FELICIDAD D. PALABRICA, COMPLAINANT, VS. ATTY. CECILIA T. FAELNAR CLERK OF COURT VI, RTC, BRANCH M. FORTICH, BUKIDNON, RESPONDENT.

A.M. NO. P-06-2205 (FORMERLY OCA-IPI NO. 05-2250-P). August 03, 2006

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PER CURIAM:

An Affidavit-Complaint[1] dated 19 July 2005 was filed before the Office of the Court Administrator (OCA) by Felicidad D. Palabrica (complainant) accusing Atty. Cecilia T. Faelnar (respondent) of violating the Code of Conduct for Court Personnel, dishonesty, grave misconduct, falsification of official document, conduct prejudicial to the best interest of the service and/or violating the Code of Conduct and Ethical Standards for Public Officials and Employees, violating the lawyer's oath, and acts contrary to legal and judicial ethics. Complainant is the court stenographer of the Regional Trial Court (RTC), Branch 11, Manolo Fortich, Bukidnon, while respondent holds the position of Clerk of Court VI, of the same office.

Complainant alleges the following:

- On 14 April 2004, respondent took advantage of the vacancy of the Office of the Presiding Judge by requesting the local government unit (LGU) of Manolo Fortich for the release of P8,000.00 trust fund to be used by the Judicial Service Team (JST) of RTC, Branch 11 personnel for the 16-17 April 2004 conference at Camiguin Island. Complainant was ordered by respondent to attach in the payroll a copy of OCA Circular No. 28-2003 to justify the former's request. Upon its approval, respondent directed all personnel to affix their signatures in the payroll to make it appear that they have received the money, when in fact, no money was received. Except for complainant and Sol Santocildes, the rest of the personnel of RTC, Branch 11 were able to leave for Camiguin. However, they used their own money to defray all expenses for travel.

- No meeting or seminar was conducted. The court personnel merely enjoyed themselves by eating and swimming. When the OCA required then Acting Judge Francisco Rojas the minutes of the JST meeting and the court performance inventory for January to December 2004 and January to March 2005, Judge Rojas merely submitted documents from June 2004 to June 2005. The purported JST meeting in Camiguin Island on April 2004 was not included.

- On 9 July 2004, respondent requested financial assistance from the IBP, Misamis Oriental Chapter in the amount of P5,000.00 for the purchase of curtains for the court. The amount spent in Camiguin could have been used for the purchase of the curtain if only respondent were honest in dispensing her duties as an accountable officer of the court.

- On 5 August 2004, respondent solicited a note to the Office of the Mayor of Manolo Fortich for the meals of Supreme Court (SC) auditors at the Del Monte Clubhouse. The SC auditors declined the offer. Instead of returning the note, respondent, together with companions, went to the Clubhouse the following day and used the same. In the attendance sheet,[2] respondent falsely and deliberately made it appear that the team of SC Auditors came with respondent to have lunch at the Clubhouse.

- On 20 August 2004, respondent again requested financial assistance from the Mayor of Manolo Fortich for reimbursement of the expenses incurred in the construction of the record shelves. Complainant was, however, told by respondent that the money for such reimbursement would be taken from the proceeds of the honorarium of Judge Rojas for May 2004.

- On 5 October 2004, the signature of Judge Rojas was forged by respondent in her Certificate of Service.[3]

- On 2 March 2005, respondent requested financial assistance from the LGU for the meals and snacks of the SC auditors on 3-4 March 2005. Respondent affixed her signature above the name of Judge Rojas, who at the time was holding office at Branch 41. Respondent made it appear in the Training Design that the management audit and JST were scheduled for two (2) days, but as a matter of fact, only one (1) day was spent.

In its 1[st]Indorsement dated 9 August 2005, OCA required respondent to comment on the administrative complaint.

