

## EN BANC

**[ A.M. NO. P-06-2114, December 05, 2006 ]**

**ANONYMOUS, COMPLAINANT, VS. LOURDES C. GRANDE, CLERK  
OF COURT, MUNICIPAL CIRCUIT TRIAL COURT, ROXAS,  
PALAWAN, RESPONDENT.**

### D E C I S I O N

#### **PER CURIAM:**

This is an administrative complaint against Lourdes C. Grande ("respondent"), Clerk of Court, Municipal Circuit Trial Court (MCTC), Roxas, Palawan, for abuse of authority, habitual absenteeism and tardiness, and conduct prejudicial to the best interest of the service.

The Office of the Chief Justice received an anonymous letter<sup>[1]</sup> dated 10 September 2001 on respondent's alleged anomalous activities. This prompted the Office of the Court Administrator (OCA) to refer the matter to Executive Judge Nelia Y. Fernandez ("Judge Fernandez") for discreet investigation.

In Judge Fernandez's investigation report<sup>[2]</sup> dated 26 November 2002, Miguel Presto ("Presto"), former court interpreter of MCTC, Roxas, Palawan, testified that respondent was always late in reporting for work and was often absent. Presto added that respondent's Daily Time Record ("DTR") did not reflect her tardiness and absences because respondent did not indicate her correct time of arrival and did not file applications for leave of absence. Respondent even prepared pre-signed clearance forms<sup>[3]</sup> so clearances could still be issued in her absence. Presto also reported that respondent did not devote herself to official business during office hours but attended to the canteen and telephone station business of her husband. Respondent even required the assistance of other court personnel to assist her with her catering business during office hours. Presto added that respondent received representation and travel allowance ("RATA") and financial aid for court supplies from the municipal government but respondent did not use them for the specified purpose.

Judge Fernandez also submitted a list of respondent's absences and tardiness from April 1992 to April 2002<sup>[4]</sup> prepared by Norma Rustia ("Rustia"), stenographer of MCTC, Roxas, Palawan. The list showed that respondent was often absent without filing an application for leave of absence and that, in many occasions, respondent was not in court when her services were needed.

Judge Fernandez's investigation report also included an affidavit<sup>[5]</sup> prepared by Arcelita Rodriguez ("Rodriguez"), former clerk-stenographer of MCTC, Roxas, Palawan. The affidavit stated that respondent sought the assistance of Rodriguez and Perlita Nangit ("Nangit"), another co-employee, for her catering business.

Rodriguez alleged that, after reporting for work in the morning and during office hours, they helped respondent prepare food for her catering business.

In the 1<sup>st</sup> Indorsement dated 31 January 2003, the OCA referred Judge Fernandez's investigation report to respondent for comment.

In her Comment<sup>[6]</sup> dated 20 March 2003, respondent opined that the anonymous complainant and the witnesses were just harassing her and wanted to replace her with someone who was more lenient on office attendance and work performance.

Respondent maintained that her DTRs speak for themselves and denied that she was often absent without filing an application for leave of absence. Respondent also questioned the list of absences prepared by Rustia because it included weekends and days when respondent's absences were covered by certificates of appearance and approved applications for leave of absence. Respondent denied that she spent office hours attending to her husband's canteen and telephone station business and pointed out that she only goes there during lunch or snack time. Respondent also denied that she asked other court employees to assist in her catering business during office hours. Respondent further denied that she "pocketed" the financial aid for supplies given by the municipal government.

However, respondent admitted that "she may be late at times but not ALWAYS."<sup>[7]</sup> Respondent also admitted that she pre-signed clearance forms but explained that she did it only in January 1999 and January 2000 to facilitate their issuance. Respondent claimed that her act did not prejudice the court and that this even led to an increase of collections for the Judiciary Development Fund. Respondent also admitted that she received RATA from the municipal government and explained that the grant of RATA was duly supported by a Sangguniang Bayan resolution.<sup>[8]</sup>

In a Report<sup>[9]</sup> dated 18 November 2003, the OCA recommended that Judge Fernandez's investigation report be treated as an administrative complaint and that the case be referred to Vice Executive Judge Perfecto E. Pe ("Judge Pe") for a more extensive investigation.

In a Resolution<sup>[10]</sup> dated 19 January 2004, the Court adopted the recommendations of the OCA.

In his Report<sup>[11]</sup> dated 23 June 2005, Judge Pe found respondent guilty of gross dishonesty and conduct prejudicial to the best interest of the service and recommended respondent's dismissal from the service. Although Judge Pe observed that the witnesses against respondent might be biased and motivated by animosity, hatred or anger, Judge Pe still found convincing evidence that respondent falsified her DTRs.<sup>[12]</sup> Judge Pe noticed many erasures and superimpositions on respondent's DTRs. Judge Pe also noted that it was unusual for respondent to indicate several Mondays of the year as her "DAY OFF."<sup>[13]</sup> Several persons who needed respondent's services were also inconvenienced by respondent's absences from the court. Judge Pe also found respondent liable for requiring her co-employees to assist her with her catering business during office hours.

In a Memorandum<sup>[14]</sup> dated 9 January 2006, the OCA found respondent guilty of

dishonesty and misconduct. The OCA recommended that respondent be dismissed from the service with forfeiture of all retirement benefits, except accrued leave credits, and with prejudice to her reemployment in any branch or instrumentality of the government including government-owned or controlled corporations. The OCA Memorandum reads:

Moreover, aside from her bare denial, there was no evidence presented to prove that her co-employees, both former and incumbent, were motivated by ill-feelings in testifying against her. On the other hand, the persons who testified submitted sworn affidavits and documents attesting to the fact of respondent's anomalous actuations. Respondent also failed to establish any motive on the part of her co-employees that would prompt them to oust her from office.

On the contrary, there were admissions on the part of respondent that sometimes she was late but not always. Yet, these alleged tardiness had not been reflected in her DTRs. In fact, all her DTRs reflected the same time in-time out of 8:00 [a.m.] to 12:00 [noon] and 1:00 [p.m.] to 5:00 [p.m.].

Respondent is also guilty of abusing her position by requiring the personnel under her to perform work which were outside the scope of their job description. She required Mrs. Nangit and Mrs. Rodriguez to assist her in the preparation of food for her catering business. Respondent claimed that she was assisted only after office hours while the latter court personnel contended that it was in the morning of a working day.

Regardless of whether it was during office hours, respondent is guilty of impropriety for compelling these employees to assist her in her business. These employees had no option but to comply with the directive since the person requiring their assistance was their immediate supervisor who gives them their performance ratings.

Respondent Grande is also guilty of dishonesty for making it appear in her DTRs that she was present in the office during the instances that she was tending her personal businesses. Such actuation constitutes gross dishonesty because she was receiving compensation for time spent performing another work not related to her official function[s]. This allegation is substantiated by the fact that respondent had prepared pre-signed clearances. Such pre-signed clearances would not have been necessary if she was present in the office.<sup>[15]</sup>

The Court finds respondent guilty of dishonesty, loafing and misconduct.

In stating that there were instances when she was late and that her DTRs speak for themselves, respondent admitted that she falsified her DTRs. Except for her DTR of June 1992, respondent's DTRs consistently showed that she arrived in court at 8:00 a.m. and returned from lunch at 1:00 p.m. Nowhere was it reflected that she was ever late. Respondent's DTRs, therefore, did not show her real attendance record.

Respondent also maintained that her DTRs would prove that she was in court during