

## **EN BANC**

**[ A.M. No. P-94-1080, November 19, 1999 ]**

**DINAH CHRISTINA A. AMANE, COMPLAINANT, VS. ATTY. SUSAN MENDOZA-ARCE, RESPONDENT.**

**[A.M. NO. P-95-1128]**

**ATTY. SUSAN MENDOZA-ARCE, COMPLAINANT, VS. ANITA B. DURAN, JOHNEL C. ARCHES, AND ATTY. ESPERANZA ISABEL E. POCO-DESLATE, RESPONDENTS.**

**[A.M. NO. P-95-1144]**

**ATTY. ESPERANZA ISABEL E. POCO-DESLATE, COMPLAINANT, VS. ATTY. SUSAN MENDOZA-ARCE, RESPONDENT.**

## **D E C I S I O N**

### **PER CURIAM:**

To strive to create a perfect government office where every public servant conducts himself with utmost integrity, honesty and diligence, and devotes himself wholly to public service is indeed worthy of commendation. But the attainment of this ideal, be it well-meant, should be tempered with basic courtesy and respect for colleagues including those occupying the lowliest position, with a deep compassion for, understanding and consideration of, the complexities of human behavior, human frailties being a natural part of every individual. The notion should be sought not alone for its sake but, more importantly, as a way of correcting askewed work ethics and values of the less service-oriented public servant. Certainly, in the prevention and correction of a perceived wrong oppression, much less falsehood, should not be countenanced nor justified. This is simply illustrative of the expression, however trite it may seem, that "the end does not, justify the means."

In these three (3) consolidated administrative cases our attention is drawn to the lamentable state of affairs at the Regional Trial Court of Roxas City where even the most persistent efforts at mediation by the RTC judges concerned could not stop the charges and countercharges from reaching this Court.

On 14 September 1994, Executive Judge Sergio L. Pestaño of the Regional Trial Court of Roxas City and Presiding Judge of Branch 19 received a Report from Atty. Susan Mendoza-Arce, Clerk of Court, informing him of the misdeeds of some of the employees of his Branch. Specifically, Atty. Arce alleged that Stenographers Anna B. Duran and Johnel C. Arches falsely stated in their Daily Time Records (DTRs) for June, July and August 1994 that their "time of departure" was 5 o'clock in the afternoon when, in truth and in fact, they left the office ahead of the prescribed office hours to attend their 4:30 p.m. classes at the nearby Colegio de la Purisima

Conception, and that his Branch Clerk of Court, Atty. Esperanza Isabel E. Poco-Deslate, immediate superior of Duran and Arches, tolerated the practice.

The following day, Judge Pestaño received a Petition from twenty-four (24) employees of the RTC of Roxas City dated 12 September 1994<sup>[1]</sup> praying for the immediate investigation and preventive suspension of Atty. Susan Mendoza-Arce for alleged acts of oppression and conduct prejudicial to the best interest of the service aggravated by habituality and taking advantage of official position. They pointed out that Atty. Arce lacked emotional stability because instead of fostering closeness among members of the workforce she would alienate herself from them and would waste precious time looking for any imaginable minutest error an employee may commit; that Atty. Arce was always happy to cause unhappiness among the employees whenever she barked at them; that she exercised powers which were not hers but of the judges, e.g., reviewing DTRs already passed upon by the branch clerks of court; that Atty. Arce was an exponent of red tape when most of the requirements could be dispensed with thus causing anxiety among lawyers and litigants; that Atty. Arce conducted her own personal investigation on the attendance of employees and would even go out of the office to make inquiries from other offices outside the Hall of Justice; that Atty. Arce would insult staff employees of the judges, and threaten them with administrative sanctions thus usurping the authority of the Presiding Judges; that Atty. Arce would "run berserk" and was probably the only clerk of Court who acted the way she did; and, because of Atty. Arce's attitude and behavior a general atmosphere of uneasiness has pervaded the Hall of Justice resulting in the low morale of the employees which was not conducive to individual efficiency and collective harmony.<sup>[2]</sup>

After all the parties submitted their comments which were required of them, Executive Judge Pestaño, perceiving that the employees' differences *"stemmed merely from their conduct in office and differences in opinion as to how public service may be rendered more efficiently and promptly,"* immediately called a mediation conference on 21 September 1994 attended by the other five (5) judges of the RTC-Roxas City<sup>[3]</sup> in a sincere attempt to resolve the controversy at the RTC level. The attempt however proved futile. After a month of talking with the parties to no avail, Judge Pestaño in an Indorsement dated 21 October 1994 forwarded the Report dated 14 September 1994 of Atty. Arce and the Petition dated 12 September 1994 of the RTC employees with regrets that *"the parties' sentiments against each other are so deep that they have not reached a rapportment"* despite strong and persistent efforts at mediation.<sup>[4]</sup>

