ACELA P. LEONOR, COMPLAINANT, VS. VILMA B. DELFIN, CLERK OF COURT III, RESPONDENT.

A.M. No. P-98-1274 (Formerly A.M. No. OCA IPI No. 97-229-10). September 09, 1999

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

In a letter complaint dated 18 November 1996 addressed to the Court, Acela P. Leonor asked that proper disciplinary action be taken against respondent Vilma B. Delfin, Clerk of Court III, Municipal Trial Circuit Court, Branch V, Bacolod City.

The allegations of the letter-complaint[1] are as follows:

> On the suggestion of a friend, I went to Mrs. Vilma B. Delfin in her Office at the ground floor of the Hall of Justice Building, Bacolod City on August 22, 1996. I presented to her the problem concerning errors in the birth certificate of my son, Roscoe Leonor Deles, Jr., whose papers for employment in Japan was being processed, and if the said errors may be corrected, as not to delay my son's trip for work in Japan.
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> Mrs. Delfin assured me that it could be done within one and a half month's time, but it would be costly. After explaining to her that I could not afford the amount she mentioned, her charge was lowered to P6,000.00. Since I was of course in a hurry also that correction of the birth certificate of my son be made and I had only P2,000.00 with me, I tendered the said amount to Mrs. Delfin, for which she gave me a receipt, copy attached as Annex "A", and assured me that the petition should be prepared and filed.
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> On August 27, 1996, I paid another P2,000.00 to Mrs. Delfin, as shown by copy of her handwritten receipt hereto attached as Annex "B". On September 16, 1996, I sent to her P1000 and on September 18, 1996, the full payment. Copies of the receipts of Mrs. Delfin are hereto attached as Annexes "C" and "D", respectively. All the time, we were under the impression that the petition was filed with and pending in court.
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> On October 15, 1996, my son Roscoe, Jr. was advised that his visa was already ready. Thus, on the following day, October 16, 1996, he went to Mrs. Delfin in her office at the Hall of Justice in Bacolod City for his corrected birth certificate. She told my son it was good that he was the one who came, because it was difficult with me, since, according to her, I am not a college graduate. No petition, nor corrected birth certificate, was given by Mrs. Delfin to my son.
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> In view thereof, on October 17, 1996, I went to Mrs. Delfin and asked for a copy of the petition she filed, so even that petition alone could be availed of by my son. She gave me a carbon original copy of a 3-page petition, copy attached as Annex "E". However, the petition does not have any case or rather prayer. Although Mrs. Delfin had told me before that this case was raffled on October 4, 1996 and assigned to branch 45, RTC and set for hearing on December 12, 1996, it was only after I left Mrs. Delfin on October 17, 1996 that she filed the subject petition, which appears without prayer of what reliefs the court should grant.
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> In the light of the foregoing, we withdrew the petition and demanded from Mrs. Delfin return of the amounts paid to her. However, she refunded to us only P3,635.00, as shown by copy of the receipt my son signed, which is hereto attached as Annex "F".

> The aforementioned facts show that Mrs. Delfin's conduct do not conform with what is required of her as an officer of the court. She has not been honest in her dealing with me. She deceived us into believing that, in accordance with her assurance, the petition for correction of the entries in the birth record of my son was, indeed, properly prepared and filed, when, in truth and in fact, it was not. She has caused us so much pain and injury and, unless appropriate sanctions are taken against her, the same acts may be repeated.

In a Resolution dated 17 March 1997, the Court required respondent to comment on the letter-complaint.[2]

> In her comment,[3] respondent alleged, among others, that:
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> Respondent did not solicits (sic) the complainant's retainership. She came to respondent on a referral. Respondent did not know complainant. Complainant needed help in the filing of a petition in behalf of her son to correct the entry in the record of birth. After assessing the nature of the petition, respondent was of the mind that it was not cognizable by the Municipal Trial Court in Cities of which she is the Clerk of Court III of Branch 5.
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> Complainant's indictment that "Mrs. Delfin's conduct do not conform with what is required of her as an officer of the court of appear off tangent. Respondent went out to her way to help. It was not part of her official duty as Clerk of Court III.
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> Respondent advised complainant that she need a lawyer to handle the petition and the obtaining rate of a counsel's fee was from package P10,000.00 to P12,000.00 When complainant admitted she could not afford the fee, respondent asked her if a package fee of P6,000 (for publication fee, filing, and etc.) would be within her means, complainant said in the affirmative provided that she paid on installment. Respondent did this because she would prevail upon her husband, now a private law practitioner, to handle the petition to accommodate and held complainant.
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> Complainant also claims that respondent was dishonest in dealing with her. Not true. There is no truth that respondent assured complainant that it would only take one and one half (1-1/2) months to have the petition heard and decided by the court. Respondent made no such assurance. The petition required publication for three (3) consecutive weeks. For the hearing of the petition shall not be within thirty (30) days prior to an election nor within four (4) months after the last publication of the notice".
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> (Sec. 3, Rule 103 Rules of Court). Respondent knew this and knowing it, she could not have made such a whimsical and fantastical assurance! Was respondent motivated to deceived (sic) complainant? For what? For the staggered and parsimonious fee of P6,000.00 which included publication fee, filing fee etc.? Respondent has been a judicial employee for around 36 years. In all this time, no stigma has sullied her name and integrity. So as to the time frame of the petition, it could only be due to misconception or miscommunication because except for doting concern of complainant for her son who allegedly was going to work abroad, there was pretty little to commend her by way of understanding the requisite time involved in the preparation and hearing of the petition. As a layman it was understandable. However, complainant seemed to be of a different breed from those not conversant with workings of procedural rules. She wanted the petition accomplished in a jiffy, oblivious to the fact of her financial constraints even in meeting the basic expenses of the petition.
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> On August 28, 1996, a day after her second installment of P2,000.00, the petition was finalized, subscribed by petitioner on September 4, 1994. Complainant had still to pay the balance of P2,000.00 which was paid P1,000.00 on September 16, 1996 and P1,000.00 on September 18, 1996. After completing the annexes of the petition, the same was filed on October 23, 1996 (Annex "A" of Comment).
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> On October 30, 1996, petitioner Roscoe Leonor Deles, Jr. withdrew his petition. His written request to withdraw his petition "because I no longer needed the same is Annex "A" of this comment and the Motion to Withdraw Petition and the Order of the Court granting the withdrawal "on the ground that petitioner is no longer interested in pursuing the case, is Annex "D" and "E" of this Comment.

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> Then as an after thought, complainant filed her letter complaint on November 18, 1996, or after petitioner on his own volition, withdraw his petition on October 30, 1996 and got his refund "relieving his counsel of any responsibility in relation thereto." This should have put a fitting denouement to this matter. To respondent, the act of the complainant is uncharitable.

In a Resolution dated 8 July 1998, the Court resolved to require the Office of the Court Administrator to docket the complaint as an administrative case; and the respondent to manifest to the Court whether she is submitting the case for decision on the basis of the pleading already filed.[4] Respondent submitted a manifestation in the affirmative, stating that she "honestly believes that the 'Comment' dated April 21, 1997 submitted to he Honorable Tribunal in her defense would be sufficient basis upon which the aforestated case be resolved."[5]

In a Resolution dated 30 September 1998, the Court referred the case to the Office of the Court Administrator for evaluation, report and recommendation.[6]

On 19 January 1999, the Office of the Court Administrator made the following findings and recommendation:

> On the charge that respondent committed deception, the record shows that every expense made by respondent was properly receipted and the balance duly returned to the complainant. The allegation that respondent led complainant to believe that the petition would be finished within one and a half (1-1/2) months is not supported by evidence and thus should be disregarded.
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> It is our proposition however that respondent should never have involved herself in a transaction as that which transpired between her and the complainant since this decidedly creates the unsavory impression that she is taking advantage of her position to solicit cases and act as agent of a fixer for her lawyer-husband. That she received money directly from complainant is highly improper, even if this was "to be given to her husband". If at all, she should have told complainant to pay directly to the lawyer and not through her. Respondent should avoid all circumstances in which she might be accused of using her office to gather prospective clients for her husband, even if done in good faith, for this taints the integrity of the court.
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> xxx
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> Premises considered, we respectfully submit for the consideration of the Honorable Court our recommendations that: a) this case be docketed as an administrative matter, and, b) Clerk of Court III Vilma B. Delfin, MTCC, Branch 5, Bacolod City be FINED the sum of P2,000.00 for gross misconduct by offering the professional services of her lawyer-husband to a court user seeking advice form her at her office and directly dealing with the client of her husband and be REMINDED that the conduct of each employee of a court of justice, must at all times be characterized with propriety, decorum and be above suspicion.[7]

We agree with the findings and recommendations of the Office of the Court Administrator. The conduct of each employee of a court of justice must, at all times, not only be characterized with propriety and decorum, but above all else, be above suspicion.[8] Enlisting clients on behalf of her husband lawyer and acting as a collecting agent for him are not part of her duties as Branch Clerk of Court, especially when done during official time, are highly improper and constitute grave misconduct.

ACCORDINGLY, as recommended by the Office of the Court Administrator, respondent Vilma B. Delfin is found guilty of gross misconduct and is FINED in the amount of Two Thousand Pesos (P2,000.00). She is also warned that a repetition of the same or similar offense will be dealt with more severely.

SO ORDERED.

Puno, Pardo, and Ynares-Santiago, JJ. concur. Davide, Jr., C.J., (Chairman) on official leave.

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[1] Rollo, pp. 1-2.

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[2] Id., at 10.

[3] Id., at 12-13.

[4] Id., at 77.

[5] Id., at 79.

[6] Id., at 80.

[7] Id., at 83-84.

[8] Sy v. Cruz, 250 SCRA 639, 643 (1995).

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