Vigorously denying the allegations of complainant, respondent, in her Comment,[4] addresses the issues in seriatim:

- On the issue of the JST meeting in Camiguin, respondent claims that based on the payroll,[5] the amount of P8,000.00 was duly received by the RTC, Branch 11 personnel. They were used to cover expenses for board and lodging, transportation and other miscellaneous expenses for the RTC personnel. While there was no formal agenda made, there was a consultation conducted on 17 April 2004 before the staff went swimming. Thus, the allegation by complainant that there was no seminar or meeting held is false. It was complainant herself who prepared all the necessary papers and attachments for the JST meeting. Respondent was only made to sign the papers. The late submission of the minutes of the JST meeting and court performance inventory is justified on the ground that when the RTC personnel went to Camiguin for its JST meeting, Judge Rojas had not yet assumed the Acting Presiding Judge position until June 2004.

- Regarding the issue on solicitation by respondent from the IBP President, the amount of P5,000.00 was a donation from the IBP for the cost of the curtains pursuant to a letter request prepared by respondent in behalf of RTC, Branch 11.

- Respondent used her personal funds for the construction of the record shelves. The P3000.00 honorarium of Judge Rojas did not cover the cost of the construction of these shelves. Consequently, respondent requested the reimbursement of the expenses she incurred, which the LGU granted upon presentation of the necessary papers and official receipts.

- No note was solicited for the meals at the Del Monte Clubhouse. Respondent offered meals to the auditors on another date and at a different restaurant. But her offer was not accepted by the auditors. The court personnel were provided free meals by the Office of the Mayor after participating in the cleanliness drive sometime in August 2004.

- Respondent requested P5,000.00 anticipating that the audit would last for two (2) days. The intended JST conference on 4 March 2005 was cancelled upon suggestion of complainant to hold the meeting on 3 March 2005 to save time and maximize the use of the LGU van. Judge Roxas could not attend the meeting and instead put respondent in charge of everything. Respondent attached a certification[6] from Judge Rojas to substantiate her allegations that she was authorized to seek financial assistance from the LGU.

- The signing of the name of Judge Rojas by respondent in the certificate of service was authorized by the former and it was done in order to beat the deadline set by OCAD in the submission of attendance reports. In fact this had

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been the practice with respect to other orders, whereby the text of the orders are read to be him over the cellular phone and the orders were signed later by the judge.

- The ulterior motive of complainant in filing the case is to avenge respondent's filing on 14 July 2005[7] of several counts of administrative cases for dishonesty against complainant and her niece.

In her Reply-Affidavit,[8] complainant emphasizes that while she was the one who prepared the documents relative to the JST meeting in Camiguin, she only did so upon respondent's instructions. Furthermore, the trip was not legal for there was no advice from the Supreme Court to conduct such meeting and to solicit funds from the LGU. According to complainant, respondent's mere act of solicitation from the IBP is proscribed by the Supreme Court, especially when the President of the IBP of Misamis Oriental has pending cases before RTC, Branch 11.

Complainant insists that respondent committed falsification for causing the release of Judge Rojas' honorarium on May 2004 knowing that Judge Rojas assumed the position only in June 2004. Respondent likewise committed forgery in the Certificate of Service. She should have indicated that she was signing the certificate for and in behalf of Judge Rojas, instead of simply affixing the judge's signature.

In her Rejoinder,[9] respondent stresses that she did not use her official position to secure unwarranted benefits. She clarified that not a single centavo out of the said financial assistance/donations went to her pocket, as the same redounded to the benefit of the court, its personnel, litigants, lawyers and the public in general.

In complainant's Sur-Rejoinder Affidavit,[10] she reiterates her claim that the donation made by the IBP President is irregular and respondent should have exercised extreme caution in asking donations to avoid a negative impression from the public and to insulate the court from any criticism.

On 15 November 2005, respondent filed a manifestation with motion to submit the case for early resolution.

The OCA submitted its Report[11] finding respondent guilty of violations of OCA Circular No. 28-2003, Code of Conduct for Court Personnel, and the Code of Conduct and Ethical Standards for Public Officials and Employees, and for dishonesty.

