

SHARON S. ALEGRIA, COMPLAINANT, VS. JUDGE MANUEL N. DUQUE, RTC, BRANCH 197, LAS PIÑAS CITY, RESPONDENT.*A.M. NO. RTJ-06-2019 (Formerly A.M. No. 06-7-418-RTC). April 03, 2007*

Ponente: TINGA, J.

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It is well to remind judges that this Court has adopted a zero-tolerance policy towards erring members of the judiciary as part of its effort to cleanse its ranks and improve the administration of justice.[1] In the implementation of this policy, however, the Court ensures that the requirements of due process are observed, such that substantial evidence is required to prove the charge against a judge. Side by side with the observance of due process is this Court's bestowal of bounden respect for the sensibilities of complainant. All these considered, the Court will not hesitate to do its duty to discipline a judge or even dismiss him from the service when his guilt is proven by the required quantum of evidence. Conversely, this Court is bound to absolve a judge when the charge against him is baseless or otherwise does not meet the substantial evidence standard.

On 27 July 2005, Sharon Sanson-Alegria (complainant) then Clerk III, Regional Trial Court (RTC), Br. 197, Las Piñas City, filed with the Office of the Clerk of Court, RTC, Las Piñas City, an Affidavit-Complaint[2] charging Judge Manuel N. Duque (respondent) for "commit[ting] acts insulting to and belittling [her] morals and decency." On 28 July 2005, Zandra T. Bato, Clerk of Court VI, forwarded to Joselito dj. Vibandor, Executive Judge, RTC, Las Piñas City, said Affidavit-Complaint.[3]

The Committee on Decorum and Investigation (Committee) took cognizance of the case and docketed it as Case No. LP-05-002. Finding the complaint sufficient in form and substance, the Committee directed respondent to file an answer under oath.[4] On 8 August 2005, respondent filed his Answer.[5]

A pre-hearing conference was conducted on 7 March 2006, after which the Committee issued a Pre-Hearing Order[6] containing the stipulation of facts, issue, and list of the pre-marked exhibits for the parties.

On 14 March 2006, complainant filed an Urgent Motion to order the preventive suspension of respondent and his inhibition from the criminal cases being handled by complainant's counsel and tried by respondent.[7] On 4 April 2006, respondent filed his comment to this motion by complainant. On the same day, the Committee issued an Order directing the parties to submit their respective position papers with the affidavits of their witnesses.[8] Before the Committee could take any further action in the case, on 8 May 2006, it forwarded the records of the case to the Office of the Court Administrator pursuant to this Court's Resolution dated 7 March 2006 (A.M. No. 05-12-757-RTC) excluding "complaints for sexual harassment against Judges of Regular and Special Courts and Justices of the Court of Appeals, the Sandiganbayan and the Court of Tax Appeals" from the jurisdiction of the Committee.[9]

In a Memorandum dated 26 June 2006, Court Administrator Christopher O. Lock recommended that the complaint against respondent judge be docketed as a regular administrative case and that the same be referred to one of the consultants of his office for investigation, report and recommendation within sixty (60) days from

receipt of the records.[10] On 6 September 2006, the Court noted the Memorandum of the Court Administrator and adopted his recommendations.[11] The complaint was re-docketed as an administrative case against respondent and the same was referred to a consultant for investigation, report and recommendation.

Despite four (4) resettings,[12] complainant and her counsel failed to appear at the 16 January 2007 scheduled hearing. Respondent judge, on the other hand, appeared and submitted an "Opposition to Postponement and Consider this Case Submitted for Resolution." [13] Thus, Hearing Officer Designate Romulo S. Quimbo issued an Order considering the case submitted for resolution.[14]

The version of complaint as found by the Hearing Officer Designate is as follows:

In her complaint[,] complainant averred that in early February 2005, she went on leave for one week. She had notified Atty. Jeanette Tolentino, the Branch Clerk of RTC Branch 197. She had gone on leave because of a personal problem which was affecting her work. When she returned to work, she was told that respondent Judge wanted to talk to her. When the latter arrived, he called for her. Before she went to respondent's office, she was warned by her office mates to distance herself from the respondent because the latter had earlier kissed Atty. Ma. Jeanette Baccay-Tolentino on the lips. Complainant said that she did not think the respondent Judge would do the same to her considering that he knew her father who was a chief of police.

