

FIRST DIVISION

[A.M. NO. P-06-2204 (FORMERLY A.M. OCA IPI NO. 05-2292-P), November 30, 2006]

NYDIA S. SERVINO, COMPLAINANT, VS. MA. MAWILYNN CONCEPCION B. ADOLFO, RESPONDENT.

R E S O L U T I O N

CHICO-NAZARIO, J.:

The matter before this Court involves the charge of falsification against respondent Ma. Mawilynn Concepcion B. Adolfo, Clerk III, Regional Trial Court (RTC), Branch 26, Naga City.

Complainant Nydia S. Servino alleged that for several mornings in the month of July 2005, she was looking for respondent Ma. Mawilynn Concepcion B. Adolfo (Adolfo) at the latter's office for personal reasons, but on those occasions, complainant did not find respondent in the latter's work station. When complainant checked respondent's Bundy card, which happened to be situated in the rack beside that of complainant's, she found out the following entries on respondent's Bundy card: for 11 July 2005, her morning time of arrival states 7:36 when in truth, she actually arrived at 8:16 a.m.; and for 12 July 2005, her arrival time is 7:13 a.m., when she arrived at 8:01 a.m. Complainant further alleged that there were other false entries in respondent's card but which she did not mind. Thereafter, she recorded the alleged discrepancies in the logbook of the security guard stationed in their court.

On 29 September 2005, the Office of the Court Administrator (OCA) required^[1] respondent to file her comment within ten days from notice.

In her comment dated 7 November 2005, respondent denied complainant's allegations and interposed the defense that the complaint is malicious, a blatant lie and only a false accusation motivated by complainant's grudge against her. Respondent's version is as follows:

- a. That on July 1 (sic), 2005, when I reported at Branch 26, RTC, 5th Judicial Region at 8:16 in the morning and as I was about to punch my daily time card at the second floor of the Hall of Justice Building, I was met by Nydia Servino and told me that she already punched my time card earlier at about 7:26 in the morning. I was surprised to hear from her that she had the initiative to punch my Bundy card without my knowledge but then I thought that she meant well and I did not mind anymore. I reported this matter to our Branch Clerk of Court, Atty. Jesus Mampo.

To give the Honorable Court Administrator an idea of the Bundy cards of the employees of the Hall of Justice, Naga City, the Bundy

cards of RTC Branches 23, 24, 25 and 26 are located at the second floor of the Hall of Justice Building at the middle of the hall. When one would punch his card he would just pick up the card that is just shelved or located beside the Bundy clock. All the cards of the employees holding office at the second floor at the Hall of Justice Building are placed beside the Bundy clock of the said floor. So much so that anyone can punch the card of a co-employee because the said cards are not locked inside a cabinet or containment and there is no guard commissioned to watch over the Bundy cards and to ensure that the person punching a particular time card is the owner thereof. So this explains why Mrs. Nydia Servino could easily get my Bundy card and punch it when she arrives even without my knowledge;

- b. **That on July 12, 2005, when I arrived at 8:01 in the morning to report to my office, I decided first to punch my Bundy card but to my surprise somebody punched my Bundy card for me and it says that I arrived on said date at 7:13 a.m. when in truth and in fact, I arrived at said place at about 8:00 o'clock in the morning, more or less.** Instinctively, I reckoned that Mrs. Nydia Servino must have taken the initiative again of punching my Bundy card as she arrived ahead of me without my knowledge.
- c. That as an employee of the Hall of Justice for more than two (2) years, I am accustomed to, before reporting to my office, punch my card and then proceed to my table at Branch 26. There were times that I reported at quarter to eight in the morning or earlier than that and the time that I report for office is religiously reflected in my Bundy card and this is also true even when I arrive at the work place late.

That in so far as the entries on July 1 (sic), 2005 and July 12, 2005, I am very sure that it was not I who punched my card reflecting that I arrived at the office at 7:26 a.m. and 7:13 a.m., respectively and I am very sure that it was Mrs. Nydia Servino who took the initiative to punch my card even at those times when I had not yet arrived. Hence, it is in these two (2) occasions, July 1 (sic) and July 12, 2005 that I am very sure I was not the one who punched my Bundy card. Besides, how could I possibly punch my Bundy card when I have not yet reported to office? The reason is obvious. If ever there is/are discrepancies in my timecard, these are the doings of Mrs. Nydia Servino with the connivance of the guards.

