), and there conducted the negotiation for possible settlement of the case, since he believes it is his responsibility and obligation also, even as a Branch Clerk of Court, to actively try to settle the case, because it is a disposal of case for the Court.

It is of this situation that indeed, the complaining spouses presumed and believed that the respondent was the Presiding Judge, since he had the liberty even to sit on the swivel chair of the Judge, and the negotiation took place while they were seated at the other end of the table where the respondent sat.

Even though, the respondent was addressed as Judge, he seem (sic) to like it, as he even tried to reason out that he identified himself as the Branch Clerk of Court, this could be an afterthought, for even when the parties were done with their negotiation, the parting words of the complaining Spouses was, "Good bye Judge". It is but sure, the respondent acted well on his part as a Judge.

More so, the partiality of the respondent towards the accused, Desiree Espino is but apparent and clear, as shown by his assistance given to her, who being arrested on the basis of a bench warrant, was able to file, process and have a bail bond approved that morning, and was released, even knowing of the fact that his Presiding Judge will be reporting that day, yet he have (sic) the bail bond processed and signed by the Pairing Judge. He also admitted that he knew by the nature of a bench warrant issued, it is only the issuing judge himself who can approve the release of the accused. All these circumstances simply show his partiality to the accused.

Is settlement of a case a judicial act? By all circumstances, Yes, and a Branch Clerk of Court is not clothed with authority to initiate such activity, more so in this particular case, when the other party was made to believe that he was the Presiding Judge of the Court where the negotiation was made.

"There is usurpation of judicial function when a person who is not a Judge attempts to perform an act, the authority to which the law has vested only upon the Judge." (Elena Pace vs. Rene M. Leonardo, etc., A.M. No. P-03-1675, August 6, 2003).

Furthermore, the actuations of the respondent in using the Judge's Chamber in undertaking his continuous inventory of cases, which he stated to be about 2,000 cases, more or less, is but a lame excuse, since, a Supreme Court Circular provides time to conduct the same, which is twice a year. When he acted freely inside the Court's Chamber, by sitting on the swivel chair reserved for exclusive use of the Presiding Judge and conducted the negotiation while in front of Judge's desk/table, such action defiles the Court's Chamber. The Court's Chamber, even without the presence of the Judge must be given due respect, since by itself the room exudes authority and power attached to the Office of the Judge in dispensing justice. The actions taken by the respondent defiled said Court's Chamber, as such is considered and tantamount to conduct unbecoming of a Public Officer.

"Each of us is called upon to act with utmost circumspection for any misbehavior, whether true or only perceived, on the part of the Court personnel would most certainly reflect never kindly on the judiciary." (Recca, et al. vs. Mario C. Baculi, etc. et al., A.M. No. P-02-1627, August 7, 2003)

Furthermore, what fueled the sentiments of the complaining Spouses to file this case was the loss of the copy

of the Information in the records of Criminal Case No. 581(99), which caused the postponement of the arraignment of the accused on September 10, 2003, but eventually the accused, Desiree Espino, is no longer available and an Order of Arrest was issued anew, but the case is pending, and the complaining Spouses failed to get justice.

All the foregoing, the undersigned, most respectfully recommends for an administrative sanction against the respondent, for One (1) Month and One (1) Day suspension, without pay, with a stern warning that a repetition of similar misconduct will be dealt with more severity.

On 03 May 2005, the OCA submitted its Evaluation Report adopting the findings and recommendation of Executive Judge Espinosa.

We sustain the findings and recommendations of both the Investigating Judge and the Court Administrator that, indeed, respondent usurped the function of the judge by steering the parties into an amicable settlement especially pressuring complainants to amicably settle in favor of accused and that such acts also demonstrated partiality in favor of the accused in the case which acts constituted conduct unbecoming of a public official.