OCA held that respondent violated the provisions of OCA Circular No. 28-2003. Instead of holding an "enhancement program," the RTC, Branch 11 personnel purely had relaxation and recreation in Camiguin. There were no minutes of the alleged staff development program submitted to the Court Management Office (CMO), as required by the OCA circular. Thus, respondent's act of soliciting the amount of P8,000.00 from the LGU is tantamount to violation of Section 1, Canon 1 of the Code of Conduct for Court Personnel. She used her official position to secure unwarranted benefits for herself and her co-employees.

Respondent violated Section 1, Canon 1 of the Code of Conduct for Court Personnel when she spent public funds on 3 March 2004 at Cagayan de Oro City and for using the solicited note at Del Monte Clubhouse.

The OCA also found respondent guilty of dishonesty for writing the names and affixing the signatures the SC auditors in the attendance sheet dated 6 August 2006.

There was, however, no violation committed when respondent asked for financial assistance for the court's curtain and for reimbursement of expenses in the construction of record shelves.

With respect to the charge of forgery, there was no evidence that respondent was not authorized to sign the name of Judge Rojas in her certificate of service. Judge Rojas did not question the authenticity of his signature appearing in said certificates.

OCA recommended that respondent be suspended for six (6) months.

Time and again, court personnel who are occupying responsible positions in the administration of justice are reminded to adhere to the highest standard of morality and decency to preserve the honor and dignity of the judiciary. The Code of Conduct for Court Personnel was promulgated to enable the Court to exercise disciplinary authority over court personnel.

Section 1, Canon 1 of the Code of Conduct for Court Personnel expressly prohibits court personnel from using their official position to secure unwarranted benefits, privileges or exemption for themselves or for others. The evidence on record, as found by OCA, shows that respondent clearly violated this provision when she used the JST Conference as a good reason to request the LGU for the release of the P8,000.00 trust fund. The OCA based its observation from the following facts, namely: (1) the pictures taken in Camiguin showed the court personnel enjoying their outing but no photo was taken or presented which would prove that they had a consultation or meeting before they went swimming; (2) respondent did not submit her supposed action plan based on her findings made during the staff development program; and (3) respondent failed to comply with OCA Circular No. 28-2003, which requires that the JST shall hold its meeting on the last working day of the month and the minutes of said meeting be submitted to the CMO, OCA within ten (10) days from the date of the meeting.

We do not see how respondent could equate such activity to staff development and improvement of judicial service to the public' when all she and her staff did was to eat and swim. It can be gleaned that only the court personnel of RTC, Branch 11, including respondent, benefited from the P8,000.00 trust fund, which was utilized for their own recreation. Respondent's act falls under the prohibition under Section 1, Canon 1 of the Code of Conduct for Court Personnel.

Assuming arguendo that indeed, there was a JST meeting conducted in Camiguin, respondent should have been aware of the parameters for organizing the JST, as set by OCA Circular No. 28-2003,[12] particularly the submission of the minutes of the JST meeting. Respondent cannot escape responsibility by contending that Judge Rojas assumed office only on June 2004, while the JST meeting was conducted on April 2004. Respondent took the initiative to organize the JST meeting, even without a presiding judge. She should have at least submitted a copy of the minutes, as well as the Court Performance Inventory, to the CMO to observe transparency.

Respondent also violated Section 4(a) of the Code of Conduct and Ethical Standards for Public Officials and Employees which requires all government resources and powers of their respective offices to be employed and used efficiently, effectively, honestly and economically, particularly to avoid wastage in public funds and revenues.

The act of respondent in falsely writing the names of the SC auditors in the attendance sheet with signatures to make it appear that they had lunch at the Del Monte Clubhouse constitutes dishonesty. Similarly, respondent's solicitation of a note from the LGU to allegedly cover the meals and snacks of the Supreme Court auditors violates Section 1, Canon 1 of the Code of Conduct for Court Personnel. Respondent, together with her staff, used the solicited note at Del Monte Clubhouse instead of returning it to the LGU after the SC auditors declined her invitation for lunch. The conduct exhibited by respondent falls short of the standard prescribed by the Code of Conduct for Court Personnel.

