

ADELMA A. DE LUNA, COMPLAINANT, VS. ATTY. PERSEVERANDA L. RICON, BRANCH CLERK OF COURT, RTC, BRANCH 39, MANILA, RESPONDENT.

A.M. No. P-94-1093. November 16, 1995

Ponente: PUNO, J.

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PUNO, J.:

In a letter, dated April 12, 1994, the Office of the Ombudsman referred to us the charge filed by complainant against respondent for misconduct in office for appropriate action.

From her Complaint, it appears that SPO2 Victorino Batara sired complainant's one-year old daughter named Miracle. Complainant filed a complaint against SPO2 Batara for Grave Misconduct (for Non-support) before the Research and Investigation Division at Camp Karingal, Quezon City. She averred that respondent acted as the counsel of SPO2 Batara in said case. Complainant, however, desisted when respondent assured her that she would be given money for support and the baptismal expenses of Miracle.[1] The charge against SPO2 Batara was dismissed.

At past 8:00 A.M. of December 13, 1993, complainant with her one-year old daughter repaired to the office of respondent to collect. When respondent came, she got into a rage. She berated complainant for demanding money when she had already withdrawn her complaint. Complainant then saw the picture of SPO2 Batara together with respondent in the latter's table. She pointed the picture of SPO2 Batara to her daughter and identified him as her father. Respondent allegedly resented her remark with violence. She hurled to her an ashtray, and cursed her, "putang ina mo".[2]

In her Comment, respondent denied the charge. She averred that SPO2 Batara is the son of the best friend of her father. SPO2 Batara was charged by the complainant before the Inspector General of Camp Crame for immorality. She alleged that at the request of SPO2 Batara, she merely accompanied him and the complainant to the Office of Assistant City Prosecutor Antonio Ballena. She denied acting as the counsel of SPO2 Batara. She disclaimed knowing that complainant desisted in her complaint. She claimed she was brought up helping people and complainant was one of the beneficiaries of her generosity. On December 13, 1993, complainant went to her office, haughtily demanding money. She refused and explained it was SPO2 Batara who has the duty to support her. Besides, it was two (2) days before pay day and she had no money to spare. Complainant went into tantrums. She threw an ashtray on her and shouted "putang ina mo, ang tanda-tanda mo na ang libog--libog mo pa".[3] Respondent then filed a complaint against complainant for Grave Oral Defamation and Grave Threats before the Office of the Assistant City Prosecutor Bacani of Manila.

On December 7, 1994, we referred the complaint to Vice Executive Judge Roberto A. Barrios, Regional Trial Court, National Capital Judicial Region, Branch 11, Manila for investigation. The parties and their witnesses adduced their evidence before the investigating judge. In his Report and Recommendation, dated June 30, 1995, Judge Barrios found that respondent started the altercation upon provocation of complainant. His findings are as

follows:

"The Complainant and the Respondent came to know each other because of policeman Victorino Batara in the course of the administrative charges filed against him by the Complainant for causes connected with their fruitful but ended in amorous relations. The charges were dismissed because of the desistance of the Complainant but she continued to meet the Respondent who would then give her money. In the morning of December 13, 1993, the Complainant brought her baby to the Respondent at her office to ask again for money. None was given. Trouble ensued with defamatory words slung against each other.

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The Respondent would have it that she and the policeman were incidental friends, and he asked her at one time to accompany them before a prosecutor. She did just that, escorted them to that office and then just left them. The Complainant instead asserted that the Respondent was acting as counsel for the policeman and, between the lines, suggested that they were more than intimate friends.

Indeed, it cannot be believed that the Respondent was just a casual friend of the policeman and a stranger to the settled administrative cases.

The Respondent is not charged of immorality, but insinuations of this has to be mentioned because it is an aspect that reasonably aids in ferreting the truth out of the conflicting versions presented. The Respondent claims that her relationship with Victorino Batara was distant and only because their fathers are old friends. But it appears that there was a bond between them that was much closer than just that.

She did not just escort the litigating former lovers to the prosecutor's office, for a policeman has no need for that service to find the place. Rather, she went with them to help parley a settlement, and which was reached with the Complainant executing an affidavit of desistance. The obvious and usual consideration of such desistance is the giving of support, and which appears to have been coursed through or even sourced from the Respondent. This explains why the Complainant has been going to the Respondent and receiving sums from her. The Respondent's version that she had nothing to do with the case between the former lovers, and that the Complainant was a stranger and only one of the many beneficiaries of her philanthropy, is difficult to believe.