On 16 September 1994 even before the aforementioned mediation proceedings were started. Dinah Christina A. Amane, Clerk III, RTC-Br. 19, Roxas City, filed directly with this Court through the Office of the Court Administrator a formal complaint against Atty. Susan Mendoza-Arce for "conduct prejudicial to the best interest of the service, disgraceful conduct and oppression," docketed as Adm. Matter No. P-94-1080, enumerating among others the alleged disgraceful and oppressive acts of respondent:

- a. Atty. Arce issued a memorandum compelling all court personnel to wear uniforms with specifications without conferring with the

Executive and other Judges of the Court.

- b. Atty. Arce demanded the review of the Daily Time Records (DTRs) of all court personnel without conferring with the said judges and, after receiving the same, questioned and returned to the Branch 19 Clerk of Court the complainant's DTR for July 1994.
- c. Atty. Arce at one time laid a trap for complainant so that she could catch her red-handed as not reporting for work utilizing a subordinate employee; and,
- d. In June 1994, Atty. Arce summoned the complainant to her office and after, demanding why the latter did not file a one-day leave of absence in May 1994, went into, "hysterics," shouted at "and insulted complainant in coarse language."<sup>[5]</sup>

On 12 October 1994, Atty. Esperanza Poco-Deslate, Branch Clerk of Court, RTC-Br. 19, Roxas City, filed a formal countercharge against Atty. Susan Mendoza-Arce, docketed as Adm. Matter No. P-95-1144, accusing respondent of "grave misconduct, conduct prejudicial to the best interest of the service, intentionally making false statements, and oppression." Specifically, complainant alleged that respondent maliciously accused court personnel through illegal means, caused serious disturbance, and usurped functions belonging to other authorities in the course of her investigations; that respondent's accusation of falsification of DTR's by Duran and Arches is devoid of factual basis since her only evidence thereof, were certificates of enrollment issued by the school registrar which, however, were only evidence of the fact of enrollment but not actual attendance in class; that falsification of DTRs by Duran and Arches not having been proven, complainant could not be accused of alleged connivance thereto even assuming that there was in fact such a crime; that respondent, in the course of her investigation of said falsifications, demanded from the school authorities certifications of facts contrary to the latter's knowledge and threatened them with court cases if they did not do what was required of them; that respondent's actuations caused serious anxieties which affected the efficiency of the other court employees; that respondent even aired the matter of her investigations over the radio; that in taking direct action against the court stenographers, respondent boldly usurped the authority not only of the complainant as Branch Clerk of Court but also of the Presiding Judge; and, that, contrary to her duty as Clerk of Court, Atty. Arce did not merely recommend actions against erring employees to the Presiding Judge but instead took direct action against them contrary to Sec. 5, Chapter VII, of the Manual for Clerks of Court which provides that the Clerk of Court only initiates investigations of erring personnel and recommends appropriate action to the Executive Judge.<sup>[6]</sup>

On 17 November 1994, the Office of the Court Administrator received a Letter dated 7 November 1994 from the twenty-four (24) employs of the RTC-Roxas City who filed the Petition dated 12 September 1994<sup>[7]</sup> enclosing therewith individual and joint affidavits in support of their Petition.<sup>[8]</sup>

Finally, on 2 December 1994 Atty. Arce filed her formal complaints dated 22 November 1994 against Anita Duran, Johnel Arches and Atty. Esperanza E. Poco-

Deslate, docketed as Adm. Matter No. P-95-1128 formalizing her complaints of falsification of DTRs against Duran and Arches and of connivance in said falsification against Atty. Deslate.

By Resolution dated 21 June 1995 we consolidated Adm. Matter No. P-95-1144 (Atty. Deslate v. Atty. Arce) with Adm. Matter No. P-95-1128 (Atty. Arce v. Duran, et al), and on 16 October 1995, Adm. Matter No. P-94-1080 (Amane v. Atty. Arce) with Adm. Matter Nos. P-95-1128 and P-95-1144.

