

CLERK II – MADONNA MACALUA, COMPLAINANT, VS. COURT AIDE – DOMINGO TIU, JR., RESPONDENTS.*A.M. No. P-97-1236. July 11, 1997*

Ponente: FRANCISCO, J.

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Complainant Madonna Macalua, Clerk II of Regional Trial Court, Branch 44 in Dumaguete City, filed before Judge Alvin L. Tan of the same Branch, an administrative complaint for “grave misconduct in office” against respondent Domingo Tiu, Jr., a Court Aide therein. After the parties submitted affidavits, Judge Tan transmitted the records of the case to the Executive Judge[1] with the recommendation that the case be settled amicably and to swap respondent with other court personnel. The case was referred to the Vice-Executive Judge[2] who, however, inhibited himself on the ground that his wife is related to the complainant’s counsel.[3] Thereafter, the case passed a series of re-raffling[4] beginning with Judge Saturnino Ll. Villegas of Branch 36, then to Judges Eleuterio E. Chiu of Branch 32, Alfonso P. Briones of Branch 38, Benigno C. Villarente, Jr. of Branch 41 and Ibarra P. Jaculbe, Jr. of Branch 42 all of whom, except Judge Villarente, inhibited from the case on several grounds.[5] Finally, it was re-raffled to Judge Temistocles Diez of Branch 37 who rendered his report on the case and recommended that respondent be found guilty of “simple misconduct and court discourtesy” and be suspended for one (1) month and one (1) day.[6]

Complainant’s grievance arose from the following undisputed facts appearing in the Report of the investigating Judge (Diez):

“On February 23, 1994, at about 3:30 or 4:00 in the afternoon, one Mrs. Adela dela Peña went to the office of the Clerk of Court of Branch 44 of the Regional Trial Court of Negros Oriental to follow up on the withdrawal of the bail bond posted for her son, Eric dela Peña, who is one of the accused in Criminal case No. 8232 pending before Branch 44. Herein complainant Madonna Macalua, who is in charge of the records of the cases informed Mrs. Adela dela Peña that she cannot release the bail bond of her son because there is a standing order from the Judge not to release the same as there is a need to have a new motion filed as the motion to withdraw was directed to Branch 45 in Bais City and was filed long before the Judge had assumed office. The order to release the bail was not yet signed because there is a need to file another motion with a recent date. Madonna Macalua told Mrs. Dela Peña to come back the next day and talk with Attorney Ricafort, explaining that she is only a clerk. Mrs. Dela Peña was adamant in getting the bail bond whether there was an order or not and said that she cannot wait as she comes from a far place and that she is leaving for Manila the next day. Madonna Macalua was equally resolute in refusing to release the bail bond without an order from the Judge. Respondent Domingo T. Tiu, Jr., the court aide of Branch 44 who was in the courtroom adjacent to the place where Madonna Macalua and Mrs. Dela Peña were conversing, all of a sudden went to Madonna Macalua and told her to release the paper saying, “Don, you release the bail bond because this woman comes from a far place. If you were in her shoes it would not be nice if her papers will not be released.” Madonna explained that the judge would not allow the release because the motion had to be changed, and that she is not authorized to release it unless there is a court order. Respondent insisted the bail bond be release. While Madonna was explaining to Mrs. Dela Pena why she cannot release the bail bond, respondent got the record (of criminal case

No. 8323) which was in front of Madonna in her table and placed it on the table of Paulina Valencia, Court stenographer and went over the pages looking for the bail bond, muttering, “Where is that bail bond? Where is that bail bond. This Ricafort is bull shit. He should have been here. Ricafort is always absent.” After Mrs. Dela Peña left with the promise of respondent that he will personally bring the papers (bail bond) to Guihulngan, a quarrel ensued between Madonna Macalua and the respondent with both raising their voices and saying a lot things.”[7] (emphasis supplied).

The Report was referred for evaluation to the Court Administrator who adopted the findings of the investigating judge and recommended that:

“x x x respondent Domingo Tiu, Jr. be found GUILTY of SIMPLE MISCONDUCT in the course of official duties and meted the penalty of suspension for one (1) month and one (1) day.”[8]

The Court is confronted with a scenario whereby an unauthorized utility worker, moved only by a sympathy and pity for a certain person who wants to secure a copy of a court document, interceded impolitely with the clerk for the release of the document. In the absence of any ill-motive, would the act of intercession by the utility worker be considered as grave misconduct in office?

Respondent’s administrative liability stems from the Revised Administrative Code of 1987[9] specifically the provisions on the Civil Service Commission (CSC) which covers him as court personnel.[10] Section 46(b) of Chapter 6, Subtitle A, Title 1, Book V of said Code includes misconduct and discourtesy in the course of official duties among the grounds for disciplinary action.

