

ERLINDA A. MENDOZA, COMPLAINANT, VS. JUDGE RODOLFO A. MABUTAS, RESPONDENT. JUDGE RODOLFO A. MABUTAS, COMPLAINANT, VS. ERLINDA MENDOZA, RESPONDENT.

A.M. No. MTJ-88-142. June 17, 1993

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PER CURIAM:

In his Order of 27 October 1987 in Criminal Cases Nos. 1342, 1419, 1546 and 1553, Judge Rodolfo A. Mabutas of the Municipal Trial Court (MTC) of Calaca, Batangas recommended the immediate dismissal from the service of Erlinda A. Mendoza, Clerk of Court of the said court for frequent tardiness and/or absences without the "necessary leave of absence" despite admonitions for her to reform, and for the blatant disregard of courtesy and respect. A copy of the said order was subsequently transmitted to the Office of the Court Administrator. In a 1st Indorsement dated 13 November 1987, then Deputy Court Administrator Maximo A. Maceren referred a copy of the order to Erlinda A. Mendoza and required her to comment thereon.

In her letter of 21 December 1987, not only did Erlinda answer the charges of Judge Mabutas, she also accused the latter of oppression, abuse of position and conduct unbecoming of a judge. While admitting that there were indeed occasions when she would be absent, Erlinda explained that such absences were due to unavoidable circumstances such as sickness and other urgent matters. Being the wife of the administrative pastor of their church, she claimed that she has always made it a point to show proper respect and deference to her superiors. She then accused Judge Mabutas of seeking to remove her at all costs because he had wanted someone close to him to occupy her position - someone who is not only attractive, but absolutely loyal to him as well. She also averred that Judge Mabutas had stripped her of her duties and ostracized her, thereby reducing her to a mere figurehead, and had, on several occasions, uttered unsavory remarks against her in the presence of her co-employees.

It was likewise asserted that Judge Mabutas is not himself a model of punctuality; from 16 July to 30 October 1987, excepting the days Erlinda was on leave, he reported for work only every Tuesday and Wednesday afternoon, on days when there were scheduled hearings or preliminary examinations and when there were marriages to be solemnized. After these hearings, he would immediately leave the office.

On 3 January 1989, Judge Mabutas wrote a letter to then Deputy Court Administrator Juanito Ranjo informing him that despite the latter's personal exhortations to Erlinda Mendoza, she has continued with her tardiness, this time aggravated by her frequent departures "during office hours for long periods, without" the Judge's permission. Judge Mabutas then recommended that her salary be withheld and that "she be proceeded against by (sic) a formal investigation to uproot her from the position she is now holding." This drew an immediate comment from Erlinda who wrote Deputy Administrator Ranjo on 13 January 1989; in her letter, she branded the accusations hurled against her as "unadulterated lies and unabashed oppression, borne out of malice, sinister motives and perverted personal hatred, intended solely and principally to 'uproot (me) from the position (I am) now holding.'"

Thereupon, the Office of the Court Administrator docketed Erlinda Mendoza's complaint, as contained in her 21 December 1987 letter, as ADM. MATTER No. MTJ-88-142 and Judge Mabutas' complaint of 3 January 1989, in

relation to his 27 October 1987 Order in the aforesaid four (4) criminal cases, as ADM. MATTER No. P-89-291. Upon the recommendation of the Office of the Court Administrator, this court, in the Resolutions of 1 June and 7 June 1989, respectively, referred the first and second cases to the Executive Judge of the Regional Trial Court (RTC) of Balayan, Batangas for investigation, report and recommendation.

On 11 August 1989, Judge Mabutas submitted to the Executive Judge of the RTC of Balayan, Batangas, Judge Ernesto H. Gorospe, his (Mabutas') answer, dated 5 August 1989, in ADM. MATTER No. MTJ-88-142.

A full-blown investigation was then conducted by Executive Judge Gorospe.

On 30 April 1993, this Court received the 29 April 1993 Report and Recommendation of Judge Gorospe wherein he presents the following conclusions and recommendations:

"Under the foregoing circumstances of the cases, it could be concluded that the charge of Judge Rodolfo Mabutas against Erlinda Mendoza was duly established, being attested to by witnesses who are in a position to know the questioned actuations of the respondent, being accompanied by related letters and memoranda, being partially admitted to by respondent.

