

CONCERNED COURT EMPLOYEE, COMPLAINANT, VS. ATTY VIVIAN V. VILLALON-LAPUZ, CLERK OF COURT, REGIONAL TRIAL COURT, BRANCH 137, MAKATI CITY RESPONDENT.

A.M. No. P-07-2363. July 31, 2008

Ponente: CARPIO, J.

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CARPIO, J.:

This is an administrative complaint against Atty. Vivian V. Villalon-Lapuz (respondent), Clerk of Court of Branch 137, Regional Trial Court- Makati City (RTC-Makati), for unauthorized practice of law and insubordination.

On 12 May 2005, the Office of the Court Administrator (OCA) received an anonymous letter-complaint from a concerned court employee (complainant) of Branch 137, RTC-Makati. Complainant alleged that respondent appeared as private counsel and signed pleadings in a case entitled "Philippine Shares Corporation v. Spouses Visitacion & Virgilio Villalon." Complainant inquired whether respondent has been authorized to practice law as private counsel.

The OCA conducted an investigation and found out that as early as 4 August 1998, the Supreme Court issued A.M. No. 98-7-217-RTC. This SC Resolution granted the respondent's request "to appear as counsel in Civil Case No. 86-38066 entitled 'Philippine Shares Corporation v. Ma. Visitacion V. Villalon and Heirs of Virgilio V. Villalon' filed before the Regional Trial Court of Manila, Branch 42, provided that she files the corresponding leave of absence on the scheduled dates of hearing thereon and provided, further, that she will not use official time in the preparation of the pleadings for the case." [1]

Upon the OCA's verification, the records revealed that respondent attended the following hearings and filed the following applications for leave of absence:

Date of Hearings in
Branch 42 of
RTC-Manila

Application for Leave of
Absence [2]

Remarks

1999

4 June 1999

Hearing was canceled and reset

2 July 1999

Hearing was canceled and reset

4-31 August 1999

Maternity Leave

3 September 1999

1-30 September 1999

Hearing was canceled and reset/ Maternity Leave

1 October 1999

1 October 1999

Hearing was canceled and reset/ Maternity Leave

8 November 1999

Hearing was canceled and reset

6 December 1999

Hearing was canceled and reset

2000

8-9 February 2000

Sick Leave (Severe cough and colds)

24 March 2000

Hearing was canceled and reset

8 May 2000

Testimony of Witness and Presentation of Evidence

15 May 2000

Birthday Leave

5 June 2000

Testimony of Witness and Presentation of Evidence

14 July 2000

12, 13, 14 July 2000

Respondent was absent/ Hearing was canceled and reset/ Sick Leave (pneumonia)

3-4 August 2000

Sick Leave (severe cough and colds)

14 August 2000

Testimony of Witness and Presentation of Evidence

8 September 2000

Testimony of Witness and Presentation of Evidence

20 October 2000

Hearing was canceled and reset

2001

2-5 January 2001

Sick Leave

8-12 January 2001

Sick Leave

19 March 2001

Cross-examination of witness

20 April 2001

Hearing was canceled and reset

25 May 2001

Respondent was absent/ Hearing was canceled and reset

27 July 2001

Hearing was canceled and reset

7 September 2001

Respondent gave her manifestation

16 November 2001

Presentation of rebuttal evidence

2002

22 March 2002

Presentation of rebuttal evidence

3 May 2002

Testimony of witness

14 October 2002

Hearing conducted

In her Comment, respondent admitted that she personally handled the civil case and clarified that she did not only appear as counsel for her parents but also as counsel for herself and her siblings. Respondent stated that her widowed mother had no other means of livelihood and could not afford the services of a counsel. Respondent claimed that she had no intention to violate A.M. No. 98-7-217-RTC. Respondent explained that she did not file

the corresponding application for leave of absence because her immediate superior, retired Justice Santiago Javier Ranada, gave her the option to work beyond office hours to compensate for the few hours that she spent in attending the hearings. Respondent contended that she did not use official time in the preparation of pleadings for the case and she did not receive any remuneration. Respondent, being the lawyer in the family, handled the case to fulfill the promise to her late father.

