

## FIRST DIVISION

[ A.M. Nos. 2001-1-SC & 2001-2-SC, September 03, 2002 ]

**MARILYN I. DE JOYA AND DENNIS B. CANTANO,  
COMPLAINANTS, VS. ELSA T. BALUBAR, SC SUPERVISING  
JUDICIAL STAFF OFFICER, CHECKS DISBURSEMENT DIVISION,  
FMBO, RESPONDENT.**

### R E S O L U T I O N

**YNARES-SANTIAGO, J.:**

The people's faith in the Judiciary is assuredly eroded when they are subjected to the dismaying spectacle of a court employee hurling invectives at a co-worker. It becomes even more disappointing when the people involved are employees holding sensitive positions in the Supreme Court.

Marilyn I. De Joya, Dennis B. Cantano and Elsa T. Balubar are all employees of this Court's Fiscal Management and Budget Office (FMBO). Marilyn I. De Joya is the Chief of the Disbursement Section, Accounting Division, while Dennis B. Cantano is a Fiscal Clerk I in the same division. Respondent Elsa T. Balubar is the SC Supervising Judicial Staff Officer of the Checks and Disbursement Division, FMBO.

On October 20, 2000, De Joya filed a sworn complaint,<sup>[1]</sup> docketed as A.C. No. 2001-1-SC, charging Balubar with gross misconduct. She alleged that on March 22, 2000 and June 21, 2000, her office requested respondent to furnish the Accounting Division with a copy of the Statement of Cancelled Checks. Upon verification from a member of her staff, Olivia Tumbaga, she learned that respondent has not complied with the requests. Thus, complainant prepared a draft memorandum addressed to respondent reiterating the said requests.<sup>[2]</sup>

On September 7, 2000, without complainant's knowledge, Tumbaga sent the draft memorandum to respondent. On October 16, 2000, respondent went to the Accounting Division and, in a loud and angry voice, uttered the following words:

*"Nasaan si Joya? Sino ba si Joya?"*

*"Hindi ako dapat pinadalhan ng Joya na yan ang memorandum dahil sinagot na namin ito. . . . **Putang Ina Niya!**"*

*"Sabihin mo sa Joya na yan, wag niya akong mememohan ha!"*

*"**Putang Ina niya**, pag nakita ko yang Joya na yan . . . . **Sasampalin ko yan!**"*

De Joya's complaint was corroborated by the Joint Affidavit of Policarpio G. Felicidad Jr., Division Chief, Accounting Division, Dennis Cantano, Dindo Sevilla and Albert Nate, all of whom witnessed the incident.<sup>[3]</sup>

Cantano also filed administrative charges against respondent Balubar for grave misconduct,<sup>[4]</sup> docketed as A.C. No. 2001-2-SC. He alleged that on October 16, 2000, respondent entered the office of the Accounting Division and asked for complainant De Joya, but the latter was on leave at that time. Respondent then proceeded to Policarpio G. Felicidadario, Jr. and questioned the Memorandum dated September 7, 2000 issued by De Joya. Respondent allegedly uttered the following words:

*"Hindi ako dapat pinadalhan ng Joya na 'yan ng Memorandum dahil sinagot na namin ito! **Putang ina niya!**"*

After that, respondent turned to Cantano and said:

*"Ikaw, bakit receive ka ng receive? Ayusin mo ang trabaho mo, Gago, Gago, Gago, **Putang Ina Mo!**"*

*"Sabihin mo sa Joya na 'yan na huwag niya akong mememohan ha! **Putang Ina Niya**, pag nakita ko yang Joya na 'yan . . . **Sasampalin Ko Iyan!**"*

Complainant Cantano was shocked by the incident and felt humiliated. To substantiate his claim, Cantano submitted the Joint Affidavit of Ursula Editha O. San Pedro, Dindo Sevilla, Dexter Ilagan, Gloria Cambel, Herminia Umali, Minerva Briones and Olivia Tumbaga.<sup>[5]</sup>

In two separate memoranda dated November 7, 2000<sup>[6]</sup> and November 29, 2000,<sup>[7]</sup> Atty. Luzviminda D. Puno, Clerk of Court, directed respondent to answer the complaints.