- d. That last Wednesday and Thursday, November 2 and 3, 2005, respectively, I tried to borrow the alleged logbook which was the source of Mrs. Nydia Servino's malicious accusations in order to verify for myself the alleged entry made by Security Guard Marlon Latosa. However, the guard on duty refused to produce said logbook as accordingly, they do not know where it is. This again clearly shows the unholy alliance between Mrs. Nydia Servino and the

security guard.

- e. That I began wondering when I received the administrative complaint filed by Mrs. Nydia Servino. I asked myself what could be the reason behind this complaint filed against me by Mrs. Nydia Servino by making it appear that allegedly I cheated the government with respect to the time I actually reported for work on said dates. I realized that Mrs. Nydia Servino planted evidence against me if only to get even. Mrs. Nydia Servino, I learned lately, suspected me of being the one who wrote a letter-complaint against her before the Chief Justice of the Supreme Court bringing to the latter's attention the immoral philandering of Mrs. Nydia Servino, who is a married woman, with Eduardo Ernesto, a married man, who is employed as a court aide of Branch 26. That observation existing between Mrs. Servino and another male married person is of common knowledge in the Hall of Justice of Naga City. In fact, to my knowledge, there is a pending discreet investigation regarding the matter.

On August 1, 2005, at around 7:48 a.m. after I opened the office, Mrs. Nydia Servino came to me and told me that someone phoned her that someone phoned her husband telling the latter that he should immediately go to Branch 25, RTC Naga City, because there he would see that his wife, Mrs. Nydia Servino, is having lunch with the said court aide personnel of Branch 26. She told to (sic) me that the person who called her husband has a voice similar to my voice and she further told me that it was only RTC Branch 26, that has a phone at the second floor of the Hall of Justice Building and she told me further that I am very malicious despite the fact that I am still single. She said "KUNG MAHILING MONG NASA NGUSO KO AN BOTO NI ED, NASA NGUSO NIYA AN BURAY KO, IYO YAN! PARA NAGKAKAKAN! DAE KA MAGPADARA SA JUDGE MO TA HALAWIG PA AN FUTURO MO. NAGTE-TAKE KA PATI NIN LAW. IDTONG HADOK NA ITO, HADOK NI HUDAS PALAN! AKO NAKIKIMARHAYAN AKO KI JUDGE MO TAPOS IYO NA NAMAN INI! KUNG ARAM KO LANG NGANI AN HARONG MO, DINUMANAN TAKA NIN SABADO PA! KUN GUSTO MO NIN LABAN, TATAWAN TAKA!" which, translated in English: "If you see for yourself that the penis of Ed is in my mouth and my vagina is in the mouth of Ed, then that is it! We were only eating! Do not be carried away by your Judge because your future is still long. You are taking up Law. The kiss that I gave to the judge is the kiss of Judas! I am trying to be in good terms with your judge and (then this situation again) despite that, we are again facing this problem! Had I only known your residence. I would have went there last Saturday! If you are inviting for a fight, I will give you one!"

- f. That then after telling me those nasty words, she left me. There were several people who heard her while she was verbally abusing my senses. Mrs. Emily Bolivar, Mrs. Merlie Mayores, Ms. Azucena Pena, all Stenographers, Mrs. Minda Teoxon, Legal Researcher, Mrs. Beth Lopez, Clerk III, Mr. Jesus Almero, Jr., Court Interpreter, all of Branch 26, were present at that time when Nydia Servino

unleashed her anger and true motive in making harassment case against me before this Honorable Office of the Supreme Court Administrator.

- g. That lately, Mr. Anthony Morres, our Process Server, narrated to us that Mrs. Nydia Servino also punched his Bundy card without his knowledge. This clearly demonstrates how tricky Mrs. Nydia Servino is. She pretends to be helping, but the truth is that she has an evil motive in order to divert the attention regarding her relationship with a married man.

However, Mr. Anthony Morres begged off to execute an affidavit for fear of retaliation from Mrs. Nydia Servino, Eduardo Ernesto and their cohorts particularly the security guards concerned.^[2] (Underscoring supplied.)

