REY C. MUTIA, PETITIONER, VS. COURT STENOGRAPHER III, REGIONAL TRIAL COURT, BRANCH 40, MANILA, RESPONDENT.

A.M. No. P-06-2170. July 11, 2006

Ponente: TINGA, J.

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TINGA, J.:

Under consideration is the administrative complaint filed by Rey C. Mutia ("Mutia") charging Lucila C. Pacariem ("Pacariem"), Court Stenographer III, Regional Trial Court ("RTC"), Branch 40, Manila, with grave misconduct in relation to an alleged libelous remark made by her in a letter[1] addressed to their Branch Clerk of Court, Atty. Lyn L. Llamasares. The Presiding Judge Placido Marquez and Executive Judge Enrico Lanzanas of the RTC Manila were each furnished with a copy of the letter. Then Chief Justice Hilario Davide, then Court Administrator (now Supreme Court Justice) Presbiterio Velasco, Jr., Deputy Court Administrator (now Court Administrator) Christopher Lock, Ms. Caridad Pabello of the Court Management Office, and the Administrative Services Division of the Office of the Court Administrator ("OCA") were each likewise furnished with a copy of the letter.

It seems that the controversy sprang from a Memorandum dated 9 August 2004 issued by Atty. Llamasares to Pacariem regarding her work inefficiency. There is no copy of this memorandum in the records of this case but it appears that Atty. Llamasares sent a copy of the same to the OCA. Pacariem answered the memorandum and took the opportunity to inform the Supreme Court of the grievances in their office. It appears that in her answer, Pacariem resented the fact that Atty. Llamasares did not confront her on her shortcomings before submitting a copy of her memorandum to the Supreme Court. It was only after the memorandum was filed with the Supreme Court Administrative Division that Pacariem received a copy. It is in this same answer that the alleged libelous remark against Mutia was made.

In her letter, Pacariem stated that their Clerk of Court and Presiding Judge signed the Daily Time Record ("DTR") of a new employee for the period 1-15 May 2004 even though the employee had not yet assumed office at that time. The pertinent portion of the letter follows, to wit:

> I am aware of the case of one new staff of this office, that his DTR for the period of May 1-15, 2004 were signed by you and the Presiding Judge without thinking that you were not authorized to sign it because during that time he was not still assuming his duty, but if we are the one requesting for the signing of DTR you would find any [sic] wrong with it.[2]

Mutia feels alluded to in the letter, as he was the only new employee in said office at that time. Records show that he worked as Court Interpreter III in RTC, Branch 81, Romblon before he was transferred to RTC, Branch 40, Manila on 17 May 2004. Contrary to the imputation in the letter, neither Atty. Llamasares nor Presiding Judge Marquez signed Mutia's DTR for 1-15 May 2004. Instead, Atty. Karen M. Silverio-Buffe, who was Mutia's supervisor in RTC Romblon, signed his DTR covering the said period.[3] Mutia avers that Pacariem's totally baseless and malicious accusation against him, Atty. Llamasares and Presiding Judge Marquez, of falsifying his DTR, amounts to libel and constitutes grave misconduct for which she should be disciplined.

In her Comment,[4] Pacariem admits authorship of the letter but denies that she was motivated by malice to destroy the good name and reputation of Mutia. She opines that the letter is privileged, the same being a private communication between her and the persons and authorities concerned in relation to her duties and obligations as court stenographer. As to the portion of her letter concerning Mutia's DTR, she avers that it was an honest mistake or misapprehension of facts made in good faith and apologizes for her lapse of judgment.

In its Report,[5] the OCA made no findings as to Pacariem's alleged grave misconduct. The OCA noted, however, that there is an undercurrent of animosity among the three employees that reflects adversely on the good image of the judiciary. While stressing that Pacariem is expected to observe propriety and decorum not only to party litigants but to her co-employees as well, the OCA urged Atty. Llamasares to promote unity and cooperation in her office and to instill professionalism in her subordinates. In this wise, the OCA made the following recommendations:

> Respectfully submitted for the consideration of the Honorable Court are our recommendations that:
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> 1) respondent Lucila Pacariem be ADMONISHED to be more circumspect in her dealings with other court employees; and
>
> 2) the Branch Clerk of Court having administrative supervision over court employees, be ADVISED to promote and maintain harmony among her subordinates.[6]

We adjudicate the matter differently from what the OCA has recommended.

Pacariem is accused of committing libel, which allegedly is tantamount to grave misconduct. The offense of libel cannot be loosely considered as misconduct in office. To constitute an administrative offense, misconduct should relate to or be connected with the performance of the official functions and duties of a public officer, amounting to either maladministration, or willful intentional neglect and failure to discharge the duties of the office.[7] Although an officer may be suspended or dismissed for malfeasance which is not related to, or connected with, the functions of the office, such as commission of a crime, the officer may not be proceeded against administratively based thereon until a final judgment of conviction is rendered by a court of justice.[8] The exception is when the crime or act committed also constitutes a violation of administrative rules; there no conviction is required.[9] Furthermore, in grave misconduct as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of established rule, must be manifest.[10]

It cannot be gainsaid that the issue in administrative cases is not whether the complainant has a cause of action against the respondent, but whether the employees have breached the norms and standards of the judiciary.[11] While the records show that Pacariem's statement in her letter regarding Mutia's DTR is in fact false, we are not prepared to make a finding as to whether or not Pacariem is guilty of libel inasmuch as libel per se is not an administrative offense. Neither is it shown that a criminal complaint for libel had been filed against her and that she had been convicted thereof so as to be the basis of a disciplinary action against her. As to whether her act of making such a false statement in her answer to her superior's memorandum amounts to grave misconduct, we rule in the negative.

