

DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT, FIELD OFFICE NO. 1, SAN FERNANDO, LA UNION, REPRESENTED BY CORAZON M. LAYUG, COMPLAINANT, VS. JUDGE ANTONIO M. BELEN, REGIONAL TRIA...

A.M. No. RTJ-96-1362. July 18, 1997

Ponente: REGALADO, J.

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REGALADO, J.:

In this administrative complaint initiated by Corazon M. Layug, Social Welfare Officer IV of the Department of Social Welfare and Development (DSWD), Field Office No. 1 stationed in San Fernando, La Union, respondent Judge Antonio M. Belen of the Regional Trial Court, Branch 38, of Lingayen, Pangasinan, is charged with rendering an erroneous decree of adoption in violation of Article 33 of Presidential Decree No. 603, otherwise known as “The Child and Youth Welfare Code,” and the corresponding Supreme Court circular thereon, namely, Circular No. 12 dated October 2, 1986.

Respondent Elma P. Vedaña, Social Welfare Officer II, Office of the Clerk of Court, Regional Trial Court of Lingayen, Pangasinan is charged with disregarding the provisions of the same Circular No. 12 of this Court in connection with the aforementioned special proceeding.

As appears from the records, the spouses Desiderio Soriano and Aurora Bernardo-Soriano, both of whom are naturalized American citizens, filed a verified petition for adoption of their niece, the minor Zhedell Bernardo Ibea, which was docketed as Special Proceeding No. 5830 of the Regional Trial Court of Lingayen, Pangasinan, and assigned to Branch 38 thereof. In due time, respondent Judge Belen granted the petition in a decision dated June 25, 1992, after finding that petitioner spouses were highly qualified to adopt the child as their own.

Among other evidence adduced before him, respondent judge based his decree primarily on the “findings and recommendation of the DSWD that the adopting parents on the one hand and the adoptee on the other hand have already developed love and emotional attachment and parenting rules have been demonstrated to the minor.” On these considerations, respondent judge decided and proceeded to dispense with trial custody. Said DSWD findings and recommendations, as respondent judge asserted in his judgment, are contained in the “Adoptive Home Study Report” and “Child Study Report” prepared by the local office of the DSWD through respondent Elma P. Vedaña.[1]

However, when the minor Zhedell Bernardo Ibea sought to obtain the requisite travel clearance from the DSWD in order to join her adoptive parents in the United States, the department uncovered what it considered as an anomalous adoption decree regarding said minor. It turned out that the DSWD did not have any record in its files regarding the adoption and that there was never any order from respondent judge for the DSWD to conduct a “Home and Child Study Report” in the case. Furthermore, there was no directive from respondent judge for the social welfare officer of the lower court to coordinate with the DSWD on the matter of the required reports for said minor’s adoption.

As the adoption never passed through the DSWD, it filed the present administrative complaint against respondent judge charging him with violating Article 33 of Presidential Decree No. 603 which requires, inter alia, that petitions for adoption shall be granted only after the DSWD has conducted and submitted a case study of the adoptee, the natural parents and the adoptive parents. It was also alleged by the DSWD that respondent Elma P. Vedaña had asked for an undisclosed amount of money from the adopting parents in order to expedite the adoption case with the DSWD.[2]

In its 1st Indorsement dated April 19, 1996, the Office of the Court Administrator (OCA) of this Court required respondent to comment on the letter-complaint of the DSWD. Respondent judge, in compliance therewith, claimed that he directed respondent Vedaña to conduct the home and case study, and thereafter submit the required reports thereon, precisely because the same are among her duties under the Manual for Clerks of Court. Since these functions were so provided to be performed by her, there was no need for him to order said respondent social welfare officer to coordinate with the DSWD as he assumed that it was routine procedure for her to do so. In addition, respondent judge contends that, except only for direct coordination with the DSWD in the preparation of said reports, no approval from the DSWD is necessary for the home and case study reports and it need not be furnished therewith. Finally, he says that he based his adoption decree not only on the recommendations of respondent Vedaña but also upon all the other evidence submitted in the adoption proceeding.[3]

In the Informal Preliminary Inquiry report dated August 16, 1996 and addressed by way of a memorandum to the Office of the Chief Justice, the OCA recommended that respondent judge be administratively punished for violating Circular No. 12 of this Court, dated October 2, 1986, and Article 33 of Presidential Decree No. 603. Respondent Elma P. Vedaña, on the other hand, was asked to explain her failure to coordinate with the DSWD regional office in the preparation of the pertinent reports and to comment on the allegation that she asked for money from the adopting parents.

In her comment, respondent Vedaña pointed out that there never was any directive from respondent judge for her to coordinate with the DSWD concerning the adoption in question. She was only ordered to conduct the case study and submit her report thereon to the court at least one week before the initial hearing of the case, as was also the practice in the other Regional Trial Courts. She flatly denied that she ever asked for money from the prospective adoptive parents of the minor Zhedell Bernardo Ibea.[4]

On November 27, 1996, this Court resolved to refer the administrative matter against the two respondents to the OCA for evaluation, report and recommendation. Thereafter, the said office reiterated the fact that respondent judge definitely rendered the adoption decree in derogation of the provisions of Article 33 of Presidential Decree No. 603 and of Circular No. 12 of this Court. Additionally, while the act of corruption attributed to her was not proved, respondent Vedaña, on her part, likewise failed to comply with the requirement in Circular No. 12 that she should have coordinated with the DSWD in connection with the preparation of the home and case study reports.