Upon entering the respondent's office, complainant alleged that she sat on the chair facing him. Respondent asked complainant to relate her problem and not to be ashamed because he treated as a daughter. She averred that she cried and because she related her problem in a rather loud voice, the respondent Judge told her to keep her voice low so as not to be heard outside. Respondent Judge then stood up and locked the door to his office so that no one would disturb their conversation. Respondent Judge then sat down beside her and because she was covering her mouth with her two hands while she was crying, respondent Judge took her hands away because according to him he could not understand what she was saying. Immediately after he had removed her hands from covering her mouth, he kissed her on the lips with his tongue out. This surprised her. Respondent Judge then repeated his act of kissing her with his tongue out. That was when complainant regained her composure and she told him that his son is outside. Before she left, the respondent Judge said "I love you" and told her not to relate what happened to anyone. She did not mind what he said because she was then crying.

According to the complainant, she went down to the office of her "daddy" who saw her crying. He asked her why she was crying, she told him that her husband did not come home. She did this to prevent any untoward incident and she thought the incident with the respondent Judge would not be repeated. From her daddy's office she returned to the court but she was at a loss as to what she would do. During lunch at the canteen, she met their branch sheriff who noticed that she had been crying. The latter asked her why she was weeping, she related to him what had happened but she asked him to keep the story to himself.

During the last week of February 2005, the complainant declared that she was asked by respondent Judge to bring certain folders for his study. As she gave the folders to him, the respondent immediately embraced her. She pushed him away and respondent took hold of his "baril." He asked her if they could go out on a date. Because of her fear, complainant said that she agreed to the respondent's invitation. He set it for 08 March but she demurred because it was her birthday. Respondent suggested 10 March and complainant agreed. After that she went back to her office.

Complainant further declared that respondent Judge called her at the office to remind her of their date. They tried to record the call by using the cell phone of her officemate but it did not work. On 09 March, the day after her birthday, complainant did not report to her office. Ronaldo Esguerra, a nephew of the respondent Judge, sent her a text message that the respondent was calling for her. She called the respondent who asked her why she was absent. She replied that she had overslept. He reminded her of their date the next day. He suggested that they meet at "Citimotors" after the raffle because he was the duty judge. She said yes and the respondent warned her that if she will not appear, she better not return to the office ever at the same time banging the

phone. For this reason complainant stated that she did not report to the office anymore because she knew that she will be the recipient of a series of memoranda because that is what happens when the respondent Judge does not get what he wants. This same thing had happened to her office mates who do not want to talk for fear of losing their jobs. Because of his several memoranda her salary and other benefits were withheld. That is the reason she could not immediately file her complaint. Moreover, she realized that she was the underdog because respondent Judge knew many high and mighty people.[15]

In his Answer,[16] respondent denies the averments in the affidavit-complaint and refuted in detail the alleged act of sexual harassment. According to respondent, sometime in February 2005, after he learned that complainant had reported back for work after a prolonged absence, he talked to her over the phone that he wanted to see and talk to her about her neglected work as civil case clerk-in-charge. Complainant came to his office already trembling, crying and appeared hysterical. The door to respondent's chamber was only half-closed with respondent's son standing by the door.[17]

Complainant confessed that her husband, who had already become a drug addict, had another woman, no longer reported for work, and was no longer coming home. Complainant further informed respondent that her own father was likewise estranged from her mother and was also living with another woman. To this revelation, respondent merely advised complainant to work punctually everyday and to take an interest in her work for her to forget her family problems. Complainant allegedly apologized and promised not to repeat being absent.[18]

A few days later, on 8 March 2005, complainant called respondent asking permission for her to be absent as it was her birthday. Respondent told her that it was her privilege but that she had to notify the Branch Clerk of Court.[19]

