

MARILYN I. DE JOYA AND DENNIS B. CANTANO, COMPLAINANTS, VS. ELSA T. BALUBAR, SC SUPERVISING JUDICIAL STAFF OFFICER, CHECKS DISBURSEMENT DIVISION, FMBO, RESPONDENT.

A.M. Nos. 2001-1-SC & 2001-2-SC. September 03, 2002

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

The people's faith in the Judiciary is assuredly eroded when they are subjected to the dismaying spectacle of a court employee hurling invectives at a co-worker. It becomes even more disappointing when the people involved are employees holding sensitive positions in the Supreme Court.

Marilyn I. De Joya, Dennis B. Cantano and Elsa T. Balubar are all employees of this Court's Fiscal Management and Budget Office (FMBO). Marilyn I. De Joya is the Chief of the Disbursement Section, Accounting Division, while Dennis B. Cantano is a Fiscal Clerk I in the same division. Respondent Elsa T. Balubar is the SC Supervising Judicial Staff Officer of the Checks and Disbursement Division, FMBO.

On October 20, 2000, De Joya filed a sworn complaint,[1] docketed as A.C. No. 2001-1-SC, charging Balubar with gross misconduct. She alleged that on March 22, 2000 and June 21, 2000, her office requested respondent to furnish the Accounting Division with a copy of the Statement of Cancelled Checks. Upon verification from a member of her staff, Olivia Tumbaga, she learned that respondent has not complied with the requests. Thus, complainant prepared a draft memorandum addressed to respondent reiterating the said requests.[2]

On September 7, 2000, without complainant's knowledge, Tumbaga sent the draft memorandum to respondent. On October 16, 2000, respondent went to the Accounting Division and, in a loud and angry voice, uttered the following words:

"Nasaan si Joya? Sino ba si Joya?"

"Hindi ako dapat pinadalhan ng Joya na yan ang memorandum dahil sinagot na namin ito. . . . Putang Ina Niya!"

"Sabihin mo sa Joya na yan, wag niya akong mememohan ha!"

"Putang Ina niya, pag nakita ko yang Joya na yan . . . Sasampalin ko yan!"

De Joya's complaint was corroborated by the Joint Affidavit of Policarpio G. Felicidadario Jr., Division Chief, Accounting Division, Dennis Cantano, Dindo Sevilla and Albert Nate, all of whom witnessed the incident.[3]

Cantano also filed administrative charges against respondent Balubar for grave misconduct,[4] docketed as A.C. No. 2001-2-SC. He alleged that on October 16, 2000, respondent entered the office of the Accounting Division and asked for complainant De Joya, but the latter was on leave at that time. Respondent then proceeded to Policarpio G. Felicidadario, Jr. and questioned the Memorandum dated September 7, 2000 issued by De Joya. Respondent allegedly uttered the following words:

“Hindi ako dapat pinadalhan ng Joya na ‘yan ng Memorandum dahil sinagot na namin ito! Putang ina niya!”

After that, respondent turned to Cantano and said:

“Ikaw, bakit receive ka ng receive? Ayusin mo ang trabaho mo, Gago, Gago, Gago, Putang Ina Mo!”

“Sabihin mo sa Joya na ‘yan na huwag niya akong mememohan ha! Putang Ina Niya, pag nakita ko yang Joya na ‘yan . . . Sasampalin Ko Iyan!”

Complainant Cantano was shocked by the incident and felt humiliated. To substantiate his claim, Cantano submitted the Joint Affidavit of Ursula Editha O. San Pedro, Dindo Sevilla, Dexter Ilagan, Gloria Cambel, Herminia Umali, Minerva Briones and Olivia Tumbaga.[5]

In two separate memoranda dated November 7, 2000[6] and November 29, 2000,[7] Atty. Luzviminda D. Puno, Clerk of Court, directed respondent to answer the complaints.

In her comment[8] to De Joya’s complaint, respondent averred that on November 22, 2000, she received a communication from Policarpio G. Felicidadario Jr., Acting Chief of the Accounting Division, requiring her to submit a Statement of Cancelled Checks for various claimants. Upon receipt thereof, she reported to the Accounting Division that the checks issued in favor of Ms. Lorelei Edles, Estrella Ymbang and Alfredo Ymbang were already forwarded to the COA sometime in 1998 by Dennis Cantano. Meanwhile, no statement of cancelled checks can be issued in favor of Natalie Calumpong because the payee encashed the same. The Statement of Cancelled Checks which was issued to Angelina C. Nepomuceno was received on February 8, 2000 by Dennis Cantano of the Accounting Division.

