



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

KAREEN P. MAGTAGÑOB,
Complainant,

OCA I.P.I. NO. 11-3631-RTJ

Present:

- versus -

CARPIO,
Chairperson,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE,
LEONEN,* JJ.

JUDGE GENIE G. GAPAS-
AGBADA,
Respondent.

Promulgated:

JAN 16 2013

Hon. Cabalag

X ----- X

DECISION

PEREZ, J.:

Through the letter dated 4 April 2011, Kareen P. Magtagñob (complainant), former Court Stenographer III of the Regional Trial Court (RTC), Branch 42, Virac, Catanduanes accuses Executive Judge Genie G. Gapas-Agbada (respondent), same court, of oppression, conduct unbecoming of a judge and abuse of authority.¹

* Per Special Order No. 1408 dated 15 January 2013.
¹ Rollo, pp. 1-2.

Complainant contends that her appointment was not renewed because respondent judge refused to sign the requirements for the change of her employment status from temporary to permanent despite her two-year service. Thus, her temporary appointment ended last 16 October 2010.

Complainant claims that respondent judge's refusal was capricious, oppressive and done with abuse of authority and without valid grounds considering that she was given two "very satisfactory" and one "satisfactory" ratings in all three semesters within the two-year period of her service with the court. Complainant avers that she stays with respondent judge in court even after office hours to assist the judge with her work. Being a distant relative, complainant alleges that she lived with respondent judge and even attends to her personal needs at home.

Complainant states that many of her officemates have questioned the "satisfactory" rating given to her by respondent judge considering that Isidro Guerrero (Mr. Guerrero), their non-performing utility clerk, received a higher rating despite respondent judge's knowledge of his misdeeds. Worse, she claims that respondent judge even recommended Mr. Guerrero for a position in the court of her "*kumare*," Judge Lorna B. Santiago-Ubalde (Judge Ubalde) of the Municipal Trial Court, Virac, Catanduanes.

Complainant alleges that respondent judge has retained her position as executive judge of RTC, Virac, Catanduanes because she has successfully maligned the character of the other judge in the station, Judge Lelu P. Contreras (Judge Contreras). This was allegedly done through an anonymous letter which complainant claimed she personally mailed at the instance of respondent judge. Complainant also claims that she even bought the SIM card which respondent judge used to convey to the Bicol Peryodiko malicious text messages about Judge Contreras. Further, respondent judge

allegedly directed her to send a letter via registered mail to Catanduanes Tribune to impute wrongful acts to Judge Contreras.

Complainant reports that respondent judge and Atty. Ruel P. Borja (Atty. Borja) of the Public Attorney's Office (PAO) are close and would usually have coffee inside respondent judge's chamber. She claims that one time she overheard the two talking about the alleged relationship between Judge Lelu P. Contreras and the Bishop of Catanduanes. Complainant criticizes the closeness of respondent to Atty. Borja who has pending cases before respondent judge. Complainant informs the Court that she also filed a complaint against Atty. Borja in the PAO Central Office for the latter's alleged connivance with respondent judge in oppressing her.²

Finally, complainant prays that she be reinstated to her former position because she believes that her separation from employment was unjust and without valid grounds. She further prays that respondent judge be relieved as executive judge of RTC, Virac, Catanduanes to put an end to her abusive acts towards lowly employees.

In her comment³ dated 15 July 2011, respondent judge rebuts the allegations in the complaint. She asserts that the filing of the complaint was a form of revenge for her refusal to recommend complainant's permanent appointment as Stenographer III. She avers that complainant even sent her a text message stating "*wala akong utang na loob sa iyo...Sana nakakatulog ka sa ginawa mo; sana mangyari rin sayo nangyari sa akin.*"⁴ Respondent judge further avers that the complaint contains distorted facts and had hearsay statements maliciously crafted to malign her reputation.

² Id. at 6.

³ Id. at 38-54.

⁴ Id. at 38.