A Clerk of Court is an essential and a ranking officer of our judicial system who performs delicate administrative functions[4] vital to the prompt and sound administration of justice.[5] His office is the nucleus of activities, adjudicative and administrative, performing, among other functions, the keeping of records and seal, issuing of processes, entering judgments and orders and, upon request, the giving of certified copies from the records.[6] The term "administrative" connotes or pertains to administration, especially management, as by managing or conducting, directing or superintending, the execution, application, or conduct of persons or things. It does not entail an opportunity to be heard, the production and weighing of evidence, and a decision or resolution thereon.[7] Clerks of Court cannot be allowed to overstep their powers and responsibilities by exercising judicial functions. Judicial function is an act performed by virtue of judicial powers. The exercise of a judicial function is the doing of something in the nature of the action of the court. Judicial function presupposes the use of mental processes in the determination of law or fact, and at times involves discretion as to how the power should be used.[8] At this point, it becomes necessary to restate the duties of Clerks of Court as defined in the 2002 Revised Manual for Clerks of Court as follows:

Adjudicative Support Functions

- Prepares and signs summonses, subpoenas and notices, writs of execution, remittances, and releases of prisoners;
- Certifies true copies of decisions, orders, and other processes, letters of administration and guardianship; transmittals of appealed cases, indorsements and communications; and
- Prepares and signs monthly reports of cases.

Non-Adjudicative Functions:

- Plans, directs, supervises and coordinates the activities of all divisions/sections/units in the Office of the Clerk of Court;
- Controls and manages all court records, exhibits, documents, properties and supplies;
- Acts on applications for leave of absence and signs daily time records;
- Determines the docket fees to be paid by the parties-litigants as provided in the Rules of Court;
- Issues clearances in appropriate cases;

- Provides information services to the public and private agencies including bar associations;
- Prepares cases for raffle;
- Safekeeps and maintains a judgment book and execution book;
- Studies and recommends to the Executive Judge ways and means to improve both adjudicative and support functions;
- Performs special functions as ex-officio municipal sheriff;
- Implements all orders and policies of the court in connection with the speedy administration of justice;
- Performs other duties that may be assigned to him.

As may be gleaned above, the functions of a Clerk of Court do not involve the use of mental processes in the determination of law or fact nor do they involve discretion on the use of judicial powers. The functions are generally administrative in nature. Verily, leading the parties to an amicable settlement is not a function of a clerk of court.

There is usurpation of judicial function when a person who is not a judge attempts to perform an act the authority for which the law has vested only upon a judge.[9] Under Art. 2029 of the Civil Code, the Court shall endeavor to persuade the litigants in a civil case to agree upon some fair compromise. However, such amicable settlement by parties-litigants ought to be tackled during the pre-trial conference.

As correctly observed by the OCA, while respondent did not introduce himself as a judge, he did not disabuse complainants' belief that he is one. Complainant Raymund addressed him "Judge" at least four times, but he did not attempt to correct such erroneous impression, ostensibly relishing and delighting in being thus perceived. In the words of Executive Judge Espinosa, respondent "acted well on his part as a judge." As stated, such act can only mean a deliberate intent to put across an impression of influence in order to serve his purpose, i.e., in the case at bar, to pressure complainants to amicably settle in favor of the accused. Clearly, respondent improperly clothed himself with judicial authority. He took upon himself the performance of a judicial function, one that necessarily involves the exercise of judicial discretion or judgment.

Respondent tried to evade administrative liability by making it appear that as clerk of court he is duty bound to assist the Presiding Judge in the management of court dockets.

This does not persuade us. No matter how noble his intention was, still he acted beyond the scope of his administrative authority. Even if no bad faith was attributed to him concerning the doing of said acts, he is still administratively liable for overstepping his duties. Ministering the parties to an amicable settlement is a judicial function.

Respondent's act in using the judge's chambers for said purpose is equally intolerable. As correctly observed by the OCA, respondent failed to establish that the parties were precluded from meeting somewhere else and for some other time, much less, that he has authority to summon the parties inside the judge's chambers to discuss possible settlement.

