

SECOND DIVISION

[A.M. No. P-01-1469, March 26, 2001]

**ATTY. ROEL O. PARAS, COMPLAINANT, VS. MYRNA F. LOFRANCO,
CLERK III, REGIONAL TRIAL COURT, BRANCH 20, DIGOS, DAVAO
DEL SUR, RESPONDENT.**

D E C I S I O N

MENDOZA, J.:

This pertains to the administrative complaint filed on March 12, 1997 by Atty. Roel O. Paras against respondent Myrna F. Lofranco, Clerk III of the Regional Trial Court (RTC), Branch 20, Davao del Sur, for discourtesy and conduct unbecoming a court employee. Upon recommendation of the Office of the Court Administrator,^[1] this matter was referred for investigation to the Executive Judge of the RTC, Digos, Davao del Sur who, in a report, dated September 25, 2000, recommended the suspension of respondent for fifteen (15) days with the warning that a stiffer penalty will be imposed in case of repetition of similar acts.^[2]

During the investigation, complainant adopted the allegations in his complaint-affidavit, dated February 28, 1997, as his direct testimony, to wit:

1. That complainant is a law practitioner with office at Magsaysay St., Digos, Davao del Sur and presently elected as Vice-President of the Integrated Bar of the Philippines (IBP), Davao del Sur Chapter;
2. That respondent MYRNA LOFRANCO is a public employee occupying the position of clerk of the Regional Trial Court, Branch 20, Digos, Davao del Sur;
3. That sometime in February 28, 1997, complainant approached the respondent in a nice way for the withdrawal of a cash bail bond on behalf of his client. Respondent, after reading the Court Order for the release of the said bail bond, told [complainant] that one of the signatories was absent and so [complainant] asked her if it can be withdrawn by the present signatory and further asked her whether the bank account is joint or not. Respondent in a gesture of disrespect and in a sarcastic manner answered "Ambot lang kay dili ra man ikaw ang tig-withdraw diri, sa Lunes na lang ni" which means "I do not know because you are not the only one withdrawing here, it can be on Monday." Respondent then advised the complainant to reproduce the receipts of the bail bond;
4. Not wanting any trouble, complainant complied. [A]fter he came back and handed over the receipts including the necessary documents to the respondent, respondent told complainant in the

presence of several court employees and a certain Judge, that "Unsaon man pag-received ana nga usa ra ma na ka kopya (referring to the above-mentioned COURT ORDER), dapat abogado ka kahibalo ka sa requirements" which means "How could we receive that when that is only a single copy, you are a lawyer and you are supposed to know the requirements";

5. [Feeling] insulted, complainant told respondent "You are not supposed to talk like that to a lawyer," but she continued raising [her] voice and even made several accusations against complainant and so in [the] heat [of] anger, complainant called her crazy but [respondent] responded in a loud voice, calling complainant crazy also;
6. That complainant learned later that respondent is not the person in charge of the withdrawal of bank deposits of RTC, Branch 20 but one of her officemates who was present that time;
7. That respondent has been reportedly [exhibiting] the same unethical and arrogant attitude in her dealing with several persons having transactions in the abovementioned court, in fact, she was once [featured] in a local newspaper for [her] conduct;^[3]

On cross-examination, complainant testified that he was the counsel for accused in the case entitled "People of the Philippines v. Rogelio T. Vale and Durico Dablo,"^[4] pending before the RTC, Branch 18, Davao del Sur. He testified that on February 28, 1997, he went to the RTC, Branch 20, Davao del Sur, presided by Executive Judge Magno Cruz, to ask for the withdrawal of the cash bond. Thinking that respondent Myrna Lofranco of RTC, Branch 20, was the one in charge of releasing cash bonds, complainant handed over to her the order of the RTC, Branch 18, the original receipt of the cash bond, and the special power of attorney (hereafter referred to as SPA) to her. He, however, denied the allegations of respondent that he detached the copy of the receipt from the records of the case without the permission of the RTC, Branch 18.^[5]

On the other hand, respondent's counter-affidavit, dated March 7, 1997, which she presented as her direct testimony, stated:

- a) While sitting in my table entertaining one Liza Baldoza who has an official business in connection with the petitions/cases of Mr. Romualdo Crispino and Lourdes B. Crispino, Atty. Roel Paras approached me. From his appearance, he was already drunk. This was last February 28, 1997 at about 11:00 o'clock in the morning;
- b) Atty. Paras, being a practicing lawyer in Digos, Davao del Sur, is known to me so that there is no reason for me to argue with him although he treated me like his own househelp;
- c) Atty. Paras handed to me a duplicate original of an Order of Judge Rodolfo A. Escovilla dated February 27, 1997, a copy of which is hereto attached as Annex "B";

