

**JUDGE AMALIA F. DY, COMPLAINANT, VS. ATTY. BONIFACIO S. PASCUA, CLERK OF COURT, AND ANITA G. OLIVEROS, CLERK III, REGIONAL TRIAL COURT OF MANDALUYONG CITY, BRANCH 213, RESPONDENTS.**

*A.M. No. P-04-1798 (formerly A.M. OCA IPI No. 02-1517-P). May 27, 2004*

Ponente: CALLEJO, SR., J.

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**CALLEJO, SR., J.:**

The instant administrative matter stemmed from a Memorandum dated August 12, 2002 issued by Judge Amalia F. Dy of the Regional Trial Court of Mandaluyong City, Branch 213, referring to a shouting incident which transpired between the respondents, Branch Clerk of Court, Atty. Bonifacio S. Pascua, and Anita G. Oliveros, Clerk III, during office hours and while trial was ongoing. In the same memorandum, Judge Dy stated that the court proceedings were disturbed as “the voice of the witness testifying as well as manifestations of counsels cannot be heard forcing said court to pause to find out what was going on at the staff room.” After stating that the questioned behavior amounted to disrespect and may be considered as contemptuous, Judge Dy ordered their suspension as follows: Atty. Pascua for two days, effective August 13 and 14, 2002, and Oliveros for one day, effective August 13, 2002. Both respondents wrote letters to Judge Dy questioning their suspension, claiming that it was imposed summarily without giving them an opportunity to be heard.

When asked to comment on the matter, Judge Dy clarified that the questioned suspension was imposed on the respondents as disciplinary action for their unruly behavior, and not for contempt of court as alleged by them. As such, a formal hearing was no longer necessary. Judge Dy also stated that the two have had similar “encounters,” especially whenever the monthly reports were being prepared. This was necessary to maintain discipline in the office and, more importantly, to serve as an example to the rest of the staff.

Judge Dy also clarified that the allegation that she immediately suspended the respondents was not true. After the trial on August 12, 2002, at around 12:10 p.m., one of her stenographers, Connie G. Dumato, tried to hand over to her a resolution signed by some of the staff requesting her not to impose any sanction against the respondents. She called the respondents to her chambers and, in a “closed-door meeting,” the respondents were given an opportunity to explain their side. Judge Dy attached the sworn statements of Court Stenographers Homer P. Peñada[1] and Connie G. Dumato[2] as proof of the incident.

Pursuant to the recommendation of the Court Administrator, the Court, in a Resolution dated January 13, 2003, resolved to (a) treat the memorandum of Judge Dy as an administrative complaint for discourtesy in the performance of official duties against Atty. Pascua and Oliveros; (b) require the respondents to comment on Judge Dy’s memorandum and letter; (c) set aside the penalty of suspension imposed by Judge Dy upon the respondents; and, (d) direct the Office of the Court Administrator to rectify the consequences of such suspension, without prejudice to the disciplinary action, if any, that the Court may take on the matter.

Thereafter, the respondents filed a Joint Manifestation with Motion to Dismiss dated March 31, 2003. They

alleged, inter alia, that they intimated their intention to amicably settle the instant administrative matter with Judge Dy, and that they exhibited “tremendous reformation and excellent performance” in the quality of their work and the conduct of their behavior. Judge Dy herself, in a Letter dated March 12, 2003, manifested that she was no longer interested in pursuing the instant administrative complaint against the respondents, as both had apologized to her, promising to always abide by pertinent rules and regulations.

The respondents also maintained that the dismissal of the complaint against them would foster and create a harmonious working relationship among the staff. The respondents further explained that it was not the intention of Judge Dy to file a formal administrative complaint against them. Judge Dy furnished the Court Administrator with a copy so that it would form part of the respondents’ personal records.

In the meantime, in response to the query made by the Office of the Court Administrator, the Financial Management Office reported that respondents Pascua and Oliveros paid the amount of P1,753.10 and P283.74, respectively, corresponding to the money value of the number of days of suspension imposed upon them. The said amounts were settled under Original Receipt Nos. 14568318 and 14568320, respectively, both dated September 11, 2002. The Leave Division of the OCA also informed the Court Administrator that the memorandum issued by Judge Dy suspending the respondents had no effect on their leave credits, as it was not deducted nor considered as vacation leave without pay. In a memorandum to the Court Administrator, the Legal Office, thereafter, recommended that the Financial Management Office be directed to refund the respective amounts paid by the respondents, to enable the said office to fully comply with the Court’s January 13, 2003 Resolution.

In a Resolution dated July 9, 2003, the Court resolved to deny the respondents’ joint manifestation with motion to dismiss. The respondents, thereafter, filed their comment, in compliance to the July 9, 2003 Resolution of the Court.

According to the respondents, what took place on August 12, 2002 was, in fact, a normal and casual discussion of office matters, particularly the listing of possible maximum imprisonment of pending criminal cases before Branch 213. The conversation was made in a “seemingly reasonable loud voice,” enough to be understood by both respondents. They averred that they had no intention to disturb the ongoing court proceedings, and, as such, implored the Court’s indulgence so as not to consider the incident as discourtesy in the performance of official duty.

