

EN BANC

[**A.M. No. P-12-3100, November 12, 2013**]

EXECUTIVE JUDGE HENEDINO P. EDUARTE, REGIONAL TRIAL COURT, BRANCH 20, CAUAYAN, ISABELA, COMPLAINANT, VS. ELIZABETH T. IBAY, CLERK II, MUNICIPAL TRIAL COURT IN CITIES, CAUAYAN, ISABELA,^[1] RESPONDENT.

DECISION

PER CURIAM:

For our resolution is this administrative case, which arose from the complaint of Geraldine V. De Ocampo (De Ocampo), Court Interpreter of the Municipal Trial Court, Cordon, Isabela (MTC-Cordon).

In her complaint-inquiry, De Ocampo alleged that she did not receive her check for P3,000.00 representing her clothing allowance. Upon verification, the Office of the Court Administrator (OCA) found that her check, specifically Land Bank Check No. 890956, was mailed to the now Municipal Trial Court in Cities, Cauayan, Isabela (MTCC-Cauayan), on 2 September 1999, under Registry Receipt No. 864.

In his letter dated 1 October 1999, Fortunato C. Villanueva (Villanueva), Clerk of Court of the MTCC-Cauayan, denied receiving De Ocampo's check. Thus, the OCA requested the Land Bank of the Philippines (LBP) to stop the payment of the check. LBP, however, reported that the check had already been negotiated and deposited with United Coconut Planters Bank, Cauayan Branch (UCPB-Cauayan), on 9 September 1999. Significantly, the OCA observed that the signature of De Ocampo appearing in her complaint-inquiry is very different from her alleged endorsement at the dorsal portion of the check.

Accordingly, the OCA, through then Court Administrator Alfredo L. Benipayo, directed Executive Judge Henedino P. Eduarte (Judge Eduarte), Regional Trial Court, Cauayan, Isabela, to investigate the matter.

In his Report dated 6 March 2000, Judge Eduarte stated that he investigated the following persons: (1) De Ocampo; (2) Villanueva; (3) Elizabeth T. Ibay (Ibay), Clerk II, MTCC-Cauayan; (4) Anselma Meris (Meris), Stenographer, MTCC-Cauayan; (5) Juan R. Bigornia, Jr., employee of UCPB-Cauayan; (6) Catherine Semana (Semana), an owner of a store inside a commercial complex in Cauayan, Isabela; and (7) Gaudioso Talavera.

The investigation conducted by Judge Eduarte established the following facts:

Ibay, as the receiver of mails addressed to MTCC-Cauayan, took the envelope containing the checks for clothing allowance from the post office of Cauayan, Isabela. Ibay alleged that upon her arrival in the stenographers' room in MTCC-

Cauayan, she gave the unopened envelope to Meris who allegedly opened the envelope by tearing its side. Seven checks were found inside the envelope. These checks were for Villanueva, Ibay, Meris, Judge Sergio Plan, Melchor Meris, Aida Magpantay (Magpantay), and Marivic Villanueva (Marivic). After getting her check, Ibay left the other checks with Meris.

Meris confirmed that Ibay took the envelope from the post office of Cauayan, Isabela. Meris narrated that she and Marivic were typing inside the stenographers' room when Ibay arrived. While holding the envelope, Ibay announced, "Oh, dumating na ang clothing allowance." Ibay, then, gave the envelope and the paycheck to Meris. Meris observed that the envelope was already opened but she did not see Ibay open the envelope.

