

SECOND DIVISION

[**A.M. No. P-04-1769 (Formerly OCA IPI No. 02-1376-P), February 05, 2004**]

REX M. FUENTEBELLA, COMPLAINANT, VS. CLERK OF COURT IV EDGARDO S. GELLADA, CLERK IV ANA DINAH L. PLANTA, CLERK III ELIZABETH G. OMBION, RESPONDENTS.

R E S O L U T I O N

PUNO, J.:

The case at bar involves the miniscule sum of a few hundred pesos, the amount of five printer ribbon cartridges requisitioned and acquired by the Municipal Trial Court in Cities (MTCC) of Bago City, Negros Occidental. The court does not have a computer and printer. Nevertheless, the pettiness of the sum involved does not diminish the responsibility of court employees to conduct themselves at all times with propriety and decorum, and above suspicion.

On April 9, 2002, the Office of the Court Administrator received the sworn affidavit complaint of Rex M. Fuentebella, Sheriff III, MTCC of Bago City, charging Clerk of Court Edgardo Gellada, Clerk IV Ana Dinah Planta and Clerk III Elizabeth Ombion, all from MTCC, Bago City, with dishonesty, grave misconduct in office, unbecoming conduct and violation of Article 220 of the Revised Penal Code.^[1]

Complainant alleges that the respondents, in connivance, requisitioned from the government of Bago City five pieces of Epson computer ribbon cartridges for 9-pin, #8750 through purchase request dated April 27, 2001. The MTCC of Bago City does not have a computer, but respondents were allegedly able to deceive the newly-appointed Judge Herminigildo S. Octaviano into signing the purchase request without first verifying if the requisition was legally permissible. The ribbons were allegedly to be used in the personal computer of respondent Ombion at her residence to print derby invitations and notices for the class fund raising and alumni homecoming of Negros Occidental High School Class '56 of which respondent Gellada was the class president.^[2] Fuentebella admitted, however, that he did not have personal knowledge that respondent Planta prepared the purchase request for five printer ribbons in connivance with and upon suggestion of respondents Gellada and Ombion. He only theorized that Planta could not have prepared the purchase request without the knowledge and consent of the two. He also did not see any of the derby notices and invitations which he alleged were printed using the requisitioned ribbon, but merely overheard respondent Gellada tell Ombion to print the documents for him.^[3]

Respondent Planta admitted that she prepared the purchase request for the printer ribbon cartridges. She included five computer ribbon cartridges in the request for supplies, believing in good faith that these would be useful to the court as the MTCC of Bago City does not have a mimeographing machine and the court always had to

rely on other government offices to print the court's forms such as the subpoena, court clearance, and certificate of service, among others.^[4] She knew that respondent Ombion owned a computer and was certain that she would agree to printing office forms that occasionally ran out. She requested for the computer ribbon cartridges without asking permission from Ombion, Clerk of Court Gellada, and Executive Judge Octaviano.^[5] The purchase request was made in April 2001 and the ribbons were delivered in August 2001, duly inspected by the auditor of the Commission on Audit and accepted by Judge Herminigildo Octavio of the MTCC of Bago City.^[6]

Respondent Ombion corroborated Planta's story. She admitted that she owns a computer at home and volunteered to print some office (MTCC) forms as the supply was not sufficient. At first, she used her own printer ribbon for this purpose but later, respondent Planta gave her one computer ribbon. She did not urge respondents Planta nor Gellada to acquire five computer ribbon cartridges from the city government of Bago. In fact, she found out about the requisition and acquisition of these ribbons only when respondent Planta gave her one cartridge and requested her to print some office forms. She obliged and printed about 60 pieces of different office forms. She admitted that she printed derby invitations and notices for respondent Gellada but this was done months before the computer ribbons were requisitioned. Similar to respondent Planta, she contends that the printing of judicial forms using the requisitioned ribbon in her personal computer may not have been legal but she did this in good faith for the smooth operation of the court. She and complainant Fuentebella are good friends and she understands Fuentebella's filing of the complaint as he believed that he was doing right.^[7]