On June 21, 2000, respondent received another letter from Mr. Felicidadario reiterating his earlier request. She immediately informed him that the request had been complied with.

On October 16, 2000, she received a Memorandum dated September 7, 2000, reiterating the request for a Statement of Cancellation from the Accounting Division with a further directive for immediate compliance therewith. Upon receipt of the Memorandum, she immediately tried to contact Mr. Felicidadario through the phone, but to no avail. Hence, she proceeded to the Accounting Division where she told Felicidadario,

“Bakit naman ganyan, Junn, ilang memo na ito? Ginawa naman ninyo akong gago, ang sakit naman sa akin nito. Lahat ng pakiusap ninyo, sinunod namin, bale wala pala itong ipinapa-receive namin sa inyo.”

Respondent denies having uttered unsavory words but admits saying the following in a loud voice:

“Wala kayong sistema, puro kayo irresponsible. Ginagawa ninyo akong gago, sabihin niyo diyan kay De Joya na bago siya mag-memo sa akin, tanungin niya muna ang Boss ninyo.”

Respondent also admits that she turned to Cantano and said:

“Ikaw, receive ka ng receive, pero di mo naman pinagbubuti ang iyong trabaho. Kasi wala kang ginagawa kundi maya’t maya ay magbenta ng Fundador at video tape.”

Respondent claims that the subject records have been with the Accounting Division since 1998, and if only the staff members were conscientious in the performance of their duties, they should have known that the records were already with them.

She admits that she talks in a loud voice and that this is public knowledge. However, she denies having uttered the words imputed to her. While she used to say those words as an expression during her earlier years, she tried to change this since she became Acting Chief of the Checks and Disbursement Division. She describes the charges as false accusations from people who are out to destroy her reputation.

In De Joya's reply[9] to respondent's comment, she alleged that upon learning about the complaint, respondent admitted her guilt in front of Mrs. Corazon Ordoñez and Mrs. Agripina Bumanglag, saying:

"Marilyn, sorry ha! Alam mo. . . . di ko talaga mapigilan ang sarili ko. Kapag hindi ko masabi ang gusto kong sabihin, baka kung ano ang mangyari sa akin."

Contrary to respondent's claim, there are still checks which are in her custody despite repeated demands to turn them over to the Accounting Division. Hence, for her failure to produce them, these checks were deemed missing for which respondent can be held liable for Infidelity in the Custody of Official Documents.

The charges were subsequently referred to Atty. Eden T. Candelaria, Deputy Clerk of Court and Chief Administrative Officer for evaluation report and recommendation. In a Memorandum dated February 23, 2001[10] Atty. Candelaria recommended that Balubar be fined Ten Thousand Pesos (P10,000.00) and that she be directed to comply with the Memorandum of De Joya dated September 7, 2000 within five (5) days from receipt of the resolution of the Court.

The recommendation is well taken.

The records disclose that various Memoranda were issued to respondent for her failure to comply with the request of the Accounting Division. Apparently, respondent felt slighted by the Memorandum of a subordinate, however, said Memoranda would not have been issued at all if she only attended with dispatch to the requests of the Accounting Division.

Complainant De Joya was simply performing a ministerial duty of requesting the status of the cancelled checks. It would have been different if De Joya attempted to exercise administrative supervision over her. The requests made were but run-of-the-mill day to day transactions which could have been easily resolved through the expedient of open-line communications. Respondent, however, overreacted.

In this connection, there is no question that respondent used the foul and vulgar statement, "Putang ina mo," against complainants not once but several times. In addition, she called Cantano as "Gago." It is very unbecoming for one who is Acting Chief of a division to hurl vile epithets at her co-workers like some common fishwife in a fit of pique. As an administrative officer of the Court, respondent should be courteous both in her conduct and her language towards her co-workers in order to have a smooth and efficient flow of work. She should refrain from conduct that demeans her office, remembering always that courtesy begets courtesy.[11]

Respondent's bellicose remark that she would slap complainant De Joya once she sees her does not speak well of her character. Prudence, restraint and sobriety are traits expected of those who occupy supervisory position, albeit in an acting capacity.