In her comment<sup>[8]</sup> to De Joya's complaint, respondent averred that on November 22, 2000, she received a communication from Policarpio G. Felicidadario Jr., Acting Chief of the Accounting Division, requiring her to submit a Statement of Cancelled Checks for various claimants. Upon receipt thereof, she reported to the Accounting Division that the checks issued in favor of Ms. Lorelei Edles, Estrella Ymbang and Alfredo Ymbang were already forwarded to the COA sometime in 1998 by Dennis Cantano. Meanwhile, no statement of cancelled checks can be issued in favor of Natalie Calumpong because the payee encashed the same. The Statement of Cancelled Checks which was issued to Angelina C. Nepomuceno was received on February 8, 2000 by Dennis Cantano of the Accounting Division.

On June 21, 2000, respondent received another letter from Mr. Felicidadario reiterating his earlier request. She immediately informed him that the request had been complied with.

On October 16, 2000, she received a Memorandum dated September 7, 2000, reiterating the request for a Statement of Cancellation from the Accounting Division with a further directive for immediate compliance therewith. Upon receipt of the Memorandum, she immediately tried to contact Mr. Felicidadario through the phone, but to no avail. Hence, she proceeded to the Accounting Division where she told Felicidadario,

*"Bakit naman ganyan, Junn, ilang memo na ito? Ginawa naman ninyo akong gago, ang sakit naman sa akin nito. Lahat ng pakiusap ninyo, sinunod namin, bale wala pala itong ipinapa-receive namin sa inyo."*

Respondent denies having uttered unsavory words but admits saying the following in a loud voice:

*"Wala kayong sistema, puro kayo irresponsible. Ginagawa ninyo akong gago, sabihin niyo diyan kay De Joya na bago siya mag-memo sa akin, tanungin niya muna ang Boss ninyo."*

Respondent also admits that she turned to Cantano and said:

*"Ikaw, receive ka ng receive, pero di mo naman pinagbubuti ang iyong trabaho. Kasi wala kang ginagawa kundi maya't maya ay magbenta ng Fundador at video tape."*

Respondent claims that the subject records have been with the Accounting Division since 1998, and if only the staff members were conscientious in the performance of their duties, they should have known that the records were already with them.

She admits that she talks in a loud voice and that this is public knowledge. However, she denies having uttered the words imputed to her. While she used to say those words as an expression during her earlier years, she tried to change this since she became Acting Chief of the Checks and Disbursement Division. She describes the charges as false accusations from people who are out to destroy her reputation.

In De Joya's reply<sup>[9]</sup> to respondent's comment, she alleged that upon learning about the complaint, respondent admitted her guilt in front of Mrs. Corazon Ordoñez and Mrs. Agripina Bumanglag, saying:

*"Marilyn, sorry ha! Alam mo. . . . di ko talaga mapigilan ang sarili ko. Kapag hindi ko masabi ang gusto kong sabihin, baka kung ano ang mangyari sa akin."*

Contrary to respondent's claim, there are still checks which are in her custody despite repeated demands to turn them over to the Accounting Division. Hence, for her failure to produce them, these checks were deemed missing for which respondent can be held liable for Infidelity in the Custody of Official Documents.

The charges were subsequently referred to Atty. Eden T. Candelaria, Deputy Clerk of Court and Chief Administrative Officer for evaluation report and recommendation. In a Memorandum dated February 23, 2001<sup>[10]</sup> Atty. Candelaria recommended that Balubar be fined Ten Thousand Pesos (P10,000.00) and that she be directed to comply with the Memorandum of De Joya dated September 7, 2000 within five (5) days from receipt of the resolution of the Court.

The recommendation is well taken.

The records disclose that various Memoranda were issued to respondent for her failure to comply with the request of the Accounting Division. Apparently, respondent felt slighted by the Memorandum of a subordinate, however, said Memoranda would not have been issued at all if she only attended with dispatch to the requests of the Accounting Division.

Complainant De Joya was simply performing a ministerial duty of requesting the status of the cancelled checks. It would have been different if De Joya attempted to exercise administrative supervision over her. The requests made were but run-of-