Respondent Gellada contended that he did not have a hand in the preparation of the purchase request to the city government of Bago as he is aware that their MTCC does not have a computer nor a printer that needs a ribbon cartridge. It is customary in their court that respondent Planta prepares the request for supplies purchase without informing Gellada. When the supplies arrive, Gellada also asks Planta to check the supplies against the purchase request. Gellada alleged that when he learned that there were computer ribbon cartridges in the court's supplies, he called a meeting and confronted respondent Planta about the requisition. He and Planta went to Judge Octaviano, and Planta explained to the judge that she requisitioned the computer ribbon cartridges for the printing of office forms. Gellada also instructed Ombion to return to the court the cartridge that Planta gave her. Gellada expressed his appreciation for the vigilance of complainant Fuentebella in wanting to correct some mistakes in the court, but opined that the matter could have been settled with Judge Octaviano. He and Fuentebella are in good terms.^[8] As to the alleged printing of the derby invitations and notices, Gellada claims that this was done on February 3 and 4, 2001, prior to the preparation of the April 2001 purchase request for the five ribbon cartridges. The invitations and notices were printed in the residence of Ombion using her own computer and printer ribbon. He stresses that not one of the respondents personally benefited from the requisition of the five computer ribbons.^[9]

Upon recommendation of the Office of the Court Administrator, Judge Henry J. Trocino, Executive Judge of the Regional Trial Court of Bago City, investigated the administrative complaint. His investigation yielded the following findings:

1. The MTCC, Bago City has no computer or mimeographing machine of its own and relied on the assistance of the other offices in Bago City for the mimeographing of their office and judicial forms;
2. Respondent Ombion owns a computer with a printer which she acquired in 1996 for her use. She used to print some copies of the judicial forms using her own computer and printer free of charge;
3. Respondent Planta is the custodian of all forms used in the court. She was likewise the person who prepared the purchase request for supplies submitted to the city government of Bago City, and requisitioned the five (5) pieces of Epson ribbon cartridges. Presiding Judge Herminigildo Octaviano approved the purchase request after being assured by respondent Planta that all the "papers were in order";
4. The ribbons were delivered to the court and accepted by the Presiding Judge on 10 August 2001;
5. Out of the five (5) ribbons, one was given to respondent Ombion who installed the same in her printer. Another ribbon was given to OIC Clerk of Court Edmund Seralde who also owned a computer with printer but the ribbon was returned since it did not fit Seralde's printer. Four (4) ribbons therefore remained unused and were kept in the cabinet of the Presiding Judge, while one (1) ribbon was slightly used.^[10]

The investigating judge concluded that the purchase request for the computer ribbons was not justified as the MTCC, Bago City has no computer of its own and the printing of office forms using Ombion's personal computer was not officially sanctioned. As Ombion had no official obligation to print the court's forms using her personal computer, she should not be provided computer ribbon at government expense. Judge Trocino recommended that the respondents be reprimanded for their simple negligence in failing to secure permission from the presiding judge before requesting for the computer ribbon cartridges and warned that a repetition of the same or similar offense in the future would be dealt with more severely.

The OCA found that all three respondents had knowledge of the procurement of the computer ribbons. Planta prepared the request and gave one ribbon to Ombion. As Clerk of Court and administrative officer, Gellada is charged with knowledge of the supplies used in the court. However, the allegation that the ribbon was used for printing derby invitations and notices has no basis in the records as these were printed in February 2001 using Ombion's personal computer, months before the requisition for ribbons in April 2001. The OCA did not find bad faith in the respondents' request for the ribbons for printing office forms, but noted that they should have sought permission from the presiding judge before preparing the purchase request as the computer to be used was privately owned. Nor did the OCA find that the respondents benefited personally from the procurement. The OCA also stated that although respondents may have done the requisition in good faith to expedite the administration of justice, their act was nevertheless "an error of judgment tantamount to simple negligence for which respondents should be held accountable." Concurring with the investigating judge, the OCA recommended, viz: