

EN BANC

[A.M. No. P-02-1620 (Formerly OCA IPI No. 95-37-P), April 01, 2003]

MELINDA F. PIMENTEL, LEGAL RESEARCHER, REGIONAL TRIAL COURT, NAGA CITY, BRANCH 27, COMPLAINANT, VS. PERPETUA SOCORRO M. DE LEOZ, COURT STENOGRAPHER, REGIONAL TRIAL COURT, NAGA CITY, BRANCH 27, RESPONDENT.

[A.M. NO. P-02-1621 (FORMERLY OCA IPI NO. 95-41-P)]

ROLANDO P. ORANTE, PERPETUA SOCORRO M. DE LEOZ, AND MARIA LEONORA S. PUTO, COMPLAINANTS, VS. ATTY. AMELIA B. VARGAS, BRANCH CLERK OF COURT, REGIONAL TRIAL COURT, NAGA CITY, BRANCH 27 AND MELINDA F. PIMENTEL, LEGAL RESEARCHER, REGIONAL TRIAL COURT, NAGA CITY, BRANCH 27, RESPONDENTS.

[A.M. NO. P-02-1622 (FORMERLY OCA IPI NO. 95-45-P)]

ATTY. AMELIA B. VARGAS, BRANCH CLERK OF COURT, REGIONAL TRIAL COURT, NAGA CITY, BRANCH 27, COMPLAINANT, VS. PERPETUA SOCORRO M. DE LEOZ COURT STENOGRAPHER, REGIONAL TRIAL COURT, NAGA CITY, BRANCH 27, RESPONDENT.

[A.M. NO. P-96-1194 (FORMERLY OCA IPI NO. 95-73-P)]

PERPETUA SOCORRO M. DE LEOZ COURT STENOGRAPHER, REGIONAL TRIAL COURT, NAGA CITY, BRANCH 27, COMPLAINANT, VS. MELINDA F. PIMENTEL, LEGAL RESEARCHER, REGIONAL TRIAL COURT, NAGA CITY, BRANCH 27, AND ATTY. AMELIA B. VARGAS, BRANCH CLERK OF COURT, REGIONAL TRIAL COURT, NAGA CITY, BRANCH 27, RESPONDENT.

DECISION

PER CURIAM:

Before the Court are administrative matters which involve specific charges and counter-charges filed by the personnel of the Regional Trial Court of Naga City, Branch 27. Principally involved are Perpetua Socorro M. De Leoz, Court Stenographer, on one hand; and Branch Clerk of Court Atty. Amelia B. Vargas and Legal Researcher Melinda F. Pimentel, on the other.

The factual antecedents of these cases are as follows:

1. A.M. No. P-02-1620 (Formerly OCA IPI No. 95-37-P)

In a sworn complaint,^[1] dated July 28, 1995, Melinda F. Pimentel, Legal Researcher of the Regional Trial Court of Naga City, Branch 27, charged her co-employee, Court Stenographer Maria Perpetua Socorro M. De Leoz, with violation of Supreme Court Circular No. 5-88.^[2] The complaint alleged that De Leoz was engaged in the private business of selling undergarments and cosmetics as a result of which she incurred frequent absences during the months of May and June 1995. Pimentel further declared that De Leoz was a registered JOCKEY Sales Executive of Finchley Design, Inc. (Jockey Phil. Inc.) and a sales distributor of the House of SARA LEE.

In her verified comment/answer^[3] to the complaint, De Leoz denied the allegations of Pimentel saying that as an employee of the court, she had served with "utmost dedication, honesty, punctuality, and competence." De Leoz likewise denied that she was a sales agent of Finchley Design, Inc., (Jockey Phils. Inc.) attaching in support of her denial, an affidavit^[4] of Ms. Merit R. Nollase, Network Director of Finchley Design, Inc. She further denied working as a sales distributor for the House of SARA LEE, submitting an affidavit^[5] of Ms. Rosal Vergara Aton, Sales Dealer of the House of SARA LEE to that effect.

2. A.M. No. P-02-1621 (Formerly OCA IPI No. 95-41-P)

In their joint complaint^[6] dated July 26, 1995, three (3) employees of the RTC of Naga City, Branch 27, namely: Rolando F. Orante, Perpetua Socorro M. De Leoz, and Maria Leonora S. Puto charged their co-employees, Branch Clerk of Court Atty. Amelia B. Vargas and Legal Researcher Melinda F. Pimentel with "Gross Dishonesty, Grave Misconduct and Falsification of Official Documents" allegedly committed as follows:

That on or about the period of April 1 to August 14, 1994, the above-named respondents conspiring and confederating with each other did then and there willfully, unlawfully and feloniously made it appear that Ms. Melinda F. Pimentel had reported for work during that period by submitting duly accomplished and signed daily time records (DTRs), duly verified and also signed by Atty. Amelia B. Vargas, Branch Clerk of Court, RTC Branch 27, Naga City, when in truth and in fact she had not reported for work/office as she was then reviewing for the 1994 Bar Examination as the result of which Melinda F. Pimentel received her salaries, allowances and other benefits for said period to the damage and prejudice of the government.

