

DONATILLA M. NONES, COMPLAINANT, VS. VERONICA M. ORMITA, CLERK OF COURT II, MTC-BANGAR, LA UNION, RESPONDENT.

A.M. No. P-01-1532. October 09, 2002

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Clerks of court perform only administrative, not judicial, functions. Issuing orders of release on bail is beyond their powers and administratively sanctionable as misconduct.

The Case and the Facts

The sworn Administrative Complaint[1] filed by Donatilla M. Nones charges Veronica M. Ormita, Clerk of Court of the Municipal Trial Court (MTC) of Bangar, La Union, with usurpation of a judge's function.

The facts of the case are summarized by the Office of the Court Administrator (OCA) in its Report[2] dated October 9, 2001, as follows:

“Complainant alleged that respondent issued an Order dated 25 March 1995 directing the Bureau of Jail Management and Penology of Bangar, La Union ‘to discharge from custody Mr. Alfredo Murao Y Olpindo for having filed sufficient bail bond in the amount of five thousand pesos (P5,000.00) for his provisional liberty x x x’ relative to Criminal Case No. 4216 entitled ‘People of the Philippines vs. Alfredo Ormita Y Olpindo’ for Frustrated Homicide. Complainant claims that the released prisoner is a relative of respondent’s husband.

“Complainant likewise mentioned Criminal Case No. 4782 entitled ‘People of the Philippines vs. Veronica M. Ormita’ for Grave Oral Defamation which she filed with the MTC of Bangar, La Union. The complaint arose from an incident which occurred on 11 September 2000 inside the MTC of Bangar, La Union where respondent allegedly hurled scurrilous words against her. For these reasons, complainant prayed that respondent be suspended from office during the trial to prevent her from taking advantage of her position.”[3]

In her Comment[4] dated November 28, 2000, respondent explained that she had issued the Order for humanitarian reasons. She added that she had honestly thought it was the best thing to do under the circumstances.

The Court Administrator’s Recommendation

Court Administrator Presbitero J. Velasco Jr. opined that in Criminal Case No. 4216 for frustrated homicide, respondent’s act of ordering the release of the accused from the custody of the Bureau of Jail Management and Penology had absolutely no legal basis. Thus, he recommended that respondent “be FINED in the amount of P1,000.00 with a WARNING that a repetition of similar acts shall be dealt with more severely.”[5]

This Court’s Ruling

We agree with the findings of the court administrator, but hold that a heavier penalty should be meted out to respondent.

Administrative Liability

Complainant asserts, and the OCA concurs, that respondent is guilty of having issued, without authority, an “Order”[6] to the Bureau of Jail Management and Penology to release Alfredo O. Ormita, who had been charged in Criminal Case No. 4216 with frustrated homicide.[7]

Clerks of court are important functionaries of the judiciary. Their administrative functions are vital to the prompt and sound administration of justice.[8] They cannot be allowed to overstep their powers and responsibilities. Their office is the hub of adjudicative and administrative orders, processes and concerns.[9] They perform a very delicate function as custodian of the court's funds, revenues, records, property and premises.[10] They are liable for any loss, shortage, destruction or impairment of such funds and property.[11] Their duties are defined in the Rules of Court as follows:

“SEC. 4. Issuance by clerk of process. - The clerk of a superior court shall issue under the seal of the court all ordinary writs and process incident to pending cases, the issuance of which does not involve the exercise of functions appertaining to the court or judge only; and may, under the direction of the court or judge, make out and sign letters of administration, appointments of guardians, trustees, and receivers, and all writs and process issuing from the court.”[12]

“SEC. 5. Duties of the clerk in the absence or by direction of the judge. - In the absence of the judge, the clerk may perform all the duties of the judge in receiving applications, petitions, inventories, reports, and the issuance of all orders and notices that follow as a matter of course under these rules, and may also, when directed so to do by the judge, receive the accounts of executors, administrators, guardians, trustees, and receivers, and all evidence relating to them, or to the settlement of the estates of deceased persons, or to guardianships, trusteeships, or receiverships, and forthwith transmit such reports, accounts and evidence to the judge, together with his findings in relation to the same, if the judge shall direct him to make findings and include the same in his report.”[13]

Further, clerks of court are the administrative assistants of judges. The former's duty is to assist in the management of the calendar of the court and in all other matters that do not involve the discretion or judgment properly belonging to the latter.[14] Clerks of court are specifically imbued with the mandate to safeguard the integrity of the court as well as the efficiency of its proceedings, to preserve respect for and loyalty to it, to maintain the authenticity or correctness of court records, and to uphold the confidence of the public in the administration of justice.[15] Thus, they are required to be persons of competence, honesty and probity.[16]

In the present case, respondent improperly clothe herself with judicial authority. The issuance of a release order is a judicial function, not an administrative one.[17] Unlike a judicial authority, she had no power to order the commitment or the release on bail of persons charged with penal offenses.[18]

By releasing the accused on account of the cash bond he had posted, respondent arrogated unto herself the authority to exercise judicial discretion.[19] She overstepped the boundaries of her function by undertaking an act that fell squarely within the discretion of Judge Samuel H. Gaerlan.[20] Her act constituted a serious infringement of and encroachment upon judicial authority.[21] Such usurpation was equivalent to misconduct.[22]

Although we may credit respondent for her unselfish dedication as clerk of court by working on a Saturday, the fact remains that no matter how noble her intention was, she still acted beyond the scope of her authority.[23] Even if no bad faith was attributed to her concerning the issuance of the “Order,” she is still administratively liable for overstepping her duties.[24]

Anent the Affidavit of Desistance[25] filed by complainant, it should be remembered that an administrative complaint against public officers or employees cannot just be withdrawn at any time by the simple expediency of the complainant suddenly claiming a change of mind.[26] The withdrawal of the complaint would not result in the

automatic dismissal of the case.[27]

