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THIRD DIVISION

[A.M. No. P-06-2132, August 25, 2010]

PRESENTATION V. ANOTA, COMPLAINANT, VS. AGERICO P. BALLES, CLERK OF COURT IV, OFFICE OF THE CLERK OF COURT, MTCC, TACLOBAN CITY, LEYTE, RESPONDENT.

R E S O L U T I O N

BRION, J.:

This administrative matter arose from a letter complaint[1] of Presentation V. Anota, dated June 23, 2004, addressed to Chief Justice Hilario G. Davide, Jr.

In her letter, Mrs. Anota stated that her husband, Felicisimo G. Anota, Municipal Trial Court in Cities (*MTCC*)-Branch I Clerk of Court, Tacloban City, died without enjoying his retirement benefits because Atty. Agerico P. Balles, Clerk of Court IV of the Tacloban City MTCC, unjustly refused to issue the clearance necessary for the release of her husband's retirement benefits. She alleged that her husband was forced to retire from the government at 63 years of age because of kidney problems traceable to diabetes; that he had to undergo amputation and had dialysis twice a week for 19 months, before he died on June 21, 2004; and that he filed all the necessary documents for his retirement, and the only missing document was the clearance from Atty. Balles. Atty. Balles refused to issue the clearance despite his knowledge that Mr. Anota had been cleared of money and property accountability and had no administrative case pending against him.

In his comment[2] to the 1st Endorsement of Mrs. Anota's complaint, Atty. Balles asserted that he could not issue the clearance because Presiding Judge Marino Buban believed that Mr. Anota still had to answer for some missing court records, among others.

We referred the matter to the Tacloban City Regional Trial Court executive judge for investigation, report and recommendation, upon the recommendation of the Office of the Court Administrator (OCA).[3] The investigating judge conducted several hearings, and based on his conclusion, the OCA, in its Memorandum,[4] ruled that Atty. Balles' acts amounted to oppression. There was no missing court record in Tacloban City MTCC-Branch 1 according to the Court Management Office-OCA's judicial audits in June 2000 and August 2003, and the incumbent MTCC Clerk of Court testified that Mr. Anota had fully accounted for all the money and property under his custody. Thus, the OCA found Atty. Balles' refusal to issue the clearance grossly unjust because Mr. Anota could have used his retirement benefits for his medicine and hospital expenses during his confinement.

We concur with the OCA's findings, and would have fully concurred with its recommended sanctions against Atty. Balles, except that: