

## FIRST DIVISION

[ A. M. No. P-02-1594, February 19, 2003 ]

**ATTY. IGNACIO R. CONCEPCION, COMPLAINANT, VS. ATTY.  
RONALDO HUBILLA, RESPONDENT.**

### D E C I S I O N

**AZCUNA, J.:**

In a letter dated October 11, 2000, Atty. Ignacio R. Concepcion requested information from the then Court Administrator, Alfredo Benipayo, Jr., regarding the fee or amount of compensation to be paid to the clerks of court when they receive evidence in *ex-parte* proceedings.

According to Atty. Concepcion, he had pending petitions for cancellation of encumbrance, adoption and issuance of a new owner's copy of title with the Regional Trial Courts, Branch 84, Quezon City, and Branches 37 and 4,<sup>[1]</sup> Manila, respectively. Orders of default were issued in the three cases and the respective clerks of court of the aforementioned courts were appointed as commissioners to receive evidence *ex parte*. Atty. Concepcion alleged that after the *ex- parte* proceedings held in each case, the clerks of court who received the evidence charged his clients commissioner's fee in varying amounts, without issuing any receipt.

On June 27, 2001, this Court resolved to inform Atty. Concepcion that clerks of court are not authorized to collect compensation for services rendered as commissioners in *ex-parte* proceedings. Moreover, this Court directed the Court Administrator to (a) inform all clerks of court to cease and desist from demanding and receiving personal compensation when designated as commissioners in *ex-parte* proceedings, there being no legal basis therefor; and (b) conduct an investigation to determine the identity of the clerks of court who demanded compensation for receiving evidence *ex parte*.

During the investigation, the Office of the Court Administrator found that Atty. Ma. Cheryl L. Ceguera, clerk of court of the Regional Trial Court, Branch 84, Quezon City, and Atty. Ronaldo Hubilla, clerk of court of the Regional Trial Court, Branch 37, Manila, received compensation for receiving evidence *ex parte*.

Atty. Ceguera admitted having received compensation, but asserted that the amounts received were never demanded from the litigants but were voluntarily given by them. She also claimed that the amounts she received were actually for the transcripts of stenographic notes. She added that only personal or acknowledgment receipts were issued to the litigants.

For his part, Atty. Hubilla admitted having charged commissioner's fee in the amount of Two Thousand Five Hundred Pesos (P2,500.00) for receiving evidence *ex parte*,

since, he added, the practice already existed at the time he assumed his position on August 2, 1999. Atty. Hubilla stated that the amount received was divided among the stenographer, interpreter, clerk in charge of civil cases and the branch clerk of court. He claimed that he was not aware that the practice was not allowed.

The Office of the Court Administrator recommended that the letter-query of Atty. Concepcion be treated as an administrative complaint against Atty. Hubilla, and that the latter be directed to explain why no disciplinary action should be taken against him for his act of receiving compensation for the reception of evidence in *ex-parte* proceedings. In regard to Atty. Ceguera, the Office of the Court Administrator stated that it appeared that she took her oath of office as Assistant City Prosecutor of Quezon City in October 2000; hence, this Court has lost administrative supervision over her.

This Court adopted the recommendation of the Office of the Court Administrator. In a Resolution dated June 3, 2002, this Court treated the letter-query of Atty. Concepcion as an administrative complaint against Atty. Hubilla, and directed Atty. Hubilla to explain why no disciplinary action should be taken against him.

In his compliance, Atty. Hubilla explained that: He was a litigation lawyer for more than six years at the Quedan and Rural Credit Guarantee Corporation ("QUEDANCOR" for brevity), which is a government financing institution. In the prosecution of defaulting borrowers involving mostly civil cases, QUEDANCOR allocated fees for *ex-parte* presentation of evidence before the regular courts where the cases filed were pending. He handled several cases where he presented evidence *ex parte* before commissioners appointed by the presiding judges. He paid fees, similar to those received by him, to the concerned commissioners for the *ex-parte* hearings, and the payments were duly acknowledged by typewritten receipts. When said receipts were presented to the Commission on Audit (COA) representative in QUEDANCOR for reimbursement or proof of payment, the COA accepted and cleared said receipts, citing Section 13, Rule 32 of the Revised Rules of Court<sup>[2]</sup> as legal basis. This bolstered his belief that the receipt of commissioner's fees had factual and legal bases.

Atty. Hubilla, moreover, averred that he acted in good faith when he received the fee believing that he was authorized to do so as a designated commissioner. His good faith was apparent, he claimed, when he readily issued a receipt evidencing the payment made by Atty. Concepcion when the latter required it. All members of the staff of his court, he added, were aware that he accepted the fee from Atty. Concepcion as commissioner's fee for the *ex-parte* reception of evidence.

Atty. Hubilla, likewise, stated that he accepted the commissioner's fees only in consideration of his services as commissioner and that he never represented to Atty. Concepcion that his petition would be processed ahead of the other cases being handled by his court or prioritized in the court calendar because of said payment. He also mentioned that he was still new in his position as branch clerk of court when he acted as commissioner and was not fully cognizant of all the limitations regarding commissioner's fees. Furthermore, he asserted that the client of Atty. Concepcion was not prejudiced by his acceptance of a commissioner's fee, considering that he immediately returned said fee long before he received the Court's Resolution dated June 3, 2002.