Respondent alleged that the anonymous complaint was done mainly to harass her and tarnish her name and reputation, as the same was filed a few months after she tendered her resignation on 1 December 2004. Respondent apologized for the mistakes she committed and pleaded that her 10 years of dedication and service to the judiciary be considered in resolving the case.

On 28 June 2007, the OCA issued its Report and Recommendation. The OCA recommended to re-docket this administrative complaint as a regular administrative matter and to fine respondent P11,000.

The OCA ruled that respondent failed to obey the Order of the Supreme Court when she intentionally did not file applications for leave of absence for her court appearances. This is a flagrant disobedience and respondent should have taken the necessary steps to guarantee the compliance required by law so as not to disrupt her duties in the administration of justice.

On 22 August 2007, this Court issued a Resolution treating this case as a regular administrative matter.

After a careful review of the records, the Court finds the evidence on record sufficient to support the OCA's findings and recommendation.

There is no doubt that this Court has authorized respondent to appear as counsel for her family in Civil Case No. 86-38066. Thus, in the instant administrative case, the only issue for resolution is whether respondent is guilty of the charges of insubordination for failing to file her applications for leave of absence on her court appearances as mandated in A.M. No. 98-7-217-RTC.

The records show that respondent attended 18 court hearings without filing any application for leave of absence in contravention of A.M. No. 98-7-217-RTC, a fact she duly admitted. As observed by the OCA, respondent did not even file a single application for leave of absence in connection with her attendance in the court hearings. Respondent's conduct constitutes insubordination. A Court's Resolution is "not to be construed as a mere request, nor should it be complied with partially, inadequately or selectively." [3]

Respondent explained that her immediate superior gave her the option to work beyond office hours to compensate for the few hours she spent in attending the hearings. However, the offsetting of tardiness or absences by working for an equivalent number of minutes or hours by which an employee has been tardy or absent, beyond the regular or approved working hours of the employees concerned, is not allowed. [4]

In *Yrastorza v. Latiza*, [5] we held that "court employees bear the burden of observing exacting standards of ethics and morality. This is the price one pays for the honor of working in the judiciary. Those who are part of the machinery dispensing justice, from the presiding judge to the lowliest clerk, must conduct themselves with utmost decorum and propriety to maintain the public's faith and respect for the judiciary."

Respondent's deliberate act of disobeying a lawful order is punishable as a less grave offense under the Civil Service Law. Under the Revised Uniform Rules on Administrative Cases in the Civil Service, [6] the penalty for insubordination for a first-time offender is suspension for one month and one day to six months. [7] However, since respondent has tendered her resignation effective 1 December 2004, her suspension is no longer possible.

Section 53, Rule IV of the Revised Uniform Rules, grants the disciplining authority the discretion to consider

mitigating circumstances in the imposition of the proper penalty. Since respondent is a first time offender and had served the judiciary for 10 years, a fine of P10,000 is in order.

WHEREFORE, we find respondent Atty. Vivian V. Villalon-Lapuz guilty of insubordination and fine her Ten Thousand Pesos (P10,000). This amount may be deducted from whatever benefits respondent is entitled after her voluntary resignation.

Let a copy of this Resolution be attached to the 201 file of respondent.

SO ORDERED.

Puno, C.J. (Chairperson), Austria-Martinez, Corona, and Leonardo-De Castro, JJ., concur.

* As replacement of Justice Adolfo S. Azcuna who is on official leave per Special Order No. 510.

[1] Supreme Court En Banc Resolution dated 4 August 1998. A.M. No. 98-7-217-RTC.

[2] The certified copies of respondent's leave applications have been submitted by Atty. Caridad A. Pabello of the Office of Administrative Services.

[3] *Cojuangco, Jr. v. Palma*, A.C. No. 2474, 30 June 2005, 462 SCRA 310.

[4] Section 9, Rule XVII, CSC Resolution No. 91-1631, Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Rules, dated 27 December 1991.

[5] 462 Phil. 145 (2003).

[6] Promulgated by the Civil Service Commission through Resolution No. 99-1936 dated 31 August 1999 and implemented by CSC Memorandum Circular No. 19, Series of 1999.

[7] Rule IV, Section 52(B)(5).

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