With respect to the other incident, respondent asserts that at the time complainant delivered the voluminous folders and records of three cases, she was accompanied by Ronaldo Esguerra, the process server who carried the said records and waited with complainant in respondent's chambers while the latter went over the said records. Complainant and Esguerra thereafter left together.[20]

In addition to his denial and refutation of the alleged acts of sexual harassment, respondent further stated other matters with respect to complainant's appointment, performance, and efficiency as Clerk of his court. Respondent states that complainant was appointed to the position of Clerk in Branch 197 upon his recommendation.[21] Despite this, he criticizes her performance as docket clerk. According to respondent, several memoranda were issued by the Branch Clerk of Court relative to complainant's performance of her duties, to wit: (1) Memorandum[22] dated 17 April 2002 directing complainant to immediately submit all pleadings, motions, memoranda, and other papers to avoid delay and adverse consequences, (2) Memorandum[23] dated 19 April 2002 directing complainant to attach the registry receipts and return cards to the records of the case to which they pertained, (3) Memorandum[24] dated 9 February 2005, requiring complainant to explain why she did not furnish the parties with copies of the decision dated 5 November 2004 in Civil Case No. 01-0148, and (4) Memorandum[25] dated 2 December 2004 ordering complainant to explain her failure to prepare the order in LRC LP-04-0097.

Complainant also frequently absented herself from September to February 2005, seriously neglecting her work to the detriment and prejudice of the service.[26] On at least three occasions too, complainant failed to follow respondent's instructions with respect to the release of orders or decisions in various cases assigned to him,[27] as well as to properly keep case records.[28] The Branch Clerk of Court also found further irregularities in complainant's performance of her duties in four more cases and informed respondent about these.[29] Complainant, in response to the Memorandum dated 2 December 2004, admitted that she had a domestic problem that consumed all her time and effort and which also wore her down due to stress.[30]

According to respondent, complainant was no longer reporting for work since 9 March 2005 and that they have not received any notice or information as to the reason for her prolonged absence.[31] Because of these prolonged absences, the Branch Clerk of Court wrote the Leave Division, Office of the Court Administrator on 1 July 2005, requesting for the immediate dropping of complainant from the roll of employees so that her position can be declared vacant for the Court to indorse a new employee in her place.[32] Another letter was addressed to the Office of the Clerk of Court, RTC, Las Piñas City requesting said office to hold all checks payable to complainant representing salaries, benefits and other remunerations.[33]

On 29 June 2005, Caridad A. Pabello, Officer-in-Charge, Administrative Services, Office of the Court Administrator, wrote complainant requiring her to explain her unauthorized absences within five (5) days from receipt of the letter, favorably endorsed by the Presiding/Executive Judge otherwise they will be constrained to recommend that complainant be dropped from the rolls.[34]

Respondent surmises that it was because of this letter that complainant filed the instant administrative complaint against him, dragging the names of the other personnel of the branch. The malicious prosecution against respondent was also designed to cover up her misfeasance which had been discovered.[35]

On 22 February 2007, the Hearing Officer Designate transmitted to this Court, through the Office of the Court Administrator, five (5) copies of his Report, recommending the dismissal of the case. In making his recommendations, the Hearing Officer Designate took note of the following circumstances:[36]

- Several months (from February) passed before the complainant filed this case on 27 July 2005.
- Complainant's father was then Chief of Police of Las Piñas and his office and respondent's office were on the same building. Immediately after she was assaulted, complainant left respondent's chambers and proceeded to her father's. Why then did she not immediately confide in him what had happened to her[?] On the other hand[,] she rather freely told their branch sheriff whom she met at the canteen.
- Complainant stated that before she went in the chambers of the respondent when she was called in early February, she was warned by her office mates not to be too close to respondent as he had earlier kissed Atty. Tolentino. Complainant had conveniently omitted to mention who were these office mates who had warned her.
- The complainant had been a habitual absentee even before the alleged sexual harassment. The respondent had sought her removal from his court. To this end, his Branch Clerk of Court had written the Court Administrator, through the leave section, to report complainant's delinquency and asking that her name be dropped from the roll of employees.
- Respondent also took steps to prevent complainant from collecting her salary for the periods she was absent. To this end, letters were written to the Court Administrator and to the Clerk of Court for the Las Piñas Regional Trial Court to withhold any check or other benefit that would accrue to the complainant.
- It was not until these letters were written that the complaint for sexual harassment surfaced.