As to the charge of bias and partiality, we find the same to be present in this case. We quote hereunder the findings of the investigating judge:

More so, the partiality of the respondent towards the accused, Desiree Espino is but apparent and clear, as shown by his assistance given to her, who being arrested on the basis of a bench warrant, was able to file, process and have a bail bond approved that morning, and was released, even knowing of the fact that his

Presiding Judge will be reporting that day, yet he have the bail bond processed and signed by the Pairing Judge. He also admitted that he knew by the nature of a bench warrant issued, it is only the issuing judge himself who can approve the release of the accused. All these circumstances simply show his partiality to the accused.

A judicial office demands the best possible men and women in the service.[10] No position demands greater moral righteousness and uprightness from its holder than the judicial office. Those connected with the dispensation of justice bear a heavy burden of responsibility. Clerks of court in particular must be individuals of competence, honesty, and probity, charged as they are with safeguarding the integrity of the court and its proceedings.[11] Respondent, as a court employee, was required to conduct himself with propriety and decorum, in order that his actions would be beyond suspicion.[12]

This Court has consistently held that persons involved in the administration of justice ought to live up to the strictest standards of honesty and integrity in the public service.[13] The conduct required of court personnel, from the presiding judge to the lowliest clerk, must always be beyond reproach and circumscribed with the heavy burden of responsibility.[14] This Court cannot countenance any act or omission by all those involved in the administration of justice, where such act or omission would violate the norm of public accountability and diminish the faith of the people in the judiciary.[15]

Clearly, by committing the acts subject of the present complaint, respondent utterly failed to live up to the norms of conduct demanded of his position. His infractions adversely affected the dignity and honor of the courts and flicker the people's faith and trust in the judiciary. He has veered away from the strict standard of integrity, uprightness and honesty in the public service. Obviously, he should suffer the consequences of his acts.

Respondent's act is akin to misconduct. Misconduct is a transgression of some established or definite rule of action; more particularly, it is an unlawful behavior by the public officer.[16] Simple misconduct is a less grave offense punishable by suspension for one month and one day to six months for the first offense. Considering this is respondent's first offense and that he has served the trial court for almost sixteen (16) years, a suspension of one (1) month and one (1) day will suffice.

WHEREFORE, in view of the foregoing, respondent Freddie Pamulag, Clerk of Court, Branch 4, MTCC, Iloilo City, is found guilty of SIMPLE MISCONDUCT and suspended for one (1) month and one (1) day without pay. A repetition of the same or similar act will be dealt with more severely.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr. and Tinga, JJ., concur.

[1] Rollo, pp. 2-3.

[2] Rollo, pp. 26-28.

[3] Investigation Report, pp. 6-8.

[4] Office of the Court Administrator v. Saguyod, A.M. No. P-96-1229-30, 25 March 2002, 379 SCRA 662.

[5] Escañan v. Monterola II, A.M. No. P-99-1347, 06 February 2001, 351 SCRA 228.

[6] Supra, note 4.

[7] University of Nueva Caceres v. Martinez, G.R. No. L-31152, 27 March 1974, 56 SCRA 154.

- [8] Mun. Council of Lemery v. Prov. Board of Batangas, G.R. No. 36201, 29 October 1931, 56 Phil. 266.
- [9] Pace v. Leonardo, A.M. No. P-03-1675, 06 August 2003, 408 SCRA 359.
- [10] Sadik v. Casar, A.M. No. MTJ-95-1053, 02 January 1997, 266 SCRA 1.
- [11] Rangel-Roque v. Rivota, A.M. No. P-97-1253, 02 February 1999, 302 SCRA 509.
- [12] Mendoza v. Tiongson, A.M. No. P-90-454, 17 December 1996, 265 SCRA 653.
- [13] Caña v. Santos, A.M. No. 93-10-1269-RTC, 08 July 1994, 234 SCRA 17.
- [14] Neeland v. Villanueva, A.M. No. P-99-1316, 29 October 1999, 317 SCRA 652.
- [15] Re: Ms. Teresita S. Sabido, A.M. No. 94-3-20-MCTC, 17 March 1995, 242 SCRA 432.
- [16] Office of the Court Administrator v. Bucoy, A.M. No. P-93-953, 25 August 1994, 235 SCRA 588, 595.

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