ACTS CONTRARY TO LAW.^[7]

In their verified answer,^[8] Atty. Vargas and Pimentel denied the allegations and prayed for the dismissal of the instant case. They averred that complainants had malicious motives in filing the aforesaid complaint. Respondent Pimentel admitted that she had attended a Pre-Bar Review Course at the University of Nueva Caceres, but stressed that said review classes were held only after office hours.

In their reply, complainants declared that they inquired from the Leave Section, Supreme Court if respondent Pimentel had gone on leave from April to August 1994.

The Leave Section disclosed that as evidenced by her DTRs, duly verified and signed by respondent Vargas, Pimentel reported for work from April 1 to August 14, 1994, and applied for vacation leave from August 15 to September 16, 1994.^[9]

3. A.M. No. P-02-1622 (Formerly OCA IPI No. 95-45-P)

In a sworn complaint^[10] dated July 28, 1995, Atty. Amelia Vargas charged Perpetua Socorro M. De Leoz with falsifying entries in her DTRs for May and June 1995 by making it appear that she reported for work from 8:00 a.m. to 12:00 noon and from 1:00 p.m. to 5:00 p.m. during said months, when actually she was either late or absent.

In her answer,^[11] De Leoz denied the allegations of Atty. Vargas, claiming that the latter only filed this case to harass her in view of the administrative case, A.M. No. P-02-1621, which she and her co-employees had filed against Atty. Vargas and Pimentel.

4. A. M. No. P-96-1194 (Formerly OCA IPI No. 95-73-P)

In a letter^[12] to the Office of the Court Administrator (OCA), dated August 28, 1995, Perpetua Socorro M. De Leoz reported that the entries in the DTRs of Melinda F. Pimentel for June 19, 20, 22, 26, and 30, 1995, and for July 6, 7, 10, and 17, 1995 were false. De Leoz alleged that during those dates, Pimentel merely inserted her signature with the corresponding time in and time out to make it appear that she was present on those days. Then respondent Atty. Amelia B. Vargas certified co-respondent Pimentel's entries on said dates in these DTRs by affixing her own signature thereto, according to complainant.

In our Resolution of March 13, 1996,^[13] we resolved to treat the said letter as an administrative complaint for falsification of official documents and required the respondents to comment thereon. The Court likewise resolved to consolidate A.M. No. P-02-1620, A.M. No. P-02-1621, A.M. No. P-02-1622, and A. M. No. P-96-1194.

On August 31, 1996, Pimentel, Orante, De Leoz, Puto, and Atty. Vargas sent a sworn letter^[14] to the Chief Justice stating that they had finally settled their differences, had reconciled, and were now in a "state of harmonious relationship." The parties then prayed that the administrative cases filed against each other "be considered closed and terminated."

On November 17, 1997, we resolved to refer these consolidated administrative cases to Executive Judge Antonio N. Gerona of the RTC of Naga City for a thorough investigation, report, and recommendation.^[15]

In his Report and Recommendation^[16] dated January 15, 1998, Judge Gerona disclosed that Perpetua Socorro M. De Leoz had applied for optional retirement effective October 1, 1997, and was already residing in the United States. Judge Gerona concluded that inasmuch as De Leoz was no longer present to testify and present evidence in the aforementioned cases, A.M. No. P-96-1194, A.M. No. P-02-1620, and A.M. No. P-02-1622 should be dismissed. Judge Gerona likewise cited the joint letter of all the parties in all these cases requesting that A.M. No. P-02-1621 be

considered dismissed or withdrawn in view of their having reconciled their differences and misunderstandings. Judge Gerona then requested that the Court issue an order directing him to continue his investigation in A.M. No. P-02-1621 only.

In our Resolution^[17] of November 25, 1998, we denied the recommendation of Judge Gerona, and directed that the records of all these cases be referred back to Executive Judge Jose T. Atienza of the RTC, Naga City for investigation, report, and recommendation.

In his Report^[18] dated June 30, 1999, Judge Atienza, like his predecessor, found that De Leoz has left the country permanently and could no longer be investigated with respect to A.M. No. P-02-1620, A.M. No. P-02-1622, and A.M. No. P-96-1194. Judge Atienza then proceeded with the investigation of A.M. No. P-02-1621. The evidence presented by the parties at various hearings conducted at various dates from February 23 to June 21, 1999, led Judge Atienza to conclude that Pimentel had indeed falsified her DTRs for the period April 1 to August 14, 1994 and that Atty. Vargas had not only tolerated but had abetted the falsification. Judge Atienza then recommended that Atty. Vargas and Pimentel be dismissed from the service with forfeiture of benefits for dishonesty and falsification of a public document.

