

JUDGE LYDIA Q. LAYOSA, COMPLAINANT, VS. TONETTE M. SALAMANCA, COURT STENOGRAPHER III, REGIONAL TRIAL COURT OF QUEZON CITY, BRANCH 217, RESPONDENT.

A.M. No. P-03-1702 (Formerly OCA IPI No. 01-1067-P). July 29, 2003

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PER CURIAM:

The instant administrative case stemmed from the letter-complaint dated March 19, 2001 to the Office of the Court Administrator (OCA) by Presiding Judge Lydia Querubin Layosa of the Regional Trial Court (RTC) of Quezon City, Branch 217, against Tonette Salamanca, Court Stenographer III of the same sala, charging her with gross misconduct, forgery, dishonesty and perjury.

The complaint-affidavit stated that:

I, LYDIA QUERUBIN LAYOSA, of legal age, with office address at Room 238, Hall of Justice, Quezon City, after having been duly sworn to in accordance with law hereby depose and say:

That I am the Presiding Judge of Branch 217, Regional Trial Court, Quezon City;

That I usually received around the 15th of each month three (3) checks representing my half month salary, extraordinary and representation and travel (RATA) allowances;

That on September 15, 2000 when I received two (2) checks representing my salary for the period as well as my extraordinary allowance from Elizabeth Suggang, a staff of this Branch who was always the one getting my checks from the Office of the Clerk of Court, I asked her where my representation and travel allowance (RATA) was and she answered that my check has not arrived;

That thinking that the release of my check was just delayed, I let the days passed;

That sometime in the second week of October, 2000, I discovered from one of my fellow judges that the release of the check representing our RATA has not been delayed as it was in fact released during the usual period of which I informed my Branch Clerk of Court, Atty. Candelaria L. Rivas, and Legal Researcher, Ma. Celia A. Flores, about it;

That no long after I informed Atty. Rivas and Ms. Flores about the foregoing fact, Tonette M. Salamanca, stenographer of this sala approached me in my chamber and told me:

"Judge, ako po pala and kumuha ng tseke ninyo."

at the same time showing me a xerox copy of the page where she signed when she got the said check (Annex "A"), on September 18, 2000;

That asked where the check was, Mrs. Salamanca answered that she lost it. In support of her claim, Mrs. Salamanca executed an affidavit stating the fact that she got my RATA check and lost it (Annex "B");

That upon my instruction, Atty. Rivas called the Supreme Court and informed the office concerned about the loss of my RATA check with a request to stop the bank from payment thereof. A copy of the affidavit attesting

to the fact of the loss of my RATA check executed by Tonette M. Salamanca was forthwith sent to the Supreme Court;

That on or about the second week of November, 2000, Tonette M. Salamanca entered my chambers and informed me that:

"Judge, may nag-encash ho pala ng check ninyo kay Mr. Dizon."

That with that information I sent Ms. Flores to ask Mr. Dizon who encashed said check and then Mr. Dizon told her that it was Tonette Salamanca (Annex "C");

That on February 22, 2001, after I attended the training on the Bench Book for Trial Court Judges at the Supreme Court, I dropped by the office of Mrs. Soria and got a xerox copy of the subject Land Bank of the Philippines Check No. 003533762 in the mount of Nine Thousand Seven Hundred Fifty Pesos (P9,750.00) and found out to my surprise that it contained an endorsement at the dorsal portion thereof. On its face, however, my signature is definitely a forgery.

That I am executing this Affidavit to attest to the truth of the foregoing facts for the purpose of filing formal administrative complaint against Ms. Tonette M. Salamanca, Court Stenographer of this sala.

In her comment dated May 18, 2001, respondent Salamanca vehemently denied the accusations against her and alleged the following:

- That, I am a Court Stenographer presently assigned at Branch 217, Regional Trial Court (RTC, Quezon City);
- That, I admit to have received a Land Bank Check No. 003533762 which is payable to Judge Lydia Querubin Layosa representing her Representation and Travel Allowance (RATA) in the corresponding amount of Nine Thousand Seven Hundred Fifty Pesos (P9,750.00) from Mr. Romulo Sanchez, Liason Officer of RTC, Quezon City in the afternoon of September 18, 2000 (copy of the aforesaid check is hereto attached as Annex "A");
- That, coincidentally on the same date in the afternoon thereof, we were having a celebration because it was then the birthday of Ma. Celia A. Flores, our Court Legal Researcher;
- That, immediately upon receipt thereof, I personally handed said check to Judge Layosa inside her chamber who was then busy reviewing cases and drafting and signing orders;
- That, few days later and to my surprise, I was asked by Judge Layosa to follow up her RATA for the month of August or September (she was unsure then what date was it) with the Office of the Clerk of Court;
- That, notwithstanding my honest belief that Judge Layosa has already received the same still I went to the Office of the Clerk of Court and verified the same after which, I went back to her and informed her that she already received said checks, as evidenced by an entry in the logbook of Mr. Sanchez which is hereto attached and marked as Annex "B";
- That not convinced that she had already received her check, Judge Layosa told me to ask Mr. Manuel Dizon, a known money lender holding office at Branch 216, if by chance he came across of such check or had it encashed in the course of his business;
- That, heeding Judge Layosa's words, I went to Mr. Dizon every now and then and oftenly asked him if he could recall that a check payable to Judge Layosa passed through him but just the same he has repeatedly answered "no";
- That, I always went back to Judge Layosa with the same information that Mr. Dizon had not encashed her check. Thus, Judge Layosa has even directed all her staff to look for the said check as she might have misplaced it or has just unwittingly inserted it in one of her books or expediente inside her chamber. We thus took pains to find it to the extent of searching every book filed in the bookshelf but to no avail inside her

chamber;