Further, the faith and confidence of the people in their government and its agencies and instrumentalities need to be maintained. The people should not be made to depend upon the whims and caprices of complainants who, in a real sense, are only witnesses. To rule otherwise would subvert the fair and prompt administration of justice, as well as undermine the discipline of court personnel.[28]

A judicial office demands the best possible men and women in the service.[29] No position demands greater moral righteousness and uprightness from its holder than the judicial office. Those connected with the dispensation of justice bear a heavy burden of responsibility. Clerks of court in particular must be individuals of competence, honesty, and probity, charged as they are with safeguarding the integrity of the court and its proceedings.[30] Respondent, as a court employee, was required to conduct herself with propriety and decorum, in order that her actions would be beyond suspicion.[31]

This Court has consistently held that persons involved in the administration of justice ought to live up to the strictest standards of honesty and integrity in the public service.[32] The conduct required of court personnel, from the presiding judge to the lowliest clerk, must always be beyond reproach and circumscribed with the heavy burden of responsibility.[33] This Court cannot countenance any act or omission by all those involved in the administration of justice, where such act or omission would violate the norm of public accountability and diminish the faith of the people in the judiciary.[34]

For respondent's administrative infraction, the OCA recommended merely the payment of a fine in the amount of P1,000. However, considering the nature of the misdemeanor committed, we deem it appropriate to impose a heavier sanction.

As hereinabove discussed, respondent's act of issuing a release Order constituted misconduct under Rule XIV, Section 22 of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws, thus:

"Sec. 22. Administrative offenses with its corresponding penalties are classified into grave, less grave, and light, depending on the gravity of its nature and effects of said acts on the government service.

x x x x x x x x

"The following are less grave offenses with their corresponding penalties:

x x x x x x x x

(b) Simple Misconduct

1st Offense - Suspension for one (1) month and one (1) day to six (6) months

2nd Offense - Dismissal"

Certainly, the penalty recommended by the OCA is not only disproportionate to the violation committed by respondent, but is likewise not in conformity with penalties prescribed by the rules. Accordingly, we hold that penalty should be increased to a suspension of three (3) months and one day without pay.

WHEREFORE, Veronica M. Ormita is hereby found guilty of misconduct and **SUSPENDED** for three (3) months and one day without pay with a **WARNING** that a repetition of the same or a similar act in the future will be dealt with more severely.

SO ORDERED.

Puno (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

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- [1] Complaint, p. 1; rollo, p. 1. It was signed by Asst. Provincial Prosecutor Julio B. Tecan.
- [2] Signed by Court Administrator Presbitero J. Velasco Jr.
- [3] OCA Report, p. 1; rollo, p. 15.
- [4] Comment, p. 1; rollo, p. 7.
- [5] OCA Report, p. 3; rollo, p. 17.
- [6] Annex "C"; rollo, p. 5.
- [7] Complaint, p. 1; rollo, p. 1.
- [8] *Escañan v. Monterola II*, 351 SCRA 228, February 6, 2001.
- [9] *Solidbank Corporation v. Capoon Jr.*, 289 SCRA 9, April 15, 1998.
- [10] *Office of the Court Administrator v. Marcelo*, AM No. P-00-1415-MeTC, August 30, 2001.
- [11] *Office of the Court Administrator v. Bawalan*, 231 SCRA 408, March 24, 1994.
- [12] §4, Rule 136 of the Rules of Court.
- [13] §5, *Id.*
- [14] *Re: Report on the Judicial Audit Conducted in Regional Trial Court Branches 61, 134 and 147, Makati, Metro Manila*, 248 SCRA 5, September 5, 1995.
- [15] *Marasigan v. Buena*, 284 SCRA 1, January 5, 1998.
- [16] *Cain v. Neri*, 310 SCRA 207, July 13, 1999.
- [17] *Escañan v. Monterola II*, *supra*; *Arcilla v. Sabido*, 88 SCRA 53, January 15, 1979.
- [18] *Escañan v. Monterola II*, *supra*.
- [19] *Re: Suspension of Clerk of Court Rogelio R. Joboco*, RTC, Br. 16, Naval, Biliran, 294 SCRA 119, August 12, 1998.
- [20] *Ibid.*
- [21] *Biag v. Gubatanga*, 318 SCRA 753, November 22, 1999.
- [22] *Ibid.*
- [23] *Id.*
- [24] *Office of the Court Administrator v. Quiñanola*, 317 SCRA 37, October 20, 1999.
- [25] Rollo, p. 8.
- [26] *Cabatingan Sr. v. Arcueno*, AM No. MTJ-00-1323, August 22, 2002; *Jacob v. Tambo*, AM P-00-1411, November 16, 2001.

[27] Malinao v. Mijares, AM No. RTJ-99-1475, December 12, 2001.

[28] Cabatingan Sr. v. Arcueno; supra, p. 9.

[29] Sadik v. Casar, 266 SCRA 1, June 2, 1997.

[30] Rangel-Roque v. Rivota, 302 SCRA 509, February 2, 1999.

[31] Mendoza v. Tiongson, 265 SCRA 653, December 17, 1996.

[32] Caña v. Santos, 234 SCRA 17, July 8, 1994.

[33] Neeland v. Villanueva, 317 SCRA 652, October 29, 1999; Samonte v. Gatdula, 303 SCRA 756, February 26, 1999; Gano v. Leonen, 232 SCRA 98, May 3, 1994, Mirano v. Saavedra, 225 SCRA 77, August 4, 1993; Annang v. Vda. de Blas, 202 SCRA 635, October 15, 1991.

[34] Re: Ms. Teresita S. Sabido, 242 SCRA 432, March 17, 1995.

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