In his Memorandum dated February 12, 2004, Deputy Court Administrator Christopher O. Lock opined that the respondents are guilty of discourtesy in the course of official duties and should be reprimanded for their actuations.

#### The Court’s Ruling

It must be stressed that the Court’s disciplinary authority cannot be dependent on or frustrated by private arrangements between parties. An administrative complaint against an official or employee of the judiciary cannot simply be withdrawn by a complainant who suddenly claims a change of mind. Otherwise, the prompt and fair administration of justice, as well as the discipline of court personnel, would be undermined.[3] In this case, Judge Dy’s manifestation that it was not her intention to file an administrative complaint against the respondents does not operate to divest this Court with jurisdiction to determine the truth behind the matter.

At the outset, the Court would like to make it clear that judges are authorized to discipline erring court personnel in their respective salas. Such authority, however, must not be exercised arbitrarily. According to Circular No. 30-91:[4]

#### 2. Lower Court Personnel

a. Light Offenses

(1)

Disciplinary matters involving light offenses as defined under the Civil Service Law (Administrative Code of 1987), and the Code of Conduct and Ethical Standards for Public Officials and Employees (Rep. Act 6713) where the penalty is reprimand, suspension for not more than thirty days, or a fine not exceeding thirty days' salary, and as classified in Civil Service Resolution No. 30, Series of 1989, shall be acted upon by the appropriate supervisory official of the lower court concerned.

(2)

The appropriate supervisory officials are the Presiding Justices/Presiding Judge of the lower collegiate courts and the Executive Judges of the trial courts with respect to the personnel of their respective courts, except those directly under the individual Justices and Judges, in which case, the latter shall be their appropriate supervisory officials.

(3)

The complaint for light offenses whether filed directly with the Court, the Office of the Court Administrator, or the lower court, shall be heard and decided by the appropriate supervisory official concerned.

Civil Service Resolution No. 991936[5] classifies discourtesy in the course of official duties as a light offense, the penalty for which is reprimand for the first offense, suspension of one to thirty days for the second offense, and dismissal for the third offense.[6]

Considering that it was the respondents' first offense, Judge Dy had no authority to suspend them outright. The respondents should have been reprimanded for their unruly behavior while trial was ongoing, thus, disrupting the proceedings. We agree with the following findings and recommendation of the Court Administrator:

Respondents' acts of conversing or discussing in loud voice while court session is going on shows discourtesy and disrespect not only towards their co-employees or their judge but to the court. Such conduct exhibits failure on both respondents to discharge their duties with the required degree of professionalism. Clearly, they were not merely having a "normal and casual discussion" as what respondents would want to impress upon this Court. A court proceeding was apparently disrupted because of their loud voices. The court is looked upon by people with high respect and is regarded a sacred place where litigants are heard, rights and conflicts settled and justice solemnly dispensed. Misbehavior within and round the vicinity diminishes its sanctity and dignity. (*Policarpio v. Fortus*, 248 SCRA 272).

It is our view that respondents are guilty of discourtesy in the course of official duties. Under Rule XIV, Section 23 of the Rules Implementing Book V of Executive Order No. 292, Discourtesy in the Course of Official Duties is considered a light offense, and the first infraction is punished with a reprimand. In the instant case, respondents are, likewise, first-time offenders; hence, a penalty of reprimand is proper.[7]

The respondents ought to be reminded that the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel. Hence, it becomes the imperative sacred duty of each and everyone in the court to maintain its good name and standing as a true temple of justice.[8] Court personnel must, at all times, act with strict propriety and proper decorum so as to earn the public's regard for the judiciary. Improper behavior, particularly during office hours, exhibits not only a paucity of professionalism at the workplace but also a great disrespect to the court itself. Such a demeanor is a failure of circumspection demanded of every public official and employee.[9] The 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 diminish or even just tend to

diminish the faith of the people in the judiciary.[10]

WHEREFORE, for discourtesy in the course of official duties, respondents Atty. Bonifacio S. Pascua and Anita G. Oliveros are REPRIMANDED and STERNLY WARNED that a repetition of the same or similar act shall be dealt with more severely.

The Financial Management Office is DIRECTED to refund the amount of P1,753.10 to respondent Atty. Bonifacio S. Pascua and the amount of P283.74 to respondent Anita G. Oliveros.

**SO ORDERED.**

Quisumbing, Austria-Martinez and Tinga, JJ., concur.  
Puno (Chairman), on official leave.

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[1] Annex "A."

[2] Annex "B."

[3] Guray v. Bautista, 360 SCRA 489 (2001).

[4] Re: Guidelines of the Functions of the Office of the Court Administrator dated September 30, 1991.

[5] Entitled Uniform Rules on Administrative Cases in the Civil Service.

[6] Section 52(C)(1).

[7] Memorandum dated February 12, 2004, p. 4.

[8] Executive Judge Nelsonida T. Ulat- Marrero v. Antonio B. Torio, A.M. No. P-01-1519, November 19, 2003.

[9] Zipagan v. Tattao, 365 SCRA 605 (2001).

[10] Judge Fe Albano Madrid v. Antonio T. Quebral, etc., A.M. No. P-03-1744 and Antonio Quebral v. Angelina C. Rillorta, A.M. No. P-03-1745, October 7, 2003.

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