Rather, the Complainant (sic) had very close relations with the Complainant's former lover, and had actively participated in the settlement of their case and in the process had obligated herself to see to the compliance of the promised support. It was because of this participation and the onus that the Respondent placed upon herself, that the Complainant had been getting money from her and resentful when not given, and the same reason and relation why the Respondent became irritated with the frequent demands and dunning. And what made the Respondent really mad was when the Complainant, while asking for money, also sassily told her baby that the man in a picture on the Respondent's table is her father. That was when their scandalous exchange began.

In the normal course of things, it was improbable for the Complainant to have been the aggressor. She was out of her elements, socially inferior to the Respondent before whom she had to kowtow for money. It would not have been in her place to pick a fight that would surely cut her access to the dole outs. On the other hand, the Respondent had been piqued by the frequent visits and requests for money and this was topped by the touchy remark about the child's sire. The one who was provoked and sparked the fight was the Respondent, but this is without saying that the Complainant then merely kept her pace (sic).

As to the ashtray, there is nothing more than their conflicting and improbable claims that one or the other threw it. It was not easy to believe the Complainant's version that the Respondent threw at her the ashtray and risked hitting the baby that she was carrying. And it cannot be true that it missed her head and hit her arm because she turned her back. The Respondent's account that the ashtray missed her because somebody caught it, is also not plausible. It might have been the one or the other merely made motions to throw an ashtray, but both

embellished on this.

Both sides were not thoroughly candid, but based on the plausibility of the versions submitted and the quality of the testimonies of both parties, it can be stated that; (a) there was a quarrel and exchange of invectives between the Complainant and the Respondent in the Staff Room of Branch 39 of the RTC of Manila during office hours of December 13, 1993; (b) this was started by the Respondent who was provoked by the Complainant's demands for money and snide remarks, and; (c) the Respondent assisted Victorino Batara reach an amicable settlement with the Complainant as his friend without necessarily being his counsel." [4]

Judge Barrios recommended that respondent be reprimanded.

In its Memorandum, dated October 6, 1995, the Office of the Court Administrator agreed with the findings and conclusion of the investigating judge.

The Constitution mandates all public officers and employees to serve with responsibility, integrity, loyalty, and efficiency.[5] As recipients of the public trust, they are enjoined to demonstrate courtesy, civility, and self-restraint in their interactions to the public even when confronted with rudeness and insulting behavior.[6]

Respondent did not measure to this exacting standard of public service. To be sure, she was piqued by complainant's visit, demands for money, and her touchy remarks about her child's paternity. But that was not enough reason for her to lose her temper. She was in office and on duty. She is a branch clerk of court, with a big role in maintaining order and discipline in the courtroom and their office. Part of her training is not to be provoked even by the unreasoning and the unreasonable. Unfortunately, respondent failed to handle the unpleasant presence of complainant in her office. She abandoned the high ground and descended to her level. At the very least, she uttered offensive words at complainant. Shouting at her workplace and during working hours showed discourtesy and disrespect not only towards complainant and her subordinates but also to the court.[7] Government service is people oriented where high-strung and belligerent behavior cannot be allowed.[8]

IN VIEW HEREOF, the Court finds respondent Atty. Perseveranda L. Ricon guilty of misconduct and imposes on her a fine of one thousand pesos (P1,000.00)[9] with a warning that any repetition of the same or similar acts will be dealt with more severely.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, and Mendoza, JJ., concur.
Francisco, J., on leave.

[1] TSN of March 24, 1995, p. 5; Rollo, p. 95.

[2] Id., p. 98.

[3] TSN of March 29, 1995, p. 11; Rollo, p. 134.

[4] Investigation Report and Recommendation, pp. 5-8; Rollo, pp. 86-89.

[5] Article XI, Section 1.

[6] *Erlinda Policarpio v. Armando Fortus*, A.M. No. P-95--1114, September 18, 1995 citing *Penalosa v. Viscaya, Jr.*, 84 SCRA 298 [1978] and *Flores v. Ganaden*, 61 SCRA 216 [1974].

[7] See *Tablate v. Tanjutco-Seechung*, A.M. No. 92-10-425-OMB, July 15, 1994, 234 SCRA 161.

[8] *Supra* *Policarpio v. Fortus* at page 5.

[9] Supra at p. 6.

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