After reviewing the records of the instant administrative case, we find the above observations and conclusions of the Hearing Officer Designate to be well-taken as they are adequately substantiated by evidence and are anchored on applicable law and jurisprudence.

Sexual harassment in the workplace is not about a man taking advantage of a woman by reason of sexual desire — it is about power being exercised by a superior over his women subordinates. That power emanates from the fact that he can remove them if they refuse his amorous advances.[37] Under Sec. 3 of A.M. No. 03-03-13-SC (Re: Rule on Administrative Procedure in Sexual Harassment Cases and Guidelines on Proper Work Decorum in the

Judiciary), work-related sexual harassment is committed by an official or employee in the Judiciary who, having authority, influence or moral ascendancy over another in a work environment, demands, requests or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the latter. It is committed when "the sexual favor is made as a condition in the hiring or in the employment, re-employment or continued employment of said individual, or in granting said individual favorable compensation, terms, conditions, promotions, or privileges; or the refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in any way would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee." [38]

In the case at bar, while it is true that the element of moral ascendancy is present, respondent being the person who recommended complainant to her present position, complainant has failed to prove the alleged sexual advances by evidence other than her bare allegations in the affidavit-complaint. Even her own actions or omissions operate to cast doubt on her claim.

With no witnesses presented to prove or refute the allegations of the complaint, the case becomes a battle of complainant's word against respondent's.

It should be remembered that the case was referred to a Hearing Officer who is not connected with the Las Piñas court but with the Office of the Court Administrator affording a more neutral venue for both parties. However, despite four (4) resittings [39] of the hearing, complainant and her counsel failed to appear at the 16 January 2007 scheduled hearing, thereby denying the Hearing Officer the opportunity to question her and validate her accusation against respondent. Her dereliction enfeebles her allegations.

With respect to respondent judge, his version of the events is not totally implausible. Crucially, he does not admit to having committed any positive act that can be construed as an untoward sexual advance. All told, there is no inherent weakness in the version he proffers.

Most damaging to complainant's cause is that, based on the records and contemporaneous circumstances, there appears to be a strong motive on her part to make up charges against respondent judge. It should be remembered that even before the alleged incident, complainant was already in hot water, being the recipient of at least four memoranda from the Branch Clerk of Court, all of which called her to task for her poor performance as clerk in charge of civil cases. In addition, a month before complainant filed the instant case, the Office of the Court Administrator had directed complainant to explain her unauthorized absences and to include in said explanation a favorable endorsement from the Presiding/Executive Judge. Complainant was further warned that upon her failure to comply with these directives will constrain said office to recommend her dropping from the rolls.

The circumstances being as they are, it is easy to engender the belief that the filing of the administrative case against respondent was a belated, vain, and futile attempt by complainant to cover up for her own misfeasance, i.e., prolonged leave of absence without official leave, among others, and a chance to get back at respondent judge for initiating the administrative inquiry against her which resulted in the withholding of her salaries and benefits as well as the rise of the possibility of her being dropped from the rolls. [40] Considering that complainant has failed to substantiate her allegations, failing even to attest to her claims before the investigator appointed by this Court, elementary justice dictates respondent's exoneration of the charge.

WHEREFORE, premises considered, the Court resolves to DISMISS the instant administrative case against Judge Manuel N. Duque, Regional Trial Court, Branch 197, Las Piñas City for lack of merit.

SO ORDERED.

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

[1] See *Goltiao v. Mamenta*, A.M. No. P-03-1699, 1 October 2003, 412 SCRA 403; *Biboso v. Villanueva*, A.M. No. MTJ-01-1356, 16 April 2001, 356 SCRA 430; *Madredijo v. Loyao*, 375 Phil. 1 (1999); *Simbajon v. Esteban*, 371 Phil. 119 (1999); *Buencamino v. De Asa*, 354 Phil. 708 (1999); *Vedaña v. Valencia*, 356 Phil. 317 (1998).

