

SECOND DIVISION

[A.M. No. P-06-2245 [Formerly OCA IPI NO. 06-2373-P], July 31, 2009]

JUDGE JAIME L. DOJILLO, JR., COMPLAINANT, VS. CONCEPCION Z. CHING, CLERK OF COURT, MTC, MANAOAG, PANGASINAN, RESPONDENT.

[A.M. NO. MTJ-09-1741 [FORMERLY OCA IPI NO. 06-1853-MTJ]]

CONCEPCION A. CHING, COMPLAINANT, VS. JUDGE JAIME L. DOJILLO, JR., MTC, MANAOAG, PANGASINAN, RESPONDENT.

D E C I S I O N

CARPIO MORALES, J.:

By letter-complaint^[1] of January 18, 2006, Judge Jaime L. Dojillo, Jr., (Judge Dojillo), presiding judge of the Municipal Trial Court (MTC) of Manaoag, Pangasinan, charged Concepcion Z.^[2] Ching (Concepcion), MTC Clerk of Court, with gross misconduct, gross incompetence and inefficiency, violation of the Supreme Court Circular which prohibits smoking inside the office, violation of the Code of Ethics, conduct unbecoming of a public official, conduct prejudicial to the interest of public service, and gross dishonesty.

By 1st Indorsement^[3] of February 2, 2006, the Office of the Court Administrator (OCA) directed Concepcion to comment on the letter-complaint within 10 days from notice, with which she complied by Comment^[4] of March 13, 2006 with a prayer to consider it as a "counter complaint/charge" against Judge Dojillo.

Both complaints were referred to Executive Judge Rodrigo Nabor of the Regional Trial Court of Urdaneta City, Pangasinan, for investigation, report and recommendation. Instead of submitting their respective Comments pursuant to Judge Nabor's November 6, 2006 Order,^[5] Judge Dojillo and Concepcion filed a joint Manifestation and Motion^[6] of June 5, 2007 stating that the "charges and counter-charges involved were filed out of pure misunderstanding" and should thus be dismissed.

By Resolution of October 1, 2007,^[7] the Court referred the complaints to the OCA for evaluation, report and recommendation.

By Memorandum of June 25, 2008,^[8] the OCA synthesized Judge Dojillo's complaint as follows:

A. GROSS MISCONDUCT

Complainant judge alleged that respondent Ching is a lesbian who is a well-known gossip and troublemaker in the town of Manaoag,

Pangasinan. Even her officemates were not spared of her daily food of venomous gossiping.

Sometime in the year 1999, respondent gossiped that Ramon Paster, Court Stenographer, has an illicit relationship with Mrs. Erlinda L. Marmolejo, the Court Interpreter. Subsequently, respondent allegedly passed malicious information that the complainant judge and Mrs. Marmolejo had an ongoing illicit affair.

On December 20, 2005, while complainant was having lunch together with some of his staff, respondent banged the main door of the office, showing lack of civility, disrespect, discourtesy, insult and belligerent attitude towards the complainant as the presiding judge and towards respondent's officemates. Further, it was also alleged that respondent threatened with death the complainant *via* typewritten death threats purportedly using the typewriter belonging to respondent's brother.

B. GROSS INCOMPETENCE AND INEFFICIENCY

Complainant judge averred that respondent was not personally doing most of her assigned tasks. She always passed the job to other members of the staff even if she was not doing anything. Further, she was always out of the office. She also refused to learn to type well and to use the computer issued to the court. These resulted in the delay in the preparation and issuance of writs of execution ordered by the court.

C. VIOLATION OF THE SUPREME COURT CIRCULAR BANNING SMOKING INSIDE THE OFFICE.

Respondent Ching, according to the complainant, is a well known chain smoker. She smoked inside the office to the detriment of the health of her officemates.

D. CONDUCT UNBECOMING OF A PUBLIC OFFICIAL AND CONDUCT PREJUDICIAL TO THE INTEREST OF THE SERVICE.

Aside from being a well known gossip and troublemaker, it was also alleged that respondent was a bad-tempered, impatient, disrespectful and discourteous public employee. Instead of devoting the office hours for work, she was frequently seen loitering, wasting time and parading downstairs as if she is the boss, creating an impression to the public that she could do whatever she wants and pleases and thereby eroding the trust and confidence of the people in the judiciary.

E. VIOLATION OF THE CODE OF ETHICAL STANDARDS

With her malicious motive in mind, she intimidated and harassed Mrs.

Erlinda Marmolejo by uttering unsavory and uncalled remarks in order to force the latter to transfer or to resign from work. Certification of entries of incidents in the police blotter were attached to the complaint to prove that respondent indeed annoyed and harassed Marmolejo.