Anent her refusal to recommend complainant for permanent appointment, respondent judge explains that this is justified because of complainant's display of discourteous behavior, dishonest demeanor, immoral conduct and unprofessional ways despite the trainings and reminders given her. As evidence, respondent judge attached an affidavit executed by Judge Ubalde stating that she witnessed how discourteous and disobedient complainant was to her superiors. Respondent judge maintains that the instant complaint is but a desperate act of an employee who has been separated from work for her unethical, unprofessional and immoral conduct.

As regards complainant's receipt of a mere satisfactory rating, respondent judge clarifies that each employee in her court is not mechanically rated. The employee's performance is thoroughly evaluated and discussed, especially for those who were given a lower rating than their previous one. This is done for them to improve their performance. Complainant received a satisfactory rating⁵ for January 2010 to June 2010 because it was during that period that her incorrigible unethical conduct came to fore as duly noted by her immediate supervisor, Atty. Lino A. Gianan, Jr., Branch Clerk of Court, RTC, Branch 42.

On the higher rating given to Mr. Guerrero, respondent judge avers that instead of reassessing her own misdeeds, complainant would point out the alleged misdeeds of her co-employees. Respondent judge claims that she never stops in her effort to discipline her court employees, by calling their attention; giving them memoranda; and investigating reports of their misconduct. These efforts to discipline employees were attested to by Judge Ubalde⁶ and Katrina V. Tabuzo,⁷ one of the members of her staff.

⁵ Id. at 16.

⁶ Id. at 122-123.

⁷ Id. at 121.

Respondent judge also denies that she recommended Mr. Guerrero to Judge Ubalde for promotion to the position of process server. The denial is supported by Judge Ubalde's affidavit⁸ dated 20 January 2011. She also disavows the influence she supposedly exerted to reinstate Michael Bagadiong as security guard in the Hall of Justice.

On the personal services allegedly rendered to her by complainant, respondent judge admits that she would request complainant to accompany her in the office even beyond office hours to type or encode her decisions. She claims that the services are not done for her but are part of the duties of a court stenographer.

Respondent judge explains that it was complainant who volunteered to accompany her at night but only during weekdays and so that complainant can save on her daily expenses, considering that she is both a staff and a distant relative. Respondent judge states that complainant also accompanied her twice a week during her teaching schedules in Catanduanes State Colleges because complainant wanted to listen to her lectures to improve her proficiency in English.

With regard to the alleged closeness and connivance with Atty. Borja, respondent judge claims that complainant's motive in singling out Atty. Borja among the other lawyers is to give a ring of truth to her malicious imputation that Atty. Borja conspired with her to oppress complainant. Respondent judge clarifies that she offers coffee to all lawyers and judges who see her in her chamber for pre-trial conferences or meetings.

Anent the alleged anonymous letter, publications and rumor-mongering against Judge Contreras, respondent judge asserts that

⁸ Id. at 119.

complainant fabricated those stories to destroy her relationship with Judge Contreras, in whom complainant sought refuge after her temporary appointment in RTC, Branch 42 ended. Respondent judge stresses that it was only after complainant failed to get from her the requested recommendation that complainant started concocting stories and rumors against Judge Contreras, pointing to respondent as the source.

On 2 September 2011, the Office of the Court Administrator (OCA) received a letter from Judge Contreras, who at her own instance, addresses the accusations allegedly hurled against her by respondent judge as mentioned in the complaint.⁹

Judge Contreras attests to the credibility of Ms. Magtagñob regarding the anonymous letter mailed by the latter to the Supreme Court as ordered by respondent judge. She states that the anonymous letter accused her of using forfeited lumber materials for her personal needs regardless of whether or not the illegal logging case in her court has been terminated. Contrary to such accusations, she clarifies that respondent judge knew that the lumber materials were donated by the DENR to her office (Branch 43, RTC, Virac, Catanduanes) and were used in various carpentry works in the office. Judge Contreras maintains that Ms. Magtagñob disclosed to her the information regarding the letter to warn her of the true character of respondent judge.

On her alleged romantic involvement with the Bishop of Catanduanes, Judge Contreras reports that it was confirmed to her by Atty. Borja that it was respondent judge who made such remark not merely as a rumor but as a conclusion but without proof.