We cannot however concur with OCA's dismissal of the charge of forgery against respondent. Respondent has admitted signing the name of Judge Rojas, not only in her Certificate of Service but also in some court orders. In that regard, respondent notes that it has been the practice in said court that "[o]ther orders were in fact allowed to be signed in his signature after reading to him the text of the order over his cellular phone, and in the afternoon of that same day, the original copy of the order will be brought to him for his signature.[13] Respondent's categorical admission is sufficient to establish a case of forgery against complainant. The argument of respondent that she

was authorized by Judge Rojas to sign his name is immaterial to forgery. We find it alarming that Judge Rojas consented to this act. In the case of Gonzales-Austria v. Abaya,[14] the Court, adopting the recommendation of then Court of Appeals Justice Oscar M. Herrera, held thus:

> As a lawyer and branch clerk of court, she ought to know that under no circumstances is her act of signing the name of the judge permissible. She could have probably released the order with the statement that it is 'upon orders of the judge' or 'by authority of the judge' but she could not under any circumstance make it appear as she did in this case that the Judge signed the order when in fact he did not x x x.
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> x x x Nor could her void act in signing the name of the judge be validly ratified by the latter. Judge Abaya himself is bereft of any power to authorize the clerk of court to sign his name in his official capacity in a matter pending adjudication before him. The issuance of the order in question is strictly judicial and is exclusively vested in the judge which is beyond his authority to delegate.

Complainant's act of signing the name of Judge Rojas is likewise tantamount to dishonesty.

At this juncture, it is worth emphasizing that 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 so as to be free from any suspicion that may taint the judiciary.[15] This Court shall not tolerate acts that would tend to diminish the integrity of the judiciary.

In sum, we find respondent guilty of (1) falsely writing the names of SC auditors with corresponding signatures in the attendance sheet; (2) forging the signature of Judge Rojas in the certificate of service; (3) failure to comply with OCA Circular No. 28-2003 regarding the holding of the JST meeting; and (4) using the solicited note from the LGU to cover the meals of the RTC personnel. The first two acts mentioned above constitute acts of dishonesty that merit dismissal from service, pursuant to Section 52(A)(1) of the Revised Rules on Administrative Cases in the Civil Service.

WHEREFORE, respondent is DISMISSED from the service with forfeiture of all salaries and benefits, except accrued leave credits, and with prejudice to re-employment in the Government service, including government-owned or controlled corporations.

SO ORDERED.

Panganiban, C.J., Puno, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, Garcia and Velasco, Jr., JJ., concur.

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[1]Rollo, pp. 1-5.

[2]Rollo, p. 18.

[3]Id. at 19.

[4] Id. at 28-48.

[5]Id. at 12.

[6]Id. at 50.

[7]Id. at 74-82.

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[8] Id. at 86-92.

[9] Id. at 93-98.

[10] Id. at 102-108.

[11]Id. at 161-173.

[12]Id. at 8. It states:

The JST shall hold regular monthly meetings on the last working day of the month and minutes of the meeting shall be submitted to the Court Management Office, Office of the Court Administrator within ten (10) days from the date of the meeting.

During the meeting, the JST shall as a group accomplish the "Court Performance Inventory" form from every quarter x x x x

x x x The accomplished form shall be submitted to the [CMO, OCA] within ten (10) days from the date of the monthly meeting at the end of every quarter.

[13]Id. at 43.

[14] A.M. No. R-705-RTJ, 23 August 1989, 176 SCRA 634, 648-649.

[15] Pamintuan vs. Ente-Alcantara, A.M. No. P-04-1912, 17 December 2004, 497 SCRA 277 citing Song vs. Llegue, A.M. No. CA-02-34, 14 January 2004, 419 SCRA 276, 284.

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