Respondent's justification of the commission of the imputed acts, that of their being reflected in the daily time records (DTR) does not justify the act. Such claimed justification may only be a mitigating circumstance.

The respondent in Case No. MTJ-88-142 is the judge of the Court and as such is clothed with authority if not impressed with the obligation to instill discipline and observance of civil service rules. The issuance of the questioned memoranda or orders are (sic) necessary to the administrative functions. His orders are therefore presumed to be lawful as in fact on their faces the said orders appear to be lawful and in accord with his administrative authority. Respondent's claim that the said orders were issued out of personal hatred and his personal desire to weed out respondent so the judge could place one of his choice (sic) must be proven clearly and succinctly before the charges now being imputed must proceed.

Summing up, this investigating Judge finds the respondent Erlinda A. Mendoza, liable and answerable to (sic) the imputations hurled against her in Administrative Case No. P-89-291 of TARDINESS and GALIVANTING (sic) DURING OFFICE HOURS.

In Administrative Case No. MTJ-88-142, the Court finds that the imputations of OPPRESSION, ABUSE OF POSITION and CONDUCT UNBECOMING OF A JUDGE was (sic) not established and therefore the case against respondent Judge Rodolfo A. Mabutas be ordered DISMISSED as being without merit.

It is recommended that Erlinda A. Mendoza, Clerk of Court of the Municipal Trial Court of Calaca, Batangas be meted a two (2) months (sic) suspension."

The above conclusions and recommendation with respect to respondent Erlinda A. Mendoza are anchored on the evidence submitted by Judge Mabutas consisting of his and his witnesses' testimonies, as well as the exhibits which he had marked and offered in evidence; such testimonies and exhibits are summarized by Executive Judge Gorospe in the aforesaid report as follows:

"The testimony of the complaining Judge suggests to (sic) the following circumstances: That prior to March 20, 1987, in his capacity as presiding Judge of the Municipal Trial Court, Calaca, Batangas, he observed that the respondent Erlinda Mendoza, then and still is (sic) the Clerk of Court of his Court was coming in late and going out early to and from office. He thus caused issuance of a memorandum addressed to all the employees of the Court, directing all employees to observe civil service rules as to working office hours. Said memorandum was submitted as Exhibit "A".

He equally observed that even as he has previously questioned the manner of entering time of arrivals in the log-book, the Clerk of Court (respondent) continued to maintain the entry in the log-book by ranking. Thus on

November 10, 1987, he caused the issuance of a memorandum addressed to respondent Clerk of Court to change the manner of entry of arrivals in the log-book so that he who arrives first will sign on top and followed by who arrives immediately thereafter. That while this is not full-proof as to the correctness of entry of time of arrival, it nevertheless minimizes abuse of entry and will show who arrives last and late. The memo/order was submitted as Exhibit "B".

That on November 7, 1987, he equally observed that respondent Clerk of Court was not reflecting in her daily time record (DTR) the correct time of her arrival and departure, hence he sent a memorandum to said respondent calling her attention to such acts. The order was submitted as Exhibit "C".

That inspite of memorandum (sic) and promises for reforms, respondent kept on her errant ways, complaining (sic) judge again sent a memorandum to respondent, calling her attention of (sic) her repeated tardiness with warning (sic) that her DTR will not be signed. The memorandum dated November 11, 1987 was submitted as Exhibit "E".

That on August 31, 1988 said respondent kept on coming to office late, hence a memorandum calling again on her tardiness. That the complaining judge equally observed that respondent was sending her daily time records (DTR) to the Supreme Court, without the signature of the Judge. He thus issued a memorandum which was submitted as Exhibit "H".

On November 21, 1988, again a memorandum was sent to her calling her attention on (sic) her 104 days leave of absence for the period of from May to October, 1988, which long leave of absence is prejudicial to the service. The memorandum was submitted as Exhibit "I".

That again on June 6, 1989, the respondent was sent another memorandum calling her attention on (sic) her behavior of arriving late. This memorandum was submitted as Exhibit "K."