Although the cases were initially referred to Executive Judge Sergio L. Pestaño<sup>[9]</sup> for investigation, report and recommendation, we granted *the* latter's inhibition *for the* reasons stated in his motion<sup>[10]</sup> and referred the cases to Executive Judge Julius L. Abela of the RTC-Mambusao, Capiz, instead.<sup>[11]</sup>

After conducting extensive hearings, Investigating Judge Abela submitted his Confidential Investigation Report dated 13 May 1997 with the following recommendations:

In Adm. Matter No. P-94-1080, dismissal of the charges leveled by Dinah Christina Amane against Atty. Susan Mendoza-Arce for failure to prove by substantial evidence the specific acts of oppression allegedly committed by respondent. On the contrary, Judge Abela found that there was mutual animosity between Atty. Arce and Ms. Amane which developed into enmity because while the former was bossy and overly strict, Ms. Amane, on the other hand, being the daughter of a Presiding Judge of the Court (Br. 17), was unrestrained in her habitual tardiness and absenteeism which was largely tolerated and unreported.

On the matter of the alleged falsification by Amane of her DTRs for March, April, May, June, July, and August 1994 alleged by Atty. Arce in her comment to Amane's complaint and itself formalized into a complaint dated 21 February 1995,<sup>[12]</sup> the Investigating Judge recommended that Amane be dismissed for falsification and notorious absenteeism finding the same to have been duly established by the following combined circumstances, to wit:

- a) The fact that MS. AMANE never categorically denied the unequivocal allegations of the respondent that she (AMANE) was absent from office on 3,4,7, 14 and 18 March 1994; on 7,11,13,14,18 and 19 April 1994; on 3 and 13 May 1994; on 10,14,17,23, and 27 June 1994; on 1,25, and 26 July 1994; and on 3,4, and 30 August 1994. In her defense, MS. AMANE merely pleaded that full faith and credit be given her questioned DTRs on the ground that "(t)here can be no evidence of a writing the contents of which is the subject of inquiry other than the original writing itself xxx
- b) The failure of MS. AMANE to affix her initials, as required by established office procedures, to at least twenty-four (24) certifications issued by the Court relating to civil cases in her charge during the period March to August 1994 thus indicating that she was absent from her workplace on the dates shown on the said certifications;
- c) The explanation of ATTY. POCO-DESLATE that MS. AMANE did not

initial the certifications adverted to because MS. AMANE was either in the comfort room, or was taking a break, or was typing/finishing her work, or was on the telephone, or was in conference with the Presiding Judge, or was on alleged "official business" for the Presiding judge is neither worthy of credence nor persuasive for being self-serving obviously intended merely to cover up for her friend MS. AMANE and for her own laxness and neglect in supervising/disciplining her subordinates;

d) Positive testimony of MS. AMANE and her own witness, (BARBARA R. DELFIN), to the effect that on several occasions MS. AMANE was elsewhere but at the Roxas City Hall of Justice during office hours, doing allegedly "official business" which were alien to her official duties;

e) Unrebutted positive testimony of ATTY. MENDOZA-ARCE to the effect that because she closely monitored MS. AMANE's office attendance, she personally knew that MS. AMANE was, actually absent on certain dates that her DTRs showed she was present; and that the Executive Judge (SERGIO PESTAÑO) who was also MS. AMANE's Presiding Judge at Branch 19, had confided to her (ATTY. MENDOZA-ARCE) that he cannot tolerate the absences and tardiness of MS. AMANE, that he was "already fed up with her", and that he was grateful to ATTY. MENDOZA-ARCE for having talked to MS. AMANE about the problems.

f) MS. AMANE's submission that her DTRs "were never falsified, the same being the exact entries in the logbook" without, however, making any attempt to introduce or produce the said logbook in evidence implying thereby that the said logbook if produced would be adverse to the defense of MS. AMANE;

g) The stark contrast between the entries in the DTRs of MS. AMANE for the period March to August 1994 which were personally made by MS. AMANE herself, and the bundy clock entries in her DTRs for the eleven month period of February to December 1995. The contrast is so sharp as to indubitably show that MS. AMANE indeed falsified her DTRs. Even a cursory examination of these DTRs show that whereas in 1994 MS. AMANE was never tardy, never took the afternoon off, and was not on sick or vacation leave every day, half an hour to over an hour, did not return to work in the afternoon on several occasions, and was absent from work every month for usually nine (9) to ten (10) workdays.<sup>[13]</sup>

For her tolerance, of Amane's absences, the Investigating Judge recommended Atty. Deslate's six-month suspension for simple neglect of duty as Branch Clerk of Court Branch 19 and Amane's immediate superior.

In Adm. Matter No. P-95-1128 Judge Abela recommended that the charges of falsification of DTRs filed by Atty. Arce against Anita Duran and Johnel Arches and of connivance therewith by Atty. Deslate be dismissed after finding them to be without factual basis. Aside from Atty. Arce's failure to present evidence to conclusively substantiate her claim that Duran and Arches attended their classes at the Colegio de la Purisima Concepcion during office hours, the following factors were likewise duly taken and given weighty consideration, to wit: (a) Certification by Mr. Elczar