- That, having remembered the number of the subject check as I was the one who received it, I volunteered to have it verified with the PNB, or to ask Mr. Dizon to lend me the file of his deposit slips to see if the check might have been deposited to his account but Mr. Dizon just the same retorted "wala talaga siyang matandaan" and even added that he does not have any deposit slip;

- That, on October 11, 2000, Atty. Candelaria Rivas, our Branch Clerk of Court, told me over the phone that she was instructed by Judge Layosa to ask me to execute an affidavit to the effect that I was the one who lost the check instead of Judge Layosa who doesn't want to admit that she might have lost or misplaced it by herself;

- That, out of "pakikisama" and depth of gratitude to Judge Layosa, I thus executed an affidavit on October 12, 2000 so that it shall be submitted to the Supreme Court for a possible retrieval and/or returning of the check to Judge Layosa or if not to request the bank to make a stop payment order in the event the check shall be presented for payment;

- That, thereafter, particularly on October 17, 2000, while I was in the second floor of the Justice Hall I happened to meet Mr. Dizon and upon seeing me called my name and told me that a check payable to one of us in our sala was encashed to him, I asked him who encashed it but he just answered back, "Isa diyan sa inyo";

- That, upon learning said information, I hurriedly reported it to Judge Layosa and Mrs. Flores. A few minutes later, Mr. Flores called and told me that according to Mr. Dizon, it was I who encashed the check with him. Hearing the same and sensing that I was being pinpointed as the one who committed a misdeed, I right there and then asked Ms. Flores to accompany me to Mr. Dizon to verify and confront him about his revelation to Mrs. Flores about the encashment of a check. I was so surprised to learn the same as Mr. Dizon has never told or informed me about it when I have repeatedly asked him if he came across of a certain check payable to Judge Layosa. At that time I felt I was being tagged as the one who took the check of Judge Layosa, when all through out I patiently helped in the best way possible to look for the aforesaid check. And for God sake, never in my life that I took anyone's belonging. If truly I was the one who encashed the check without Judge Layosa's consent and more so appropriated the cash value for myself, on that day it was done I could not afford to come to office with a raised head especially to Judge Layosa whom I have a high regard and great respect;

- That, if indeed I was the one who encashed it, why Mr. Dizon did not inform me about it especially when I kept on asking him if he came across of a check payable to Judge Layosa? Also, why did Judge Layosa accept the money paid by Mr. Dizon amounting to the value of the same instead of running after the person who truly encashed the check? Further, why is it that Mr. Dizon cannot particularly pinpoint the real person who encashed the check to him instead he just insinuated that "basta isa diyan";

- That, it is so unfortunate that even prior to the filing of this case, I remembered our Branch Clerk of Court - Atty. Rivas persuading and even threatening me to just admit that I was indeed the one who encashed the check, otherwise, I will face an administrative case to be filed by our judge - Judge Layosa;

- That, in fact Judge Layosa even tried to talk to my co-employees to have them convinced me to just admit to have encashed the check which lead me think that I am really made to be a sacrificial lamb admitting a misdeed which I never did and will not do;

- That, I never really thought that the affidavit, which they told me to execute will be later used against me. I have executed the same in an honest belief and notion that it would be of help to Judge Layosa in retrieving her check anew. And also who am I to refuse my boss, Judge Layosa at that to do a favor, which is not illegal and irregular - the execution of an affidavit.

Replying to respondent's comment, complainant alleged that there was no truth at all to the statements of respondent. She asserted that:

- the declaration of respondent to the effect that she was sent by complainant to the OCC to verify her check a few days after respondent allegedly handed the said check to complainant was a blatant lie; if it were true, respondent should have insisted that the check was already in complainant's possession; and
- contrary to respondent's statement that Mr. Dizon failed to identify who encashed the check, the latter particularly pinpointed respondent, as evidenced by Ms. Flores' affidavit; besides, if respondent was not really responsible for encashing the check, Mr. Dizon would not have asked complainant to forgive the respondent and abandon her plan to file charges against respondent.

In her rejoinder dated July 30, 2001, respondent substantially reiterated her earlier comment.

In a resolution dated December 10, 2001, this Court referred the complaint to Executive Judge Monina Arevalo Zeñarosa of RTC, Quezon City, for discreet investigation, report and recommendation.