Complainant in her reply, refuted respondent's allegations in this wise:

2.1 x x x On July 1 (sic), 2005 and even on July 12, 2005, I and Adolfo never talked about me punching her time card, and it is completely false for her to assert that I was the one who allegedly took the initiative of punching her card. She even name-dropped Atty. Jesus Mampo, Branch Clerk of Court. If it was true that she reported the matter to Atty. Mampo, that declaration is self-serving, because she did not attach any affidavit of Atty. Mampo;

2.2. Granting for the sake of argument, without admitting, that I and Adolfo talked on July 1, 2005 about the early punching of her Bundy card (which is untrue) such allegation shows that she had knowledge of the false entry on that date and "did not mind (it) anymore." (Be it noted by the Honorable Supreme Court that the questioned dates of falsification are July 11 and 12, 2005, and not July 1, 2005 as insisted to by Adolfo). Then in her allegation in paragraph 2(b) of her Affidavit, she admitted having seen on July 12, 2005 the false entry in her Bundy card and apparently did not mind it anymore. Even if Adolfo was not directly responsible for those entries but enlisted somebody else whom she may have requested to do it for her, yet her acquiescence to the occurrences of such false entries on those dates when they were, proves her guilt of the offense I charged her. Since she was benefited by the falsification, she is responsible therefore;

2.3. It should be very well noted that Adolfo certified and attested to the veracity of the entries made in her Bundy card for the month of July 2005, and that Atty. Mampo, as her superior, did not affix his signature to verify the correctness of those entries, which will indicate that Atty. Mampo himself is not convinced of the veracity of those entries in Adolfo's Bundy card.

3. Adolfo alleges a motive against me in purportedly "planting evidence" of her falsification. Her allegations under paragraph 2(c) and (f), aside from being untrue, even pins down Adolfo further. She alleges that it was on August 1, 2005 that the alleged animosity between me and her took place. Granting for the sake of argument that there was an incident between us on August 1, 2005, it should be noted that the false entries in Adolfo's bundy card were committed much earlier on July 11 and 12, 2005, when the alleged motive on my part was not yet existing;

4. The allegation in paragraph 2(g) of Adolfo's Affidavit is also self-serving and baseless. She did not even attach any affidavit of Mr. Anthony Morres. If indeed there was such an allegation from Mr. Morres, he who is righteous will stand as brave as a lion. The fact that no such Affidavit of Mr. Morres exists, then it is clear that Adolfo has concocted her story and further perjured herself.

5. Adolfo's allegation of connivance between me and the guards of the court are obviously unsubstantiated. The sworn declaration of the guard concerned and the logbook entry they were made regarding the falsification made by Adolfo is entitled to full faith and credit. Adolfo is simply desperate in alleging conspiracy between me and the guards. She did not even allege how it could have been possible for me to have procured the cooperation of the guards, which means that no such conspiracy exists. Besides, I do not have supervisory authority or influence over the court's guards to be able to make them do anything. The guards have acted properly on my report regarding the false entries in Adolfo's bundy card. It was only proper for them to have investigated my report.^[3]

On 15 June 2006, the OCA submitted its report and recommended the following:

Respectfully submitted for the consideration of the Honorable Court is our recommendation that respondent Ma. Mawilyn Concepcion B. Adolfo, Clerk III, RTC, Br. 26, Naga City, be FOUND GUILTY of Dishonesty and accordingly FINED in the amount of Ten Thousand Pesos (P10,000.00) with a WARNING that a repetition of the same or similar acts in the future shall be dealt with more severely.^[4]

On 19 July 2006, we required the parties to manifest within ten days from notice if they are willing to submit the matter for resolution based on the pleadings filed.

On 13 September 2006, complainant manifested^[5] that she was submitting the case for resolution based on the pleadings filed.

On 18 September 2006, respondent likewise manifested^[6] that she was submitting the case for resolution based on the pleadings filed.

The Court, after examining the records of the case, upholds the findings of the OCA, except for the penalty imposed.

Respondent admitted that her DTR was falsified but interposed the defense that it was complainant who planted such evidence and that she reported the matter to