

THIRD DIVISION

[A.M. NO. P-06-2171[FORMERLY OCA IPI NO. 03-1661-P], June 15, 2006]

LEILANI E. NACIONALES, COMPLAINANT, VS. SHERYLL S. MADLANGBAYAN, CLERK III, REGIONAL TRIAL COURT, MANDALUYONG CITY, BRANCH 210, RESPONDENT.

DECISION

CARPIO MORALES, J.:

Leilani Nacionales (complainant) has, by Affidavit-Complaint,^[1] charged Sheryll S. Madlangbayan (respondent), Clerk III of the Regional Trial Court (RTC) of Mandaluyong, Branch 210, of Misconduct, Conduct Unbecoming of Government Employee and Unethical Conduct Prejudicial to the Best Interest of Service.

The complaint was eventually investigated by RTC Mandaluyong Executive Judge Paulita B. Acosta-Villarante.

Complainant was engaged in the business of selling jewelry and underwear. Respondent was one of her customers who eventually became her close friend.^[2]

On November 14, 2002, complainant purchased a pair of shoes and a bag at a store in Greenhills, San Juan for a total amount of P8,198, payment for which complainant charged to respondent's BPI Credit Card account.^[3] The two agreed that complainant would pay respondent the total amount on installment basis.

On January 30, 2003, respondent bought a white gold bracelet from complainant which the latter represented to contain 14 carats (K), valued at P8,500, on a staggered payment basis with a downpayment of P3,000. When the bracelet was appraised in the presence of complainant on February 18, 2003, it turned out that its gold content was below 14K.

Respondent thus decided to return the bracelet to complainant and to demand the return of her P3,000 downpayment.

By respondent's claim, complainant agreed to refund the P3,000 after the latter could find a buyer of the bracelet.^[4]

Also by respondent's claim, she demanded the settlement of the amount of P2,050 representing the balance of the payment of complainant's pair of shoes and bag which, as earlier stated, was charged to her (respondent's) credit card account^[5] but complainant refused to comply therewith unless she (respondent) first issued a receipt of her previous payment.^[6]

The friendship of the two soured and respondent allegedly sent text messages to complainant which contained slanderous words meant to harass, ridicule and embarrass her:

"Ang kapal ng mukha mo, walang patawad, kahit mahal na araw, may nakakita sa inyo sa loob na taga-OCC. Hindi ka man mabuking ngayon, sa ibang araw, nabubuking [sic] ka rin"; "If you want bastusan, I'll give it to you. Sabi ko kay Lloyd, pagbigyan ka ng isang gabi, kaya yan ang dahilan you are mad at me"; "Duwag ka naman eh"[;] "putang ina mo" [;] etc.^[7]

A confrontation between the two occurred in March 2003 which was witnessed by Mary Jane Rodillas, a canteen helper, and one Noemi Feje.

What transpired during the confrontation was narrated at the witness stand by complainant as follows:

- ATTY. LEE: In that incident which happened sometime in March 2003, what happened?
- WITNESS [complainant]: I was eating, I did not see her coming. It was 2:00 in the afternoon when she arrived and Noemi said, "here she comes. Isn't she your enemy?"
- ATTY. LEE: What happened after that?
- WITNESS: She passed by my side and then she was making ismid [sic].
- ATTY. LEE: What happened after that?
- WITNESS: I turned to her and asked what is her problem.
- ATTY. LEE: What did she say in return?
- WITNESS: She suddenly gave me a middle finger sign.
- ATTY. LEE: What did you do after having seen that she did that making finger sign?
- WITNESS: I don't understand what that meant. Sir.
- ATTY. LEE: Any reaction from that finger sign that the respondent did?
- WITNESS: I asked my companion what is it mean [sic].
- ATTY. LEE: What did your companion say?
- WITNESS: She said, "Later, because you might run after her when you find out what that means."
- ATTY. LEE: After that, what happened?

WITNESS: She stopped at the far end of the canteen and stayed there and she was still making the middle finger sign and she was challenging me.

ATTY. LEE: You said that she was wearing something?

ATTY. LEE: No question yet, your Honor.

WITNESS: Yes, sir, uniform.

ATTY. LEE: What was the uniform being worn by the respondent at that time?

WITNESS: Yellow-green blouse and fatigue-like pants.^[8]

The foregoing account was substantially corroborated at the witness stand by Mary Jane Rodillas.^[9]

Advancing a different version of the incident, respondent alleged in her Counter-Affidavit as follows:

9. x x x What really transpired is: I came from METROBANK and when I passed by the canteen near the Mandaluyong Gymnasium, I did not notice the complainant until I heard shouts from her "**ANONG PROBLEMA MO**" etc. and also shouted "SHERYLL MANIAC". And this did not happen in the office but near the canteen beside the Mandaluyong Gymnasium. Calling me **SHERYLL MANIAC** is a very serious insult and an attack on my person and personality, since I am a lady, single of 24 years of age, and don't belong to the category she branded me as "**MANIAC.**"^[10](Emphasis in the original; underscoring supplied).

In her Affidavit-Complaint, complainant claimed that respondent shouted "fuck you" and made a "dirty middle finger sign" at her. This claim was corroborated by Mary Jane Rodillas and Noemi Feje in their respective affidavits.

Not denying having uttered "fuck you" and made dirty middle finger sign, respondent justified the same by claiming that they were done in retaliation. Thus she testified:

Q [Atty. Floirendo]- Madam witness, in your counter affidavit, paragraph 9, you stated that, and if I may quote your honor please, x x x Do you confirm and affirm the truth and veracity of this paragraph?

A - Yes ma'am.

Atty. Floirendo - You mean to say madam witness that it was the complainant who shouted to you first when you saw her near the Mandaluyong Gymnasium on the date she complained of?

A - Yes ma'am.^[11]