

THIRD DIVISION

[A.M. NO. P-01-1503, January 27, 2004]

JESSICA A. NOYNAY-ARLOS, COMPLAINANT, VS. RODOLFO SEL. CONAG, CLERK OF COURT II, MUNICIPAL TRIAL COURT, PALOMPON, LEYTE, RESPONDENT.

[A.M. NO. P-01-1511]

RODOLFO SEL. CONAG, CLERK OF COURT II, MUNICIPAL TRIAL COURT, PALOMPON, LEYTE, COMPLAINANT, VS. JESSICA A. NOYNAY-ARLOS, RESPONDENT.

D E C I S I O N

VITUG, J.:

The image of a court of justice, as it has so often been heard, is aptly shown by the conduct, official or otherwise, of the men and women who occupy the office. It is not thus difficult to see that men and women in the Judiciary service render themselves constantly accountable for their acts or omissions, a price they must learn to accept.

In Administrative Matter No. P-01-1511, Rodolfo Sel. Conag, Clerk of Court of the Municipal Trial Court (MTC) of Palompon, Leyte, charged, in his sworn letter-complaint of 02 August 1999, Jessica A. Noynay-Arlos, the court stenographer, with "Gross Negligence, Dishonesty, Immorality, Dereliction of Duty, Misconduct and Falsification of Official Documents." In another sworn complaint, dated 24 September 1999, Conag accused Noynay-Arlos of falsifying her daily time record for the month of August 1999. The complaint drew a response from Noynay-Arlos who, in her own sworn complaint of 24 January 2000 under Administrative Matter No. P-01-1503, charged Rodolfo Sel. Conag with "Gross Negligence, Immorality, Abuse of Authority, Grave Misconduct, Dereliction of Duty, Usurpation of Authority, Malversation, Incompetence, Corruption, Dishonesty and Drunkenness."

The two court officials filed their respective comments on the complaints.

On 29 August 2001, however, a "Joint Affidavit of Desistance" was filed by the parties with the Office of the Court Administrator. On even date, the Court, in its resolution of 29 August 2001, resolved to consolidate the two cases which it then referred to the Executive Judge of the Regional Trial Court of Palompon, Leyte, for investigation, report, and recommendation within ninety (90) days from receipt of the records.

On 29 May 2002, Judge Eric F. Menchavez, Regional Trial Court, Branch 17, of Palompon, Leyte, submitted his report, recommending the dismissal of the administrative cases in view of the affidavits of desistance executed and submitted by the parties. In a resolution, dated 14 August 2002, the Court indorsed the matter

to the Office of the Court Administrator (OCA) for evaluation, report and recommendation.

In its Memorandum, dated 28 January 2003, the OCA has submitted its report; its evaluation deserves to be quoted at length; viz:

"The withdrawal of a complaint or the desistance by a complainant does not necessarily warrant the dismissal of an administrative complaint. In *Dionisio vs. Gilera*, 312 SCRA 287, the Court categorically ruled that 'the overriding need to maintain the faith and confidence of the people in the judiciary demands that erring personnel be sanctioned, notwithstanding the withdrawal of the complaint. The issue in administrative cases is not whether the complainant has a cause of action against the respondent, but whether the employees have breached the norms and standards of the judiciary. Clearly, this Court has the duty to root out misconduct among its employees regardless of the parties' desistance.'

"In the case at bar, the desistance of Clerk of Court Rodolfo Sel. Conag and Court Stenographer Jessica N. Arlos of their charges and countercharges against each other does not justify the dismissal of these administrative cases. The records of the cases provide sufficient basis for the determination of their liabilities.

"We find the complaint of Clerk of Court Conag against Court Stenographer Arlos for violation of Administrative Circular No. 24-90 meritorious.

"Administrative Circular No. 24-90 provides that:

'2. (a) All stenographers are required to transcribe all stenographic notes and to attach the transcripts to the record of the case not later than twenty (20) days from the time the notes are taken. The attaching may be done by putting all said transcripts in a separate folder or envelope, which will then be joined to the records of the case.

(b) The stenographer concerned shall accomplish a verified monthly certification as to compliance with his duty. In the absence of such certification or for failure and/or refusal to submit it, his salary shall be withheld.'

"In her Comment dated 11 October 1999 in A.M. No. P-01-1511, Mrs. Arlos claimed that she failed to submit the required monthly certifications because she was unaware of the existence of Administrative Circular No. 24-90. She cannot feign ignorance of the Circular which took effect on 1 August 1990 since as a court employee, it is incumbent upon her to update herself of pertinent issuances and pronouncements of the Court relevant to the performance of her official duties.

"Court Stenographer Arlos also claimed that she failed to submit her transcripts of stenographic notes within the time prescribed in the Administrative Circular because stenographers had an internal arrangement with their judge that they have to prioritize the transcription

of the stenographic notes of cases submitted for decision. This is a poor excuse that will not exculpate the employee from administrative liability.

"Failure to comply with Administrative Circular No. 24-90 constitutes dereliction of duty and hampers expeditious resolution of cases. Thus, in the case of *Anatolia A. Juntilla vs. Branch Clerk of Court Teresita J. Calleja and Court Stenographer Salome A. Montezon*, 262 SCRA 291, the Court fined the respondent stenographer Three Thousand Pesos (P3,000.00) for failure to transcribe her stenographic notes within the required period.

"Stenographer Arlos should also be held administratively liable for falsification of her time records. An examination of her daily time records showed that she made it appear in her DTR that for the whole month of August 1999, she arrived in the office at exactly 8:00 o'clock in the morning and left at exactly 5:00 o'clock in the afternoon. The office logbook however disclosed that she timed-in at 8:40 A.M. on 24 August 1999 and at 8:35 A.M. on 25 August 1999. Also, on 29 April 1999, she reported for work at 8:40 o'clock in the morning but she indicated in her DTR that her time of arrival was 8:00 A.M. Mrs. Arlos cannot seek shelter in what she alleged as actual practice in their court that staff members were allowed to come late provided they render overtime work.

"Furthermore, Arlos made it appear that the reason for her absences on 26 to 28 May 1999 was she was sick on those days. However, this was contradicted by a Resolution issued by Barangay Secretary Marie P. Olorvida stating that on 26 May 1999, the parties in Barangay Case No. 012 entitled 'Jessica N. Arlos vs. Elizabeth Nicol, et al.' have reached an amicable settlement during a confrontation held at the barangay hall of Barangay Central II, Palompon. This means that Arlos was not sick but was attending to a personal matter outside of her residence.

"While Arlos rightly claimed that a Supreme Court Circular (Administrative Circular No. 31-90) authorized the stenographers to retain one-half (1/2) of the amount paid for their transcripts of stenographic notes, she nevertheless failed to present any proof that she remitted to the court one-half (1/2) thereof. The non-remittance of this amount deprived the court and the government of their much needed funds.

"The other charges imputed to Stenographer Arlos were not substantiated and perforce, must be dismissed.

"On the other hand, we find sufficient proof that Conag was negligent in the performance of his duties as Clerk of Court. He failed to send subpoenas to parties and/or to counsels causing re-setting of scheduled hearings, as evidenced by the numerous orders of Judge Delia N. Bertulfo requiring the Clerk of Court to explain why no sanction should be imposed upon him for his failure to send summonses, subpoenas and other court processes to parties and/or counsels.

"The service of orders, subpoenas and other court processes is the