

## SECOND DIVISION

**[ A.M. No. P-08-2455 (Formerly OCA I.P.I. No. 05-2175-P), April 30, 2008 ]**

**JUDGE FATIMA GONZALES-ASDALA, PETITIONER, VS. VICTOR PEDRO A. YANEZA (LEGAL RESEARCHER II) RESPONDENT.**

**[A.M. NO. P-08-2456 [FORMERLY OCA I.P.I. NO. 05-2228-P]]**

**JUDGE FATIMA GONZALES- ASDALA, PETITIONER, PETITIONER, VS. VICTOR PEDRO A. YANEZA (LEGAL RESEARCHER), RESPONDENT.**

**[A.M. NO. RTJ-08-2113 [FORMERLY OCA I.P.I. NO. 06-2449-RTJ]]**

**VICTOR PEDRO A. YANEZA, PETITIONER, VS. JUDGE FATIMA GONZALES-ASDALA, RESPONDENT.**

## D E C I S I O N

**CARPIO MORALES, J.:**

The first two complaints subject of the present resolution merited a counter-complaint -- the third subject case.

In OCA I.P.I. No. 05-2175-P, complainant Judge Fatima Gonzales Asdala (Judge Asdala), then Presiding Judge of Branch 87 of the Regional Trial Court (RTC) of Quezon City, charged<sup>[1]</sup> Legal Researcher II Victor Pedro A. Yaneza (Yaneza) with gross neglect for failure to inform her of a Notice of Appeal filed by the petitioner in Special Proceeding No. Q-01043860, "*Estate of Li Guat and Chua Kay*," and to prepare a draft of the *proforma* order normally issued under the circumstances.

It appears that the Notice of Appeal was filed on June 11, 2004 during which Yaneza was the Officer-in-Charge of the Branch Clerk's Office. Judge Asdala only got wind of the filing of the Notice of Appeal on February 18, 2005 after Amy Soneja (Soneja), the Officer-in Charge on Judicial Matters, informed her about it.

In his Explanation<sup>[2]</sup> in compliance with Judge Asdala's February 19, 2005 memorandum to him, Yaneza stated that since appeals in special proceedings should be by record of appeal and not by notice of appeal, "there was no necessity to call the attention of the Presiding Judge for the reason that she is not under any obligation to act on a wrongful pleading or a wrong method of appeal."<sup>[3]</sup>

In the Comment<sup>[4]</sup> he filed on June 14, 2005 in compliance with the May 10, 2005

First Indorsement<sup>[5]</sup> of the Office of the Court Administrator (OCA), Yaneza reiterated his above-said explanation, adding that

x x x there is a more sinister motive behind Judge Asdala's actions and inaction in relation to the Estate of Li Guat and Chua Kay. xxx Sometime in February 2003 Judge Asdala misused her office and meddled in a case represented by Atty. Marcelino Bautista, former RTC Judge of Quezon City. This became the subject of an administrative case filed by the latter against Judge Asdala [AM No. RTJ-05-1916] and as an offshoot Atty. Bautista together with his client went to the media to expose Judge Asdala's alleged misuse of her office xxx. [T]he Supreme Court decided the case against Judge Asdala on May 1[0], 2005 and fined her P40,000.00.<sup>[6]</sup> The TV Program Direct Connect was hosted by Atty. Batas Mauricio. Judge Asdala retaliated and filed a libel case against Atty. Bautista and his client which is now pending before RTC Branch 100, Quezon City under Crim. Case No. 03-119215 entitled ["]People of the Philippines vs. Melencio P. Manansala III and Marcelino Bautista Jr.["] Judge Asdala did not include the TV host Atty. Batas Mauricio xxx in her complaint for libel [as] she had other plans of getting even. It so happens that counsel on record in SPECIAL PROCEEDINGS NO. Q-01-43860 entitled ["]Estate of Li Guat and Chua Kay["] is the law firm of Atty. Mauricio. xxx Judge Asdala after several hearings finally dismissed the case. Thereafter, when the notice of appeal was filed she did not act on it. Now she wants to make me a convenient escape [*sic*] goat to cover for her sins.<sup>[7]</sup> (Underscoring supplied.)

Yaneza later claimed, during the hearing of OCA I.P.I. No. 05-2175-P conducted by the OCA, that on Judge Asdala's instruction, he inserted the Notice of Appeal in a folder of pending incidents which was placed on a table near the entrance to Judge Asdala's chamber.<sup>[8]</sup>

In OCA I.P.I. No. 05-2228-P, Judge Asdala, by letter of April 18, 2005 addressed to the RTC Executive Judge of Quezon City, charged Yaneza with abandonment, insubordination, misconduct, and acts prejudicial to the interest of the service. <sup>[9]</sup>

In support of her charges, Judge Asdala alleged as follows: She issued to Yaneza Memorandum No. 24 directing him to submit case reports, together with their attachments, for November and December 2005, and to make the necessary corrections therein following their rejection by the OCA, but that despite repeated verbal instructions, Yaneza failed to comply therewith; and that on April 1, 2005, Yaneza wrote her that it was not his responsibility to submit the attachments and correct the reports.

Judge Asdala further alleged:

From April 3, 2005 when she admonished him even up to the time of writing of the abovesaid letter of April 18, 2005 to the Executive Judge, Yaneza went on leave without accomplishing a "proper and timely" application as required by Civil Service Rules. She thus issued Memorandum No. 26 directing him to report back for work within eight hours from receipt thereof. The process server of the branch, who was tasked to deliver the memorandum, reported however that Yaneza refused to open

the door of his house, constraining him to leave the memorandum by the door of Yaneza's house.