That inspite of several warnings calling the attention of the respondent on (sic) her errant ways, the respondent kept on doing the same, the (sic) complaining judge, had to inform the Supreme Court of the behavior of his Clerk of Court. To show that the matter was referred to the Supreme Court, he submitted Exhibits "O", "P" and "Q" -- Letters to Justice Ranjo, Leave Section, Supreme Court and to the Office of the Court Administrator.

The three other witnesses presented by the complaining Judge are all employees of the Municipal Trial Court of Calaca, Batangas, namely: Mrs. Ligaya Manalo (Court Interpreter), Gloria Austria (Court Stenographer) and Romeo Barzo (Court employee).

Their testimony is (sic) to the following effect: That as such Court employees, they know personally Judge Rodolfo Mabutas and Mrs. Erlinda Mendoza, being the Judge and Clerk of Court of the Municipal Trial Court of Calaca, Batangas. That as such employees of the Court they have personal knowledge of the fact that Mrs. Erlinda Mendoza used to come to office late and that she used to leave the Court during office hours. In short their testimony (sic) corroborated the statement or testimony of Judge Rodolfo Mabutas on the matter of respondent's acts of tardiness and galivanting (sic) during office hours."

This Court notes that in Exhibit "I-1" (Adm. Matter No. P-89-291), Mrs. Mendoza was absent due to personal or health reasons for a total number of 104 days beginning May 1987 to October 1988. In fact, from 13 May to 15 July 1987 alone, she was absent for 44 days.

On the other hand, Mrs. Mendoza's evidence against Judge Mabutas is summarized by the investigating Executive Judge in this wise:

"The testimony of the now-herein complainant Erlinda Mendoza may be summarized:

That she is (sic) the incumbent Clerk of Court for the last 25 years and is the same Clerk of Court who caused the filing of Administrative Matter No. MTJ-88-142 and equally the respondent in Case No. P-89-291. That

the imputation against her for tardiness and going out during office hours are (sic) false and without basis and that the charges leveled against her were done only out of hatred and designed to remove her from the service which acts of the respondent judge, amounts (sic) to oppression, abuse of position and conduct unbecoming of a judge.

In support of her claim by way of defense in Case No. P-89-291 and in support of her complaint in Case No. MTJ-88-142, Mrs. Erlinda Mendoza submitted and caused to be marked the following:

x x x

[Exhibits "1" to "11," inclusive, are enumerated].

Thereafter, Erlinda Mendoza continued to present evidence on her charge against Judge Rodolfo Mabutas of OPPRESSION, ABUSE OF POSITION and CONDUCT UNBECOMING OF A JUDGE.

In short, her testimony is anchored on the motive of the respondent Judge in issuing the letters and memorandums which now appears (sic) in the records as Exhibits of complaining Judge in Administrative Matter No. P-89-291.

Complainant Erlinda Mendoza claims that the imputation of TARDINESS and GALIVANTING (sic) DURING OFFICE HOURS, are (sic) false and the orders and memorandums were issued by the respondent Judge due to personal hatred and desire of the Judge to have the position of the complaining Clerk of Court be filled up by one of his choice (sic).

In support of this verbal claim she submitted the following exhibits:

x x x

[Exhibits "A" to "M," inclusive, are enumerated]."

After having carefully evaluated the oral and documentary evidence of the parties, we find the above conclusions of the investigating Executive Judge to be amply supported by the same, except with respect to the case against Judge Mabutas which will be hereinafter shown.

What cannot pass unnoticed are the several written exchanges between Judge Mabutas and Erlinda Mendoza wherein it is clear that the former tried his best to instill discipline upon the latter and demand from her a serious commitment to perform her public duties and responsibilities. Erlinda considered these reminders as acts of oppression. With her admissions of frequent absences and nearly habitual departures from office, during office hours, without the permission of the head of office -- Judge Mabutas -- the latter's acts cannot be branded as oppressive. On the other hand, we find in Erlinda's letters to Judge Mabutas not just feeble attempts to justify her culpable actions, but statements that betray her disrespect, if not outright contempt, for the Judge. It is at once apparent that she has refused to recognize the administrative and supervisory authority of Judge Mabutas over her. Aggravating an already unhealthy work atmosphere, she has irreversibly prejudiced public interest and provided a bad example to her subordinates.

