

SECOND DIVISION

[A.M. No. P-04-1798 (formerly A.M. OCA IPI No. 02-1517-P), May 27, 2004]

JUDGE AMALIA F. DY, COMPLAINANT, VS. ATTY. BONIFACIO S. PASCUA, CLERK OF COURT, AND ANITA G. OLIVEROS, CLERK III, REGIONAL TRIAL COURT OF MANDALUYONG CITY, BRANCH 213, RESPONDENTS.

D E C I S I O N

CALLEJO, SR., J.:

The instant administrative matter stemmed from a Memorandum dated August 12, 2002 issued by Judge Amalia F. Dy of the Regional Trial Court of Mandaluyong City, Branch 213, referring to a shouting incident which transpired between the respondents, Branch Clerk of Court, Atty. Bonifacio S. Pascua, and Anita G. Oliveros, Clerk III, during office hours and while trial was ongoing. In the same memorandum, Judge Dy stated that the court proceedings were disturbed as "the voice of the witness testifying as well as manifestations of counsels cannot be heard forcing said court to pause to find out what was going on at the staff room." After stating that the questioned behavior amounted to disrespect and may be considered as contemptuous, Judge Dy ordered their suspension as follows: Atty. Pascua for two days, effective August 13 and 14, 2002, and Oliveros for one day, effective August 13, 2002. Both respondents wrote letters to Judge Dy questioning their suspension, claiming that it was imposed summarily without giving them an opportunity to be heard.

When asked to comment on the matter, Judge Dy clarified that the questioned suspension was imposed on the respondents as disciplinary action for their unruly behavior, and not for contempt of court as alleged by them. As such, a formal hearing was no longer necessary. Judge Dy also stated that the two have had similar "encounters," especially whenever the monthly reports were being prepared. This was necessary to maintain discipline in the office and, more importantly, to serve as an example to the rest of the staff.

Judge Dy also clarified that the allegation that she immediately suspended the respondents was not true. After the trial on August 12, 2002, at around 12:10 p.m., one of her stenographers, Connie G. Dumato, tried to hand over to her a resolution signed by some of the staff requesting her not to impose any sanction against the respondents. She called the respondents to her chambers and, in a "closed-door meeting," the respondents were given an opportunity to explain their side. Judge Dy attached the sworn statements of Court Stenographers Homer P. Peñada^[1] and Connie G. Dumato^[2] as proof of the incident.

Pursuant to the recommendation of the Court Administrator, the Court, in a Resolution dated January 13, 2003, resolved to (a) treat the memorandum of Judge

Dy as an administrative complaint for discourtesy in the performance of official duties against Atty. Pascua and Oliveros; (b) require the respondents to comment on Judge Dy's memorandum and letter; (c) set aside the penalty of suspension imposed by Judge Dy upon the respondents; and, (d) direct the Office of the Court Administrator to rectify the consequences of such suspension, without prejudice to the disciplinary action, if any, that the Court may take on the matter.

Thereafter, the respondents filed a Joint Manifestation with Motion to Dismiss dated March 31, 2003. They alleged, inter alia, that they intimated their intention to amicably settle the instant administrative matter with Judge Dy, and that they exhibited "tremendous reformation and excellent performance" in the quality of their work and the conduct of their behavior. Judge Dy herself, in a Letter dated March 12, 2003, manifested that she was no longer interested in pursuing the instant administrative complaint against the respondents, as both had apologized to her, promising to always abide by pertinent rules and regulations.

The respondents also maintained that the dismissal of the complaint against them would foster and create a harmonious working relationship among the staff. The respondents further explained that it was not the intention of Judge Dy to file a formal administrative complaint against them. Judge Dy furnished the Court Administrator with a copy so that it would form part of the respondents' personal records.

In the meantime, in response to the query made by the Office of the Court Administrator, the Financial Management Office reported that respondents Pascua and Oliveros paid the amount of P1,753.10 and P283.74, respectively, corresponding to the money value of the number of days of suspension imposed upon them. The said amounts were settled under Original Receipt Nos. 14568318 and 14568320, respectively, both dated September 11, 2002. The Leave Division of the OCA also informed the Court Administrator that the memorandum issued by Judge Dy suspending the respondents had no effect on their leave credits, as it was not deducted nor considered as vacation leave without pay. In a memorandum to the Court Administrator, the Legal Office, thereafter, recommended that the Financial Management Office be directed to refund the respective amounts paid by the respondents, to enable the said office to fully comply with the Court's January 13, 2003 Resolution.

In a Resolution dated July 9, 2003, the Court resolved to deny the respondents' joint manifestation with motion to dismiss. The respondents, thereafter, filed their comment, in compliance to the July 9, 2003 Resolution of the Court.

According to the respondents, what took place on August 12, 2002 was, in fact, a normal and casual discussion of office matters, particularly the listing of possible maximum imprisonment of pending criminal cases before Branch 213. The conversation was made in a "seemingly reasonable loud voice," enough to be understood by both respondents. They averred that they had no intention to disturb the ongoing court proceedings, and, as such, implored the Court's indulgence so as not to consider the incident as discourtesy in the performance of official duty.

In his Memorandum dated February 12, 2004, Deputy Court Administrator Christopher O. Lock opined that the respondents are guilty of discourtesy in the