On January 6, 2003, Executive Judge Zeñarosa submitted her report with the following findings and recommendation:

Upon receipt of the records, this office set the case for initial hearing on March 26, 2002 at 2:00 p.m. Upon motion of respondent, the Court cancelled the hearing on March 26, 2002 and reset the same to May 7, 2002, as prayed for. At the scheduled hearing on May 7, 2002, respondent however was absent despite due notice prompting the Court to postpone the hearing to June 6, 2002 at 3:00 p.m. To ensure the attendance of respondent, the Court sent notice of said setting at her given address as well as to the address furnished by herein petitioner. At the scheduled hearing on June 6, 2002, both parties failed to appear despite due notice, hence, the hearing was reset to June 25, 2002. On June 25, 2002, petitioner testified and marked in evidence Exhibits "A" to "I" in support of the complaint. On July 2, 2002, witness Martoni Oning for the petitioner appeared and affirmed the truth and veracity of the allegations in his Affidavit dated July 2, 2002 marked Exhibit "J". Thereafter, petitioner filed her formal offer of evidence which was admitted by the Court on August 23, 2002. For repeated failure on the part of respondent to appear at the scheduled hearings for reception of defense evidence despite due notice, the instant case was deemed submitted for decision.

A partial report on the case was submitted on June 13, 2002.

Respondent Tonette M. Salamanca is administratively charged with gross misconduct, forgery, dishonesty, and perjury for allegedly encashing the RATA check for September 2000 of petitioner without the latter's knowledge and consent.

In support of her complaint, petitioner adduced the following documentary evidence, to wit:

Exhibit "A" - Complaint-Affidavit dated March 19, 2001

of petitioner Judge Lydia Q. Layosa;

Exhibit "B" - List of Checks received from the Supreme Court representing the RATA of Quezon

City RTC Judges for September 2000;

Exhibit "C" - Affidavit of Loss dated October 12, 2000 executed by respondent Tonette M.

Salamanca;

Exhibit "D" - Xerox copy of Land Bank Check No. PP-0003533762 in the sum of P9,750.00

issued in the name of petitioner Judge

Lydia Q. Layosa;

Exhibit "E" - Comment dated May 18, 2001 of

respondent Tonette M. Salamanca;

Exhibit "F" - Reply to Comment dated May 30, 2001 of

petitioner Judge Lydia Q. Layosa;

Exhibit "G" - Rejoinder dated July 30, 2001 of

respondent Tonette M. Salamanca;

Exhibit "H" - Affidavit dated March 19, 2001 of Ma.

Celia A. Flores;

Exhibit "I" - Affidavit dated May 30, 2001 of Atty.

Candelaria L. Rivas;

Exhibit "J" - Affidavit dated July 2, 2002 of Matoni

Oning.

As borne by the records, respondent did not appear in Court despite proper notice and thereby, failed to refute the accusation against her.

From the evidence presented, the Court determines that petitioner has preponderantly established her cause of action against herein respondent. And respondent's silence is an implied admission of guilt.

WHEREFORE, we respectfully recommend that respondent Tonette M. Salamanca be dismissed from the service considering the gravity of the charges against her.

After a careful study, and with due regard to the facts of the case and the pleadings submitted by the parties, the Court agrees with the conclusion reached by the Investigating Judge. Despite all the opportunities accorded to respondent to present a substantial defense to refute the charges against her, she failed to do so. Obviously, her bare denials could not prevail over the positive evidence submitted by complainant.

By stealing and encashing the complainant's check, she blatantly degraded the judiciary and diminished the respect and regard of the people for the court and its personnel. Every employee of the judiciary should be an example of integrity, morality and honesty. Like any public servant, she must exhibit the highest sense of trustworthiness and rectitude not only in the performance of her official duties but also in her personal and private dealings with other people, to preserve the court's good name and standing as a true temple of justice.[1] It cannot be overstressed that the image of a court of justice is mirrored in the conduct, official and otherwise, of the personnel who work there, from the judge to the lowest employee. In *Court Administrator vs. Sevillejo*,[2] we lamentably portrayed respondents therein as a common thief for stealing mail matters, just like respondent herein.

Respondent does not deserve to stay a minute longer in the judicial service. We concur with the conclusion of the Investigating Judge that respondent's act of encashing complainant's check without her knowledge and authority constitutes gross misconduct and dishonesty.

WHEREFORE, respondent Tonette M. Salamanca, Court Stenographer III of the RTC of Quezon City, Branch

217, is hereby found GUILTY of serious misconduct and dishonesty, and is hereby DISMISSED from the service, with forfeiture of all retirement benefits, except accrued leave credits, and with prejudice to re-employment in any branch or instrumentality of the government, including government-owned or -controlled corporations.

This resolution is immediately executory.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.
Sandoval-Gutierrez, J., on official leave.

[1] Concerned Employees vs. Nuestro, A.M. No. P-02-1629, September 18, 2002, p. 7.

[2] 270 SCRA 190, 192 [1997].

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