In its Resolution^[19] of January 19, 2000, this Court expressed its dissatisfaction with Executive Judge Atienza's report and recommendation to dismiss A.M. No. P-02-1620, A.M. No. P-02-1622, as well as A.M. No. P-96-1194 and once more referred back said cases to the Executive Judge of the RTC of Naga City, for a more thorough investigation.

In her Report^[20] dated January 15, 2002, Executive Judge Corazon A. Tordilla came up with the identical finding that De Leoz had already permanently moved to the United States and cannot be served with notice anymore. Executive Judge Tordilla concluded that evidently, she was no longer interested in pursuing A.M. No. P-96-1194. Hence, said case should be dismissed. Judge Tordilla also recommended that A.M. No. P-02-1620 and A.M. No. P-02-1622 be dismissed. Anent A.M. No. P-02-1621 she concluded that the thorough investigation conducted by Judge Atienza was in order.

On March 4, 2002, we resolved to refer the report of Executive Judge Corazon A. Tordilla to the OCA for evaluation, report, and recommendation.^[21]

In its memorandum dated June 3, 2002, the OCA observed that a more thorough investigation of A.M. No. P-02-1620 and A.M. No. P-02-1622 would be an exercise in futility, because respondent De Leoz is no longer residing in the Philippines. Any further investigation in her absence would deprive her of due process, as she would be denied the opportunity to defend herself. Hence, said cases must be resolved on the basis of the evidence already submitted. With respect to A.M. No. P-96-1194, where the allegations of De Leoz are the same as those raised in A.M. No. P-02-1621, the former case should be deemed included in the investigation of the latter. The OCA then concluded that its evaluation should thus be limited to A.M. No. P-02-1620 and A.M. No. P-02-1622 only.

The OCA found that the filing of A.M. Nos. P-02-1620 and P-02-1622 were

retaliatory acts on the part of Atty. Vargas and Pimentel against De Leoz for filing an administrative case against them. The OCA noted that not only were the charges against De Leoz made in bad faith, they were likewise unsubstantiated. The OCA then recommended that said cases be dismissed.

Regarding A.M. No. P-02-1621, the OCA memorandum adopted the findings and conclusions of Executive Judge Atienza, but found the recommended penalty of dismissal too harsh. Instead, the OCA proposed that Pimentel and Vargas be suspended for a period of six (6) months and one (1) day without pay.

On July 29, 2002, this Court resolved to re-docket these cases as regular administrative matters.

For our resolution now are the following matters: (1) the propriety of dismissing A.M. No. P-02-1620 and A.M. No. P-02-1622; (2) the correctness of the finding of guilt on the part of Atty. Amelia B. Vargas and Melinda F. Pimentel for falsification of official documents; and (3) the appropriateness of the penalty to be imposed, if any.

On the *first* matter, we note that after A.M. No. P-02-1620 and A.M. No. P-02-1622 were consolidated, they were referred not just once but thrice to the Executive Judge of the RTC of Naga City for investigation, report, and recommendation. Each of the investigating judges found that Perpetua Socorro M. De Leoz, the respondent in A.M. No. P-02-1620 and A.M. No. P-02-1622, had left the country to reside permanently in California, and could no longer be served summons, notices, or other papers. In their respective reports, said investigators recommended that these cases be dismissed since a thorough investigation was no longer possible in view of the absence of respondent De Leoz.

The disciplinary power of this Court over its erring personnel, in general, cannot be terminated just because one of the parties involved is now residing abroad. It is true, however, that to allow an investigation to proceed against one who could no longer be in a position to defend herself would be a denial of her right to be heard, our most basic understanding of due process.^[22] But even in the absence of respondent De Leoz, if there were sufficient records available, and other witnesses that could have been called to testify, investigators could have utilized those records and those witnesses to come out with a judicious recommendation based on the merits, rather than a recommendation to dismiss based solely on the absence of De Leoz.

Disciplinary proceedings like these administrative matters, in our view, involve not merely private interest, nor just the redress of private grievances. More important, they are undertaken and prosecuted for the public welfare, *i.e.*, to maintain the faith and confidence of the people in the government and its agencies and instrumentalities. Hence, as far as feasible, they should proceed for the purpose of determining whether or not a respondent had erred, and if so, to impose the proper sanction. Otherwise, this Court's concern that every employee of the judiciary should be an example of integrity and honesty^[23] would be hollow.

Nevertheless, after carefully reviewing the records of A.M. No. P-02-1620 and A.M. No. P-02-1622, we agree with the observation of the OCA that the charges against De Leoz were filed with malice aforethought. Said cases were initiated by Atty.