There is no showing that in writing the subject letter, there was on Pacariem's part willful intentional neglect or failure to discharge her duties as court stenographer.[12] Neither is there evidence that she profited pecuniarily from the act imputed upon her so as to consider it corrupt. At most, it was an uncalled for emotional outburst after knowing that her immediate superior had reported her alleged inefficiency to the Supreme Court.

Nevertheless, we cannot countenance Pacariem's imprudent and ill-suited insouciance in making false actuations

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against her superiors and co-employee. After a careful perusal of the records, we find nothing that could have provoked such a response from Pacariem. It was Atty. Llamasares's duty as her immediate superior to call her attention on matters affecting her performance as court stenographer and to bring the matter to the attention of the concerned authorities. Although we do not have a copy of Atty. Llamasares's memorandum, it can be gleaned from Pacariem's answer which contains excerpts therefrom that the same was written in proper and straightforward language. While we recognize Pacariem's right to be heard and to explain her side, hurling invectives against an innocent co-employee, the Clerk of Court and even the Presiding Judge, without first verifying the facts, is completely unwarranted. She very well knew that her statements would be read by higher authorities that may initiate an investigation based thereon. Such a demeanor is a failure of circumspection demanded of every public official and employee. In Mendoza v. Buo-Rivera,[13] respondent Rivera was meted a P5,000.00 fine for conduct unbecoming a public servant after it was found that the administrative complaint she filed against a co-employee was based on false accusations plus the fact that she had sown intrigues was proved by substantial evidence. We held, thus:

> Rivera's acts of making false accusations and sowing intrigues are acts unbecoming of a public servant. They go against the principles of public service as solemnly enshrined in the 1987 Constitution and the Code of Conduct and Ethical Standards for Public Officials and Employees (R.A. No. 6713). Such acts rob the attention of public employees and courts from more imperative tasks and result in undue wastage of government resources. Such contemptible kind of behavior must not be tolerated if we are to demand the highest degree of excellence and professionalism among public employees and preserve the integrity and dignity of our courts of justice.[14]

Pacariem ought to be reminded that the image of the court as a true temple of justice is mirrored by the conduct of everyone who works thereat, from the judge to the lowest clerk.[15] Hence, one's every act and word should be characterized by prudence, restraint, courtesy and dignity.[16] This norm of behavior must be observed not only when dealing with other people but also, more importantly, when dealing with a superior. In our view, Pacariem failed to live up to this standard. We do note, however, that she later admitted her mistake and apologized for her indiscretion, a matter that we believe should mitigate her administrative liability.

Under the implementing rules of the Code of Conduct and Ethical Standards for Public Officials and Employees,[17] any violation of the Code shall be punished with a fine not exceeding the equivalent of six (6) months salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense. For her conduct unbecoming a court employee, we deem a fine of P2,000.00 is appropriate.

One final note. There is on record a Reply[18] filed by Atty. Llamasares in response to Pacariem's answer to her memorandum. The offices that received a copy of Pacariem's answer were also furnished a copy of Atty. Llamasares' Reply. Said Reply enumerates Pacariem's alleged infractions which, according to Atty. Llamasares, demonstrate Pacariem's gross misconduct and inefficiency in the performance of her duties rendering her unfit to continuously serve in the judiciary.[19] We thus refer the same to the OCA for appropriate action.

WHEREFORE, we find Lucila C. Pacariem GUILTY of conduct unbecoming a court employee and impose on her a FINE of P2,000, with a STERN WARNING that a repetition of the same or similar acts in the future will be dealt with more severely.

The Reply of Atty. Lyn L. Llamasares is REFERRED to the OCA for appropriate action.

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SO ORDERED.

Quisumbing, (Chairman), Carpio, Carpio-Morales, and Velasco, Jr. JJ., concur.

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[1]Rollo, pp. 16-19.

[2]Id. at 18.

[3]Id. at 15.

[4]Id. at 54-56.

[5] Id. at 57-59.

[6]Id. at 59.

[7] In Re: Loss of the Records of G.R. No. 126468 Entitled Sonia Llamas-Tan v. Court of Appeals, et. al., A.M. No. 01-1-01-SC, 23 May 2001, 358 SCRA 121, 129-130.

[8] Provincial Board of Zamboanga del Norte v. Guzman, 129 Phil. 178 (1967).

[9] R. Agpalo, Administrative Law, Law on Public Officers and Election Law, 479 (2005)

[10] Landrito v. Civil Service Commission, G.R. Nos. 104304-05, 22 June 1993, 223 SCRA 564, 567.

[11] Mamaclay v. Francisco,447 Phil. 356, 359 (2003).

[12] See Imperial v. Santiago, Jr., 446 Phil. 104, 118 (2003).

[13] A.M. No. P-04-1784, 28 April 2004, 428 SCRA 72, 78.

[14]Id.

[15] Floria v. Sunga, 420 Phil. 637, 650 (2001), citing Bucatcat v. Bucatcat, 323 SCRA 578, 588.

[16] Judge Caguioa v. Flora , 412 Phil. 426, 433 (2001).

[17]Rules Implementing the Code of Conduct and ethical Standards for Public Officials and Employees, Rule XI, Section 1.

[18] Rollo, pp. 46-52.

[19] Id. at 51.

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