After comparing Ibay's handwriting in a five-page Inventory of Cases, wholly written by her, with the endorsement on the check, the following were found to have striking similarities, to wit:

- (1) The letter "G" in Geraldine to the letter "G" in "Goderei Gasmen," page 2, Inventory; "Godofredo Garcia," page 4, Inventory; "Grave Oral Def.," "Grave Threat," page 5, Inventory;
- (2) Letter "d" in Geraldine and de Ocampo to the letter "d" in "do," pages 1, 2, 4, Inventory; in "Rolando," page 2, Inventory; in "Flordeliza," page 5, Inventory;
- (3) "O" in Ocampo to the "O" in "Grave oral Def.," page 5, Inventory;
- (4) "G" in Geraldine written in script to the "G" in "Galindo," page 4, Inventory;
- (5) "T" in Turayong to the "T" in "Trespass," "Theft," page 1, Inventory; "Tecson," "Truyen," page 5, Inventory;
- (6) "C" in Cauayan to the "C" in "Christine," page 2, Inventory; "Campos," page 4, Inventory;
- (7) "S" in Isa to the "S" in "Sia," "Santiago," and "Sebastian," page 1, Inventory.^[2]

Semana admitted that she is in the business of changing government checks with cash at a discount, and that she discounts Ibay's paychecks. However, Semana claimed that she could not remember De Ocampo's check.

Finally, De Ocampo's check was deposited with UCPB-Cauayan, and cleared by LBP.

In its 1st Indorsement dated 5 September 2001, the OCA required Ibay to comment on the report of Judge Eduarte.

In her letter-comment dated 28 September 2001, Ibay admitted that she took the envelope containing the checks, even though she does not receive the mails to their

office all the time. Ibay further admitted that in the inventory, there were similarities between her handwriting and the indorsement in the check.^[3] However, she added that anyone could imitate her handwriting and that it would be unfair if only her specimen signature would be taken into consideration.^[4] Ibay also claimed that she would usually ask Magpantay to accompany her whenever she needed to encash her check since she is a resident of San Pablo, Isabela and unfamiliar with Cauayan, Isabela. Finally, Ibay vehemently denied the allegations of Meris and Semana.

In its Resolution dated 14 August 2002,^[5] the Court, upon recommendation of the OCA, referred this case to the National Bureau of Investigation (NBI) for further investigation and examination of the questioned document by handwriting experts to determine who committed the forgery. The Court likewise directed the NBI to submit a report within 30 days from receipt of the records of this case.

In its Resolution dated 13 April 2011, the Court noted, among others, that: (a) the NBI, despite receipt of the records on 23 September 2002 by Efren B. Flores of the Questioned Documents Division, failed to submit the required report; (b) in his letter-compliance dated 31 August 2010, NBI Director Magtanggol B. Gatdula (Director Gatdula) informed the Court that they could not proceed with the desired examination due to the absence of the original copy of the check; (c) per records, Atty. Virginia A. Soriano (Soriano), then First Division Clerk of Court, already transmitted the original copy of the check with other documents to the NBI, as evidenced by the stamped "received" by the NBI Questioned Documents Division indicating the date "1/14/03"; (d) further verification with the OCA's Financial Management Office revealed that the check was no longer in its custody; (e) although the result of the laboratory examination of the original copy of the check would significantly help in determining the person who may have forged the signature of De Ocampo, under the present circumstances such laboratory examination may no longer be possible due to the apparent loss of the check in question; and (f) nevertheless, any administrative liability of Ibay in this case may still be determined on the basis of Judge Eduarte's report and Ibay's comment thereon, as well as the other documents on hand.

Accordingly, the Court, upon recommendation of the OCA, resolved on 13 April 2011 to dispense with the NBI Investigation Report as required in the 14 August 2002 Resolution and reiterated in two subsequent resolutions dated 20 June 2005 and 21 July 2010. The Court also required Director Gatdula to cause the return of the records of this case and the 14 January 2003 transmittal of Soriano including the original copy of the check.

In a separate Resolution also dated 13 April 2011, the Court granted the OCA a period of 30 days from receipt of the records from the NBI to submit its report and recommendation.

In his letter-compliance dated 6 June 2011, Director Gatdula informed the Court that the original copy of the check was found. He suggested that seven or more sample signatures of De Ocampo appearing in public/official documents executed on dates contemporaneous with the date of the check be submitted to the NBI for comparative examination.

In its Resolution dated 27 June 2011, the Court noted Director Gatdula's letter, and