⁹

Id. at 182-192.

She claims that before she assumed office in RTC, Virac, she was already forewarned by some judges to be careful in dealing with respondent judge. Judge Contreras further claims that without respondent judge knowing it, the latter's staff had been "seeking refuge/relief" in her branch and confiding to her staff what they were going through under respondent judge.

Judge Contreras concludes that respondent judge feels threatened by her presence and that is the reason why the latter wanted to remain on top even if she has to fabricate lies against her and hide behind the cloak of anonymity.

In her reply¹⁰ dated 18 August 2011, complainant reiterates the averments in her complaint and stresses that she has performed her duty as court stenographer well enough for respondent judge to give her a rating of "very satisfactory". Based on her performance, complainant then finds respondent judge's actuations to be inconsistent.

Complainant admits that she sent respondent judge a text message, but only because she was really hurt when the latter did not sign her appointment papers.

The OCA reported¹¹ that it also received an anonymous letter dated 3 February 2011 which contains substantially the same allegations as the 4 April 2011 letter of complainant. The letter from the "concerned citizen" details the abusive acts allegedly committed by respondent judge. The unidentified complainant laments that respondent judge terminated Ms.

¹⁰ Id. at 135-146.

¹¹ Id. at 258-263.

Magtagñob from the service without any justifiable grounds despite the latter's earnest efforts in performing her duties as court stenographer.

The letter-writer likewise states that respondent judge had been sending anonymous letters to the Supreme Court maliciously imputing certain acts against Judge Contreras in order to wrest the position of executive judge from Judge Contreras. The letter-writer claims that this was admitted by Ms. Magtagñob, respondent judge's erstwhile confidant and former employee, who was unceremoniously terminated from the service by respondent judge.

Finally, the anonymous complainant decries respondent judge's lack of respect for court employees. She allegedly treats them as though she is paying their salary; shouts at them and turns a deaf ear to any of their explanations.

In compliance with the directive issued by then Deputy Court Administrator Nimfa C. Vilches, Judge Contreras submitted a report dated 8 June 2011 on the discreet investigation she conducted with respect to the anonymous letter dated 3 February 2011.

In her report, Judge Contreras revealed that Mr. Guerrero is a distant relative of respondent judge. Although holding the position of court aide, Mr. Guerrero seldom performs janitorial works. His daily routine involves the switching on of the lights and air-conditioning units when he arrives every morning, after which, he leaves the Hall of Justice and returns later at around 10:00 o'clock or 11:00 o'clock in the morning. His work assignments are usually performed by the janitors hired by the agency.

Moreover, respondent judge's weekly gasoline privileges given by the provincial government are extended to Mr. Guerrero who goes with her to the gas station and gets a full tank for his motorcycle while respondent judge gets whatever remains of her gasoline allowance.

The report further revealed that Mr. Guerrero plays mahjong and also goes out to play "*tupada*" during office hours. These activities were reported to respondent judge, but she dismissed the same as mere hearsay. Respondent judge always takes Mr. Guerrero's side every time a member of her staff complains about his lackadaisical behavior and arrogance.

As to Ms. Magtagñob, the report disclosed that she too is a close relative of respondent judge. The report confirmed that she stayed in the residence of respondent judge and worked as her housemaid. She cooked for her, ironed her clothes, cleaned the house and practically did all errands for her.

Their relationship, however, allegedly took a drastic turn when Ms. Magtagñob became pregnant and eventually got married, which angered respondent judge. Consequently, respondent judge told Ms. Magtagñob to move out of the house. Thereafter, she was also told to move out of respondent judge's chamber and transfer to the staff room. Moreover, respondent judge allegedly told Ms. Magtagñob that her appointment would no longer be renewed. Ms. Magtagñob's performance rating likewise took a dramatic plunge from "36" to "32", until she was finally told to stop reporting for work in October 2010.