Doubtless, Mrs. Mendoza has been remiss in her fidelity to her office which demands accountability at all times and requires, inter alia, dedication to duty and efficiency. She should therefore be reminded of Section 1, Article XI of the 1987 Constitution, which provides that:

"Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives."

In *Sy vs. Academia* (198 SCRA 705 [1991]), we declared in no uncertain terms that "[T]his Court condemns and

would never countenance any conduct, act or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability and would diminish or even just tend to diminish the faith of the people in the Judiciary."

For her neglect of duty, inefficiency, frequent unauthorized absences and gallivanting during office hours, the penalty of suspension from service for two (2) months as recommended by the investigating Executive Judge is inadequate. We believe that the same should be increased to three (3) months.

As to Judge Mabutas, while he admits in his Answer dated 5 August 1989 that:

"x x x On days that I do not have hearings, I stay home, doing some research, resolving motions, making decisions and keeping up with the latest of the Supreme Court decisions. x x x"

he also claims that his house is located just a few meters from the office and that everybody can reach him easily. We cannot sanction such a practice for he has never been authorized to use his house as his office. A Judge must report to his office even if he has no hearings on regular days. In Circular No. 13 dated 1 July 1987, this Court stressed the need for punctuality and the faithful observance of office hours, with Judges being enjoined to strictly observe the requirement of eight (8) hours of service a day. This was reiterated in Administrative Circular No. 1 of 28 January 1988. Also, under the Interim Rules Implementing Batas Pambansa Blg. 129, Judges of the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts are required, on a rotation basis, to report on Saturdays from 8:00 a.m. to 1:00 p.m. primarily to act on petitions for bail and similar matters, while all Executive Judges, whether in single or multiple salas, are mandated to remain on duty on Saturday afternoons.

In *Ubalдино A. Lacurom vs. Judge Pablo Atienza* (ADM. MATTER No. RTJ-90-456, 14 January 1992), we declared that the law regulating court sessions does not permit any "day off" from regular office hours to enable a judge to engage exclusively in research or decision-writing, no matter how important. In *Siasico vs. Sales* (71 SCRA 139, 146 [1976]), this Court stated:

"Reasons of public policy, the preservation of the good image of the judiciary, and avoidance of all appearances of impropriety, require that a judge should hold office at the regular place of business of the court and not at his residence. A judge holding office in his house makes himself open to suspicion and possible criticism that his official actuations cannot bear public scrutiny, more particularly of his co-officials in the local government. All these would have deterred respondent from the course of action he had taken had he possessed some sense of decorum and good judgment."

With his aforementioned admission, disciplinary sanction against Judge Mabutas is inevitable. There is, however, no evidence as to the number of times he had actually stayed in his residence during office hours for the period beginning from 16 July to October 1987 to make him liable for absenteeism or tardiness. Accordingly, he can only be held to account for the violation of the above Circular No. 13 dated 1 July 1987. A fine of P2,000.00 would be an appropriate penalty.

WHEREFORE, judgment is hereby rendered:

(1) In ADM. MATTER No. MTJ-88-142, DISMISSING, for lack of merit, the complaint for oppression, abuse of position and conduct unbecoming of a judge against respondent JUDGE RODOLFO A. MABUTAS, but finding him GUILTY of violating Circular No. 13 of 1 July 1987 and sentencing him to pay a fine of P2,000.00 with a warning that a repetition of the same act would be dealt with severely.

(2) In ADM. MATTER No. P-89-291, finding respondent ERLINDA A. MENDOZA guilty of neglect of duty, inefficiency, frequent unauthorized absences and for gallivanting during office hours, and SUSPENDING her

from the service for a period of three (3) months, without pay, commencing on the day immediately following her receipt of a copy of this Decision, with a warning that a repetition of the same or similar acts shall be dealt with severely. The period of suspension shall not be chargeable against her leave credits.

SO ORDERED.

Feliciano, (Chairman), Bidin, Davide, Jr., Romero, and Melo, JJ., concur.

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