Respondent's proffered explanation that she did not publicly shout disparaging remarks at the complainants is tenuous. The majority of the Accounting employees would not have executed their Joint Affidavit stating what they have witnessed were it not the truth. Furthermore, there is no showing that said employees were actuated by ill motives to fabricate such a charge against respondent. Respondent herself admits that she has a "loud booming voice,"[12] such trait being "common knowledge to everyone around her," including the OCA,[13] and that she could not at times control her temper. She, furthermore, admits that she "was fond of uttering those words as an expression"[14] in her earlier years but, upon being designated Acting Chief of the Checks Disbursement Division, she tried to change this.[15] In fact, she practically admitted her culpability when, in an attempt to mend fences, she contritely said in the presence of complainant De Joya, Mrs. Corazon Ordoñez, Director IV, SC FMBO and Mrs. Agripina Bumanglag, Assistant Chief, SC FMBO:

"Marilyn, sorry ha! Alam mo. . . . di ko talaga mapigilan sarili ko. Kapag di ko nasabi ang gusto kong

sabihin, baka kung ano nang mangyari sa akin.”

Respondent needs to be reminded that government service is people oriented. Patience is an essential part of dispensing justice and courtesy is a mark of culture and good breeding. Belligerent behavior has no place in government service where personnel are enjoined to act with self-restraint and civility at all times even when confronted with rudeness and insolence.[16] Maintaining the dignity of courts and enforcing the duty of the citizens to respect them are necessary adjuncts to the administration of justice.[17] In *Baniqued v. Rojas*,[18] we held:

. . . Respondent’s high-strung and belligerent behavior cannot be countenanced. Fighting with a co-employee during office hours is a disgraceful behavior reflecting adversely on the good image of the judiciary. Shouting in the workplace and during office hours is arrant discourtesy and disrespect not only towards co-workers but to the Court as well. It displays a cavalier attitude towards the seriousness and dignity with which court business should be treated.

Such deportment especially during office hours, was totally unbecoming of an employee who forms part of the judicial service and this definitely cannot be allowed. Respondent’s conduct exhibits failure on his part to discharge his duties with the required degree of professionalism, to respect at all times the rights of others and refrain from acts contrary to good morals and good customs as demanded by Republic Act No. 6713 which, inter alia, enunciates the State policy of promoting a high standard of ethics and utmost responsibility in the public service.[19]

WHEREFORE, in view of the foregoing, respondent Elsa T. Balubar, SC Supervising Judicial Staff Officer, Checks and Disbursement Division, FMBO, is found guilty of gross misconduct. She is ordered to pay a FINE in the amount of Ten Thousand Pesos (P10,000.00) and STERNLY WARNED that a repetition of the same or similar offense will be dealt with more severely. Further, respondent is DIRECTED to comply with the Memorandum dated September 7, 2000 issued by Marilyn I. De Joya, Accountant III, Disbursement Section, Accounting Division within five (5) days from receipt of this Resolution.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, and Carpio, JJ., concur.

[1] Rollo, p. 32.

[2] *Ibid.*, p. 37.

[3] *Id.*, p. 38.

[4] *Id.*, p. 95.

[5] *Id.*, p. 98.

[6] *Id.*, p. 41.

[7] *Id.*, p. 100.

[8] *Id.*, pp. 42-44.

[9] *Id.*, pp. 59-61.

[10] *Id.*, pp. 24-30.

[11] See Ruiz v. Bringas, 330 SCRA 62, 68 [2000] .

[12] Comment dated 6 December 2000, p. 2; Rollo, p. 102.

[13] Ibid.

[14] Comment dated 13 November 2000, p. 3; Rollo, p. 44.

[15] Ibid.

[16] Rodriguez v. Bonifacio, 344 SCRA 519, 536 [2000] .

[17] In Re: Published Alleged Threats Against Members of the Court in the Plunder Case Law hurled by Atty. Leonard De Vera, A.M. No. 01-12-03-SC, 29 July 2002, p. 5, citing Weston v. Commonwealth, 77 SE 2d 405, 409 [1953] .

[18] 342 SCRA 1, 4 [2000] .

[19] Citing Apaga v. Ponce, 245 SCRA 233 [1995] .

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