[2] Rollo, pp. 9-14

[3] Id. at 8.

[4] Id. at 44.

[5] Id. at 76-86.

[6] Id. at 132-135.

[7] Id. at 149-151.

[8] Id. at 161-162.

[9] Id. at 5. The 7 March 2006 Resolution of this Court in A.M. No. 05-12-757-RTC amended Sec. 8 of the Rule on Administrative Procedure in Sexual Harassment Cases and Guidelines on Proper Work Decorum in the Judiciary (A.M. No. 03-03-13-SC) to conform to Rules of Court, Rule 140, Sec. 3.

[10] Id. at 1-4.

[11] Id. at 171.

[12] The first scheduled hearing was re-scheduled from 24 October 2006 to 7 November 2006, on account of the fact that the former schedule was declared a Special Holiday to celebrate the end of Ramadan. On 7 November 2006, both parties appeared but complainant prayed for a resetting because her counsel intended to withdraw his appearance. The Hearing Officer granted this prayer and reset the hearing to 28 November 2006. On 28 November 2006, the investigation was again reset to 12 December 2006 because complainant's counsel needed at least five (5) days to study the case. The hearing of 12 December 2006 did not push through and was reset to 16 January 2007 because the Hearing Officer was sick.

[13] Rollo, pp. 180-181.

[14] Id. at 242-243.

[15] Report, pp. 3-4.

[16] Rollo, pp. 76-86.

[17] Id. at 82

[18] Id. at 83.

[19] Id. 83.

[20] Id. at 83-84.

[21] Id. at 76-77.

[22] Id. at 87.

[23] Id. at 88.

[24] Id. at 93.

[25] Id. at 101.

[26] Id. at 77.

[27] In Civil Case No. LP-03-0120, respondent, in front of his Legal Researcher, gave complainant a brown envelope which contained an Order dated 20 September 2004 with instructions for the latter to release the same to the parties and their respective counsels. When respondent reminded complainant about this a month later, the latter flatly denied having received the Order. When complainant was no longer reporting for work, the Legal Researcher found in complainant's working area the sealed brown envelope with the Order inside. (Id. at 78)

In another case, Civil Case No. 01-0148, respondent's decision dated 5 November 2004 was kept by complainant. (Id. at 79)

In still another case, LRC Case No. 04-0002, complainant failed to mail respondent's decision therein which had been rendered a year before. (Id. at 80)

[28] The records of the Hatanaka case which were missing since January 2005 were found in complainant's working area. (Id. at 79)

[29] See id. at 94-95.

[30] Id. at 102.

[31] Id. at 96, 80.

[32] Id. at 97-98.

[33] Id. at 99.

[34] Id. at 100.

[35] Id. at 81-82.

[36] Report, pp. 8-9.

[37] *Goltiao v. Mamenta*, A.M. No. P-03-1699, 1 October 2003, 412 SCRA 403, citing *Floralde v. Court of Appeals*, 337 SCRA 371 (2000).

[38] See Sec. 4 of A.M. No. 03-03-13-SC (Re: Rule on Administrative Procedure in Sexual Harassment Cases and Guidelines on Proper Work Decorum in the Judiciary) and Sec. 3(a)(1) of Republic Act No. 7877, entitled "An Act Declaring Sexual Harassment Unlawful in the Employment, Education or Training Environment, and for other Purposes."

[39] See *supra* note 12.

[40] We note that this is not the first time that complainant made a move against respondent judge. In A.M. No. OCA-IPI-06-2414-RTJ, an administrative case against respondent and his Branch Clerk of Court, complainant executed an affidavit on 6 January 2006, "confessing" her participation in an alleged conspiracy to extort money from Socorro Casano, the plaintiff in a civil case in respondent's court. This Court, however, dismissed the case in its Resolution dated 10 July 2006.

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