The report further states that fortunately, the PAO Office, through its Chief of Office Atty. Borja, took in Ms. Magtagñob as a detailed casual employee. The employment was, however, short-lived as she was informed

that a memorandum from the main office prohibited the detail of casual employees. Ms. Magtagñob suspects that her dismissal was not in view of the memorandum because she allegedly found out that a few days prior to her termination Atty. Borja had gone to see respondent judge. The meeting gave rise to Ms. Magtagñob's speculation that respondent judge had prevailed upon Atty. Borja to remove her from the PAO.

The report further disclosed that the unexpected removal of Ms. Magtagñob became a "hot topic" in the Hall of Justice. When Judge Contreras went to see Judge Ubalde, who is reportedly one of respondent judge's closest friends, the latter allegedly informed her that respondent judge was hurt when she came to know of Ms. Magtagñob's pregnancy from other sources and not directly from the latter. Consequently, Judge Contreras interpreted respondent judge's actions in this wise:

Judge Agbada's treatment of Ms. Padilla is a clear proof of how unjust and unfair she is. Since Ms. Padilla can no longer be of personal service to her, she did everything to ease her out, like lowering her performance rating to 'Satisfactory' to give her valid and justifiable reason to recommend her termination, but she remains deaf and blind to the wrongdoings of Mr. Guerrero.¹²

As to respondent judge's association with Atty. Borja, the report disclosed that among the practicing lawyers, only Atty. Borja was served coffee inside the chamber of respondent judge where they were usually left to talk alone. In fact, Judge Contreras reported that their "closeness became the butt of all the jokes among those who were able to observe their camaraderie."

Judge Contreras further revealed that she found out from Ms. Magtagñob that the anonymous letter against her which was sent to the

¹² Id. at 262-263.

Supreme Court was authored by respondent judge. Judge Contreras then took the opportunity to address that part of the anonymous complaint which concerned her and the Bishop of Catanduanes and denied all the allegations relative thereto.

Finding the versions presented by the parties as conflicting, the OCA in its report¹³ dated 25 September 2012, recommended the referral of the instant administrative matter to one of the Associate Justices of the Court of Appeals for investigation, report and recommendation.

We find no need for such referral. This is a simple case involving a former employee of the court who complains against her judge for not renewing her temporary appointment. In her complaint, she imputed offenses allegedly committed by her former judge. The case was complicated when it was referred for discreet investigation to a judge from the same station who has a pending case against respondent judge and who has been implicated as one of the items of rumors allegedly respondent judge circulated

The valuable time and resources of the Court had been wasted in the resolution of the instant administrative matter. The time of the judges which is supposed to be spent in conducting hearings and drafting of decisions was instead spent for the conduct of investigation, preparation of comments and submission of report. In highlighting the quarrel between the two judges of Virac, Catanduanes, the core issue which led to the filing of this complaint was overlooked. We find it just and reasonable to limit the resolution of this case only on the issue of whether respondent judge was capricious, oppressive and abusive of her authority in not renewing the appointment of

¹³ Id. at 251-264.

complainant. The other issues, if valid and can be proven, should be addressed in separate complaints against the persons involved.

In fact, records reveal that the case involving the alleged solicitation of lumber by Judge Contreras had already been resolved by the Court in a resolution dated 10 February 2010. Likewise, records from the Legal Office, OCA reveal that the allegation of rumor mongering on the part of respondent judge is already among the offenses complained of by Judge Contreras in OCA I.P.I No. 11-3734-RTJ which is pending resolution by the Court.

The complaint herein is bereft of merit.

Complainant was appointed Court Stenographer III at RTC, Branch 42, Virac, Catanduanes on 16 October 2008. Her appointment was under temporary status in view of her lack of two years relevant experience which was required for the position. Her temporary appointment was renewed for one year on 16 October 2009 upon recommendation of Judge Agbada, the presiding judge of her court.¹⁴

After another year, however, complainant was no longer recommended by her judge for permanent position (change of status from temporary to permanent). Thus, her temporary appointment expired on 16 October 2010.¹⁵

In her resolve to discredit her judge, complainant made a shotgun imputation of offenses allegedly committed by the former. She, however, failed to show any proof that she was entitled to be given a permanent

¹⁴ Certification issued by the Office of Administrative Services, OCA, 22 November 2010. Id. at 193.

¹⁵ Id.

position. Other than her allegation that she was given two “very satisfactory” and one “satisfactory” rating, there was no evidence presented that she has met the prescribed qualification standard for the position. “Such standard is a mix of the formal education, experience, training, civil service eligibility, physical health and attitude that the job requires.”¹⁶ Respondent judge, who is the immediate supervisor of complainant, is in the best position to observe the fitness, propriety and efficiency of the employee for the position. It should be impressed upon complainant that her appointment in the Judiciary is not a vested right. It is not an entitlement that she can claim simply for the reason that she had been in the service for almost two years.

The changes in complainant’s rating, if at all, manifested that respondent judge had not been complacent in the rating of her employees. As claimed in her comment, respondent judge does not rate her employees mechanically. They were rated based on the evaluation of their performance during the period concerned. Records from the Office of Administrative Services, OCA reveal that during the same period, almost all the employees of RTC, Branch 42, Virac received varied performance ratings.

We note that complainant likewise filed an administrative complaint against Atty. Borja, officer-in-charge of the PAO-Virac, Catanduanes. Complainant accuses Atty. Borja of abuse of authority and acting in connivance with respondent judge with intention of oppressing her.

In a letter dated 15 October 2012, respondent judge submitted to the Court a copy of the resolution¹⁷ issued by the Public Attorney’s Office,

¹⁶ *Department of Labor and Employment v. Maceda*, G.R. No. 185112, 18 January 2010, 610 SCRA 266, 273.

¹⁷ *Rollo*, pp. 265-274.

Department of Justice, Quezon City dismissing the complaint filed by complainant against Atty. Borja.

The subsequent filing of complaint against Atty. Borja manifests complainant's propensity to file complaints whenever she does not get what she wants. Such attitude should not be tolerated. Otherwise, judges will be placed in hostage situations by employees who will threaten to file complaints whenever they do not get their way with their judges.

There being no proof that respondent judge abused her position, the case against her should be dismissed. Respondent judge should, however, be reminded to be circumspect in her actuations so as not to give the impression that she is guilty of favoritism.

It is worthy to note also that in Administrative Order No. 88-2011 dated 14 June 2011, respondent judge was designated assisting judge of RTC, Branch 221, Quezon City. In Administrative Order No. 12-2012 dated 19 January 2012, respondent judge was designated as full time acting presiding judge of RTC, Branch 154, Pasig City. Judge Contreras, in addition to her regular court, had been designated in the same administrative order as acting presiding judge of RTC, Branch 42, Virac, Catanduanes. Thus, Judge Contreras now presides over the two RTCs in Virac, Catanduanes.

WHEREFORE, IN THE LIGHT OF THE FOREGOING, the Court resolves:

(1) to **NOTE:** (a) the complaint dated 4 April 2011 of Ms. Kareen P. Magtagñob; (b) the comment dated 15 July 2011 of respondent Judge Genie G. Gapas-Agbada; (c) the reply dated 18 August 2011 of complainant;

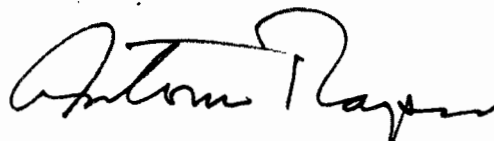
(d) the letter dated 18 August 2011 of Judge Lelu P. Contreras; (e) the report dated 25 September 2012 of the Office of the Court Administrator; and (f) the resolution dated 23 May 2012 of the Public Attorney's Office, Department of Justice, Quezon City; and

(2) to **DISMISS** the instant administrative complaint filed by Ms. Kareen P. Magtagñob against Judge Genie G. Gapas-Agbada, Regional Trial Court, Branch 42, Virac, Catanduanes for lack of merit.

SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


MARIANO C. DEL CASTILLO
Associate Justice


ESTELA M. BERLAS-BERNABE
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
Associate Justice