F. GROSS DISHONESTY

Respondent Ching was also charged for falsifying her Daily Time Record for the month of November 2003 to make it appear that she was present in the office on November 11, 2003 when in truth and in fact, she was not as she went to Manila on that day as evidenced by her application for leave. She also allegedly falsified her Daily Time Record for the month of December 2005 by making it appear that December 12, 2005 was a local holiday in Manaoag, Pangasinan, to make her absence on the aforesaid date excusable.^[9]

The OCA summarized Concepcion's Comment with counter-complaint as follows:

x x x She denied the accusations hurled against her. She averred that it has been a long time time [sic] since she heard feedbacks relative to the unusual closeness of Judge Dojillo and Mrs. Marmolejo. She, herself, has witnessed their closeness. She stated that sometime on May 27, 2005, she saw Mrs. Marmolejo came out of the chambers of the complainant looking like she just woke up from sleep. To her shock, Judge Dojillo was also inside the chambers. Thus, she talked to Marmolejo in order to silence the increasing discomfort of the people around them. Marmolejo, however, denied her suspicions. Instead of distancing from one another, Judge Dojillo and Marmolejo were oftentimes seen arriving and leaving the office together. She further advised Marmolejo that if the latter could not stop what was going on between her and the judge, Marmolejo should save herself from destruction by going abroad.

She further averred that sometime in December of 2005, at around 8 in the morning, she went early in the office. She thought that she was all alone but to her surprise, she saw Marmolejo come out of the chambers of the complainant. When she peeked inside the chambers, Judge Dojillo was also there. She thus sternly warned Marmolejo to avoid incidents that would make their colleagues uncomfortable otherwise she will be forced to make the necessary action against her and the judge.

As to the charge of gross misconduct, she argued that she was a very warm person with strong convictions for propriety and decorum in office. She averred that she made the court accessible to people by immediately entertaining their concerns and advising them of the procedures in court. She also denied being a rumor monger and claimed that all the accusations of the witnesses for the complainant were fabrications in order to malign her person. She, moreover, denied having banged the door on December 20, 2005 claiming that she had to forcefully close the same since the door was bigger than the jamb.

Anent the charge of gross incompetence and inefficiency, she stated that as a clerk of court, her duties were administrative and supervisory. She made sure that all the cases were on file and calendared and that all the pleadings were referred to the complainant for proper action. These delicate tasks were performed by her and it was only the typing job that she delegates. She justified this by saying that it was necessary for her to delegate the typing to others who are faster than her.

As to the allegation that she was always out of the office, her defense was that the nature of her job requires her to leave the office. These include the monthly submission of reports to RTC and to the Prosecutor's Office in Urdaneta City, depositing in bank of the Judiciary Development Fund and Special Allowance for the Judiciary and withdrawing of bonds from the bank whenever necessary. She handles these tasks herself as these are delicate tasks which could not be delegated to others. As to the alleged delay in the issuance of writs of execution, she attributes the delay to Judge Dojillo who fails to immediately release signed orders.

With respect to her alleged violation of the circular regarding smoking ban, she claimed that she is not a chain smoker and she was not the only one smoking among the court employees. She thus could not fathom why she was singled out by complainant. As to the charge of dishonesty, she stood by her claim as to the truthfulness of her Daily Time Record. The reason why her application for leave on November 11, 2003 was not submitted for approval was because she decided not to proceed to Manila and instead choose to stay at the office. As to her DTR for the month of December 2005, she argued that December 12, 2005 was a rest day and in fact the Municipal Hall was closed on that day. Further, according to respondent, the court employees agreed to just state in their DTRs that such was a local holiday due to Galicayo Festival. Moreover, her DTRs were with the approval of the presiding judge. She thus prayed that the complaint against her be dismissed and that her comment be considered as a counter complaint against Judge Dojillo.^[10]

The OCA, passing on the Manifestation and Motion of the parties for the dismissal of their respective charges, states that "the withdrawal of an administrative complaint or subsequent desistance of the complainant does not free the respondent from liability as the purpose of an administrative proceeding is to protect the public service, based on the time-honored principle that a public office i[s] a public trust."

The OCA goes on to state:

The withdrawal of the complaint or the execution of an affidavit of desistance does not automatically result in the dismissal of the administrative case. x x x It will not divest the Supreme Court of its jurisdiction to investigate the matters alleged in the complaint. Thus, the manifestation and motion filed by the parties praying that the charges and counter-charges be dismissed should be denied.