d) After reading the Order, I courteously informed Atty. Paras that his client could not possibly withdraw the amount that day because the persons [required] to sign the withdrawal slip are not available and, while saying this, I asked for a copy of the receipt. Atty. Paras informed me that the receipt is in the records at Regional Trial Court, Branch 18, and at the same time was asking me if the account is a JOINT ACCOUNT. Since I am not also aware, I answered that it may be AND/OR. Upon hearing this, he angrily told me that if it is an AND/OR ACCOUNT, our Branch Clerk of Court Michael Francisco could sign alone. He proceeded to lecture me on the various intricacies of bank accounts. Stunned by the manner he raised his voice. I told him in these words: "Ambot lang kay dili man ko taga-Bangko. Basta silang duha si MICHAEL and JUDGE CRUZ and mo-pirma" or "I do not know as I am not from a bank [but] the fact remains that the two of them, MICHAEL and JUDGE CRUZ will sign";

e) After hearing this, Atty. Paras left and I thought that was the end of it;

f) A minute later, Atty. Paras came back and brought with him the records of Criminal Case No. 114(93) and arrogantly showed to me the receipt and at the same time detached the receipt from the records (Carpeta) without any authority from the Branch Clerk of Court of Branch 18. When Atty. Paras tried to give me the receipt, I declined by saying: "Dili ko mo-receive ana Atty. Kay naa pa ra ba kay permahan ani nga imong na-receive and receipt gikan sa Branch 18" or "I will not receive it Attorney because before that receipt could be given to you there is a need for you to sign a receipt from Branch 18";

g) After hearing this, Atty. Paras left with the records;

h) Minutes later, a co-employee of Branch 20 named Luzminda Baba who is in charge of the withdrawal of the bond arrived. I informed Minda about it;

i) Then Atty. Paras arrived in our place again and handed the duplicate copy of the Order with the receipt to Minda Baba and said: "O, recibe ni" or "Here, you receive this." I made a remark that how can our Court receive it when there was only one copy. Minda Baba told Atty. Paras in this wise: "May akong resibon nga usa ra man ni, wala nay akoo" or "What will I receive when there is only one copy, I will have no copy." Atty. Paras angrily told Minda: "Taga-i lang ko ug papel diha, pirmahi lang" or "Just give me a piece of paper with your signature." Minda told him "Magpa-xerox lang ako ani" or "I will have it xeroxed." Atty. Paras told Minda: "I have a xerox copy" and after saying this, he left;

j) At this time, Minda Baba gave the Court Order to me and asked me what was the import of the Order since she could not understand it;

k) Then Atty. Paras arrived and I asked him where was Mr. Vale (the accused and the one who is the very person to receive the bond) and the very person whose name appeared in the receipt;

l) Atty. Paras suddenly shouted at me "WALA" or "He is not here";

m) I still kept my patience since I am not a lawyer like him. I still asked him who was authorized by Mr. Vale to withdraw;

n) Atty. Paras, still raising his voice, said: "KINSA PA MAN DIAY" or "who else" proclaiming that he was the one; I asked him to hand to me a Special Power of Attorney or any Authorization;

o) At this point in time, Atty. Paras again shouted at me saying: "USAY PAGTOO NIMO, MO-FOLLOW UP KO KUNG WALAY AUTHORIZATION" or "What do you think of me, I will make follow-up without any authorizations?"

p) At this juncture, I already felt very small in the presence not only of the employees but other persons as well (including Judge Albarracin), so that I told him back in this wise: "Abogado man kaha ka, nganong mag-follow up man ka nga dili kompleto ang papeles nga imong dad-on" or "You said you are a lawyer, why will you make any follow-up without complete papers";

q) Shocked that a lowly clerk could say that to him, Atty. Paras shouted: "KAHILAS NINO. MORA KA UG SI KINSA. BUANG KA" or "You are repulsive, as if you are somebody. You are crazy";

r) Hearing this slanderous remark, I held back my tears and before I went inside the Chamber of the Judge, I told Atty. Paras: "Ayaw ko ug hinganli ug Buang, Atty"; . . . [6]

On cross-examination, respondent reiterated the facts which she stated in her counter-affidavit. Additionally, she testified that she was in charge of the civil and criminal cases in the RTC, Branch 20, including the withdrawal of cash bonds, while her officemate Luzminda Baba was only in charge of typing the bank withdrawal slip for the bonds' release. According to her, complainant approached her in the office (RTC, Branch 20) drunk, and she noticed that his face was flushed.

Respondent stated that complainant pointed his finger at her and called her "*buang*" or crazy but denied retaliating and calling him crazy. She likewise stressed that, contrary to the allegations of complainant, the latter did not present all the requirements needed for the withdrawal of the cash bond, particularly the SPA. [7]

Lastly, Luzminda Baba testified that there was no SPA attached to the record of the case pending before the RTC, Branch 18, but only an acknowledgement receipt issued by complainant that he received the amount of P9,400.00 from the RTC, Branch 20. [8] Complainant objected to the presentation of Mrs. Baba on the ground that she was not the proper person to testify on the contents of the records of the case pending before the RTC, Branch 18. Counsel for the respondent, therefore, brought the records of the case and manifested that no SPA was attached to it. Complainant admitted that he did not submit any copy of the SPA to the RTC, Branch 18. However, he insisted that he gave a copy of the same to the RTC, Branch 20. [9]