By letter of May 10, 2005 to the Executive Judge,<sup>[10]</sup> and by way of Comment/Complaint<sup>[11]</sup> filed before the OCA, Yaneza explained that he tried to have the reports brought to the OCA by the process server but failed because Judge Asdala had been sending the process server on private errands and she did not allow anyone other than herself to give orders to him (process server).

Yaneza added that Judge Asdala has a "propensity to order the Court Process Server to do unusual tasks like driving her children to school,"<sup>[12]</sup> and that she was in fact fined by this Court for utilizing the Court Deputy Sheriff to do things for her own interest.<sup>[13]</sup>

Explaining further, Yaneza alleged that he requested Rowena Agulo, the clerk in charge of civil cases, bring the reports to the OCA but she was not allowed by Myrla Nicandro who acted as officer-in-charge (OIC) of Branch 87. Furthermore, Yaneza claimed:

The trouble with the Office is that there is much confusion, there are two (2) OIC[s], one Ms. Amy Soneja who was properly designated by the Supreme Court and the other Ms. Myrla Nicandro who was **not appointed by the Supreme Court** but presents herself [as] and [is] **treated** by the Presiding Judge as **the** OIC, thus appearing to be a usurper;

x x x x

In Branch 87, Ms. Soneja is the properly appointed OIC by the Supreme Court[, ] meaning[, ] she is the only one who can exercise the powers of the Office of the Clerk of Court and no other. Myrla Nicandro not being properly appointed by the Supreme Court has no authority to present herself as OIC. It is a public misrepresentation. Any exercise of the powers of the Clerk of Court by Ms. Nicandro is [a] usurpation before our eyes. xxx Myrla Nicandro is only a stenographer by rank and has no item in the plantilla of Branch 87. She is only detailed, has been transferred from several offices[; ] maybe her best qualification is that she is a *kumare* of the Presiding Judge and a constant companion in various activities. x x x

x x x x

It is very difficult to ask any of the clerical staff to go and file the reports [with] the Supreme Court, since they have to secure permission from a usurper OIC Myrla Nicandro[. ] In fact I requested Rowena Agulo[, ] clerk in charge of civil cases[, ] to file the reports but the usurper turned down her request for permission;

By way of comment [on] my application for leave, it is the practice of the Presiding Judge to allot the time in which the staff will take leave. x x x But for several years now, the Presiding Judge has not allocated any

period for us to go on leave. Thus, I did not have any vacation for years.  
x x x

After conferring with the properly appointed OIC Ms. Amy Soneja, **I submitted an application for leave dated April 1, 2005, and she in turn submitted it to the usurper OIC Myrla Nicandro, and it is only lately thru this complaint that [I] became aware that my application for leave was not approved.**<sup>[14]</sup> (Emphasis and underscoring supplied)

Annexed to Yaneza's May 10, 2005 letter of the Executive Judge was, among others, a copy of his application for leave covering the period April 4, 5 and 6, 2005, which was received by Branch 87 of the Quezon City RTC at 10:00 A.M. on April 1, 2005.  
<sup>[15]</sup>

On recommendation of the OCA,<sup>[16]</sup> the Court considered Yaneza's above-stated Comment filed at the OCA on June 14, 2005 to Judge Asdala's letter-complaint as well as the Comment/Complaint Yaneza filed at the OCA on August 30, 2005, as counter-complaints which were docketed as OCA IPI No. 06-2449-RTJ, and required her to file her comment thereon.<sup>[17]</sup>

In her Comment<sup>[18]</sup> in OCA I.P.I. No. 06-2449-RTJ, Judge Asdala alleged that the charges against her were ill-motivated, reiterated her own charges against Yaneza, and emphasized Yaneza's alleged incompetence and laziness.

After receiving evidence on the three cases, Hearing Officer Designate Romulo S. Quimbo made the following findings and recommendations:

In **OCA-IPI No. 05-2175-P**, x x x [t]he evidence does not show that the failure of Yaneza to bring the [Notice of Appeal] to the attention of Judge Asdala was motivated by any corrupt motives. As a matter of fact, while he admitted his failure to call the attention of Judge Asdala regarding said notice of appeal, he reasoned that there was no necessity to bring it to her because it was not the proper pleading. x x x

However, although the notice of appeal filed in the case may have been insufficient to satisfy the rules, still it was not for him to decide. He should have brought the matter to the complainant's attention. When he ruled that the said notice of appeal was not the correct pleading, he was performing a judicial power reserved for the presiding judge.

Yaneza, however, averred that in obedience to the instructions of Judge Asdala, he had placed the notice of appeal on a table near complainant's door together with other pending incidents. This is denied by Judge Asdala. Be that as it may, we cannot hold respondent Yaneza liable for willful concealment of the notice of appeal. No motive has been ascribed or proven against Yaneza. On the other hand, it is not denied that the counsel for the petitioners in the Li Guat case was Atty. Mauricio, the television host where the acts of Judge Asdala amounting to obstruction of justice and for which she was fined P40,000.00 in A.M. No. RTJ-05-1916 had been aired. It is not farfetched to think that the dismissal of Special Proceedings No. A-01-43860 and her failure to act on the notice