

SECOND DIVISION

[A.M. No. P-99-1302 (Formerly OCA IPI No. 97-237-P), February 28, 2001]

**JUDGE PLACIDO B. VALLARTA, MCTC, CABIAO-SAN ISIDRO
NUEVA ECIJA, COMPLAINANT, VS. YOLANDA LOPEZ VDA. DE
BATOON, CLERK OF COURT, MCTC CABIAO-SAN ISIDRO, NUEVA
ECIJA, RESPONDENT.**

R E S O L U T I O N

QUISUMBING, J.:

In a letter-complaint^[1] dated September 04, 1996 addressed to Deputy Court Administrator Bernardo P. Abesamis, Judge Placido B. Vallarta, Presiding Judge, Municipal Circuit Trial Court, Cabiao-San Isidro, Nueva Ecija, charged his Clerk of Court, Yolanda Lopez Vda. de Batoon, with "Falsification and Usurpation of Judicial Power."

Judge Vallarta alleged that while he was on official leave from June 10 to June 11, 1996, respondent Clerk of Court caused the preparation of an Order of Release^[2] dated June 10, 1996 in connection with Criminal Case No. 165-95, entitled *People of the Philippines vs. Felicisimo Magno*, signed and issued the duplicate original of the order of release aware that presiding judge was on leave, could not sign the original order of release, and without the cash bond for the release. On the basis of said duplicate original order, the accused Felicisimo Magno was released from police custody.

As a consequence of these acts, complainant claims he has lost his trust and confidence on the respondent and requests that she be placed on preventive suspension or be temporarily transferred to another court pending the outcome of this case.

Acting upon the recommendation of the Office of the Court Administrator, the Court, in its resolution^[3] dated June 16, 1997, directed herein respondent to comment. In her comment^[4] filed on July 23, 1997, respondent stated that the complaint of Judge Vallarta against her has no truth as the same was made by him merely to harass her. She claims that from the start, Judge Vallarta orally instructed her to issue orders with stamp mark "ORIGINAL SIGNED" whenever he was not in the office, in cases where cash bonds with complete supporting papers are filed.

In the case of accused Felicisimo Magno, he filed his cash bond, complete with supporting documents so she issued the duplicate copy with original signed on the strength of Judge Vallarta's instructions. She further claims that the order stamped "ORIGINAL SIGNED," did not prejudice Judge Vallarta. Instead, she helped the judge and prevented accused Magno from filing a case against the judge for failure to report for work without leave of absence. She explains she had not acted beyond

her duties as Clerk of Court nor beyond the order given to her by Judge Vallarta.

Meantime, Judge Vallarta, through a letter^[5] dated November 4, 1997, informed the Court that on August 27, 1997, Criminal Case No. 7059, entitled "*People of the Philippines vs. Yolanda Lopez Vda. de Batoon*" for Falsification of Public Documents was filed before the Regional Trial Court of Gapan, Nueva Ecija, Branch 36.

In his reply,^[6] Judge Vallarta vehemently denied giving said instructions to respondent because if it were true, he would not have bothered filing the complaint. Moreover, such instruction would be abandonment of his official duty. He further suggests that respondent deserves no less than dismissal from the service.

In her Rejoinder,^[7] respondent reiterated that complainant judge authorized her to sign orders whenever he was absent. Adding that at the time the questioned order was released, the judge was absent a week before and a week after said date.

In a Memorandum^[8] dated February 2, 1999, the Office of the Court Administrator commented that the charge against respondent was a very serious matter involving release of a detained accused and recommended that the matter be referred to Executive Judge Arturo Bernardo, Regional Trial Court of Gapan, Nueva Ecija, for investigation, report and recommendation within sixty (60) days from notice.

After several hearings and interviews, Judge Bernardo reported,

But, undeniably, respondent Yolanda Lopez Vda. de Batoon had encroached on the authority of Judge Placido Vallarta to approve bail bond and to release accused from detention. Indeed, the respondent is guilty of Gross Misconduct for her failure to observe the proper decorum expected of her in the performance of her duties as Clerk of Court.^[9]

The investigating judge however, concluded that "there is no showing that respondent acted with malice or for a valuable consideration in releasing accused Felicísimo Magno thru the questioned duplicate copy of the release order marked ORIGINAL SIGNED."^[10] And considering also that this was the first time respondent was charged administratively during her entire twenty five (25) years in the judiciary, the investigating judge recommended that respondent be meted out the penalty of one (1) month suspension without pay.

We agree with the findings of the investigating judge that respondent is administratively liable for the release of accused Felicísimo Magno from the custody of the police through the duplicate copy of the release order marked "ORIGINAL SIGNED" without the original copy of the release order signed by private complainant Judge Vallarta. However we are unable to agree with the recommended administrative sanction of one (1) month suspension without pay, which to us is too harsh.

There is no question that respondent encroached on the authority of Judge Placido Vallarta.

Section 5, Rule 136 of the Rules of Court, provides that -