As a court aide or utility worker, respondent has no authority to release court records nor can he compel complainant to release the same. This is specially true since the latter being the clerk and having access to said records, refuses to do that which she knows she is legally barred from doing for lack of authority. Respondent moved by pity and sympathy, tried to help a woman townmate secure official paper and even promised to deliver the papers to her upon knowing that she hails from a place 117 kms. Away from Dumaguete City. Helping people is a good trait rarely found among public officials who are true to their duties and plainly motivated by pure public service. It is in no way an ignoble act yet the manner it was carried out by respondent cannot be countenanced. Such manner is reprehensible and shows lack of courtesy contrary to the precept of “courtesy in the civil service.”[11] The Court had consistently emphasized that:

“x x x the conduct and behavior of every official and employee of an agency involved in the administration of justice from the presiding judge to the most junior clerk, should be circumscribed with the heavy burden of responsibility. Their conduct must at all times be characterized by, among others, strict propriety and decorum so as to earn and keep the respect of the public for the judiciary,”[12] (emphasis supplied)

Pity for the needing public is no excuse for discourtesy to a fellow employee. Such misconduct is undeserving of the Court’s sympathy nor would it serve as justification for mitigated liability. Pity cannot be the source of authority for a prohibited act nor can it allow misconduct in office. The exigencies of government service cannot and should never be subordinated to purely human equations.[13] Moreover, quarreling with a co-employee specially when done before the public or within the premises and during office hours is prejudicial to public service. As an employee of the judiciary, respondent is “expected to accord respect for the person and rights of others at all times, and that his every act and word should be characterized by prudence, restraint, courtesy and dignity.”[14] Government service is people oriented where high strung and belligerent behavior cannot be allowed.[15] So that no matter how commendable respondent’s motives may be, as a public officer courtesy should be his policy. He is expected to do no more than what duty demands and no less than what privilege permits. Though he may be of great help to specific individuals, but when that help frustrates and betrays the public’s trust in the system it cannot and should not remain unchecked. The interests of the individual must give

way to the accomodation of the public - Privatum incommodum publico bono pensatur.

The Court is aware that this complaint would not have occurred had it not been for the absence of the official with whom Mrs. Dela Peña could have addressed her needs. The unavailability in office of the officer in charge of what the public wants or with whom they previously transacted business is sad truth so common in public agencies such that it interrupts the smooth flow of government function and renders public service inutile. That sad truth not only foments untold hardship and hazard to the public but likewise becomes the root cause that triggers conflicts, like the one at the bench, not only between the public and their servants but also among the public officers themselves. Instead of promoting harmony, the atmosphere of good relationship in the office is impaired.

Such officials are not the kind of civil servants contemplated by our Constitution nor desired by the Filipino community. The difficulties and troubles not to say the delay and inconvenience they cause to the public who is left with no option but to persevere and endure a stamina to impatiently wait for that lazy, slothful, feeble, indifferent and indolent public officer to perform his function efficiently. Thus, the public is left at the mercy of public personnel with insatiable desire for compensation but unwilling to minister to the former's needs to whom they are bound to serve with utmost responsibility, unqualified respect, promptness, active dedication to duty and with moral accountability.

CSC Memorandum Circular No 30 s. of 1989 enumerates the corresponding penalties for administrative cases pursuant to the Code of Ethical Standards (Republic Act 6713). Simple misconduct, classified as a less grave offense, carries a penalty of suspension for one (1) month and one (1) day to six (6) months for the first violation. The penalty recommended to be imposed on respondent is within that range.

ACCORDINGLY, the Court finds respondent Domingo Tiu, Jr. guilty of a simple misconduct and forthwith AFFIRMS the recommendation that he be suspended from office for one (1) month and one (1) day without pay effective upon receipt hereof. He is also WARNED that a repetition of such or similar acts would be dealt with severely in the future.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Melo, and Panganiban, JJ., concur.

[1] Judge Pacifico S. Bulado.

[2] Judge Rosendo B. Bandal, Jr.

[3] In his letter to the Executive Judge Bandal said that his wife's nephew is partner in the law firm that represented complainant, (Manifestation and Motion of Atty. Cynthia M. Sulit, Rollo, pp. 27-28).

[4] From the inhibition of the Vice-executive Judge, the case was ordered re-raffled by the Deputy Court Administrator.

[5] Judge Villegas inhibited himself from the case, claiming that respondent was the former court aide of former RTC Judge Jose M. Estacion, Jr. who filed an administrative case against the former (Villegas). Judge Chiu voluntarily inhibited himself allegedly out of delicadeza since complainant is a daughter of a lawyer who is his "neighbor and personal friend". Judge Briones inhibited himself claiming that complainant's counsel (a certain Atty. Paras) was his former Junior Law Partner, that respondent was a former aide of Judge Estacion who was allegedly a political enemy of Congressman Paras who recommended Judge Briones to the judiciary, and that said Congressman is the brother-in-law of Atty. Paras. Judge Villarente was transferred from Dumaguete City to

Laguna. Judge Jaculbe, inhibited himself on the ground that complainant was his former law student. (Report and Recommendation of Judge Diez, pp. 2-3.).

[6] Rollo pp. 214-217.

[7] RTC Judge Diez's Report and Recommendation, p. 3; Recommendation Report of the Deputy Court Administrator, pp. 1-2.

[8] Ibid., p. 3.

[9] Executive Order 292, s. of 1987.

[10] Martinez vs. Muñoz, 249 SCRA 14 (1995).

[11] Article IX-B, Section 3, 1987 Constitution.

[12] Alawi vs. Alauya, A.M. SDC-97-2-P (formerly OCA I.P.I. No. 96-1-SDC(P), February 24, 1997 citing Apaga vs. Ponce, 245 SCRA 233 (1995); Juntilla vs. Calleja, P-96-1225 (formerly OCA I.P.I. No. 95-56-P), September 23, 1996; Policarpio vs. Fortus, 248 SCRA 272 (1995); Callejo, Jr. Garcia, 206 SCRA 491.

[13] Office of the Court Administrator vs. Grecia, 246 SCRA 139 (1995).

[14] Ibid.

[15] De Luna vs. Rivera, 250 SCRA 1 (1995).

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