Indeed, Article 33 of the Child and Youth Welfare Code provides in no uncertain terms that:

“No petition for adoption shall be granted unless the Department of Social Welfare, or the Social Work and Counselling Division, in case of Juvenile and Domestic Relations Courts, has made a case study of the child to be adopted, his natural parents as well as the prospective adopting parents, and has submitted its report and recommendations on the matter to the court hearing such petition. The Department of Social Welfare shall intervene on behalf of the child if it finds, after such case study, that the petition should be denied.”

Circular No. 12, as a complementary measure, was issued by this Court precisely to obviate the mishandling of

adoption cases by judges, particularly in respect to the aforementioned case study to be conducted in accordance with Article 33 of Presidential Decree No. 603 by the DSWD itself and involving the child to be adopted, its natural parents, and the adopting parents. It definitively directs Regional Trial Courts hearing adoption cases:

"0(1) to NOTIFY the Ministry of Social Services and Development, thru its local agency, of the filing of adoption cases or the pendency thereof with respect to those cases already filed;

(2) to strictly COMPLY with the requirement in Article 33 of the aforesaid decree x x x

xxx

The Staff Assistant V (Social Worker) of the Regional Trial Courts, if any, shall coordinate with the Ministry of Social Services and Development representatives in the preparation and submittal of such case study. x x x"

The error on the part of both respondent judge and social worker is thus all too evident. Pursuant to Circular No. 12, the proper course that respondent judge should have taken was to notify the DSWD at the outset about the commencement of Special Proceeding No. 5830 so that the corresponding case study could have been accordingly conducted by said department which undoubtedly has the necessary competence, more than that possessed by the court social welfare officer, to make the proper recommendation. Moreover, respondent judge should never have merely presumed that it was routinary for the social welfare officer to coordinate with the DSWD regarding the adoption proceedings. It was his duty to exercise caution and to see to it that such coordination was observed in the adoption proceedings, together with all the other requirements of the law.

By respondent's failure to do so, he may well have wittingly or unwittingly placed in jeopardy the welfare and future of the child whose adoption was under consideration. Adoption, after all, is in a large measure a legal device by which a better future may be accorded an unfortunate child like Zhedell Bernardo Ibea in this case. Treading on equally sensitive legal terrain, the social welfare officer concerned, respondent Elma P. Vedaña, arrogated unto herself a matter that pertained exclusively to the DSWD, her task being to coordinate with the DSWD in the preparation and submission of the relevant case study reports, and not to make the same and recommend by herself the facts on which the court was to act.

The Code of Judicial Conduct requires that a magistrate should be the embodiment of, among other desirable characteristics, judicial competence.[5] It need not be stressed here that among the prime duties to which a judge of the law must ever be faithful is that of being abreast with the law and jurisprudence, since, as has so often been advanced, the administration of justice requires the continuous study of law and jurisprudence.[6] Respondent judge has obviously not been able to achieve the level of this expectation.

In like manner, respondent Elma P. Vedaña has imprudently acted beyond the bounds and strictures of her duties as a Social Welfare Officer II of the Regional Trial Court. As an employee of a court of justice, she should have been well aware not only of the scope of her duties and responsibilities but that she should have likewise been familiar with current laws, rules and regulations pertinent to her position as such social welfare officer. By her misfeasance, she has compromised the prescribed process in the administration of justice in proceedings such as the one under consideration.

We are, however, persuaded that respondent judge acted in good faith when he stated in his decision that the DSWD submitted the required reports to his court through respondent Vedaña, presumably in the belief that it was standard procedure for the Social Welfare Officer II of a Regional Trial Court to do so in coordination with the DSWD. We also agree with the findings of the OCA that there is no evidence whatsoever that respondent Vedaña sought to obtain any amount from the adopting parents. In fact, this is belied by the affidavit of the child's natural mother, Loreta Ibea. We are, therefore, inclined to adopt a liberal view on the charges against respondents.

ACCORDINGLY, with a stern warning that a repetition of the same or similar acts in the future shall be dealt with more severely by this Court, respondent Judge Antonio M. Belen of the Regional Trial Court, Branch 38, of Lingayen, Pangasinan is hereby CENSURED for violating Article 33 of Presidential Decree No. 603 and Circular No. 12 of this Court; and respondent Elma P. Vedaña, Social Welfare Officer II of the Office of the Clerk of Court, Regional Trial Court of Lingayen, Pangasinan, is REPRIMANDED for violating Circular No. 12. SO ORDERED.

Romero, Puno, and Mendoza, JJ., concur.
Torres, Jr., J., on leave.

[1] Rollo, 26-28; Annex “5”.

[2] Ibid., 2-4.

[3] Id., 6-8.

[4] Id., 31-34.

[5] Rule 1.01, Canon 1, Code of Judicial Conduct.

[6] Ting vs. Atal, A.M. MT-93-877, March 11, 1994, 231 SCRA 80.

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