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THIRD DIVISION

[A.M. No. P-07-2369. November 16, 2011]
(Formerly OCA IPI No. 06-2444-P)

CONCERNED CITIZEN, *complainant, vs.* **MARIA CONCEPCION M. DIVINA, Court Stenographer, Regional Trial Court, Branch 3, Balanga City, Bataan,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; IN ADMINISTRATIVE PROCEEDINGS, THE QUANTUM OF PROOF NECESSARY FOR A FINDING OF GUILT IS SUBSTANTIAL EVIDENCE OR SUCH EVIDENCE AS A REASONABLE MIND MAY ACCEPT AS ADEQUATE TO SUPPORT A CONCLUSION.— In administrative proceedings, the quantum of proof necessary for a finding of guilt is substantial evidence or such evidence as a reasonable mind may accept as adequate to support a conclusion. The complainant has the burden of proving by substantial evidence the allegations in the complaint.

2. ID.; ID.; PUBLIC OFFICERS AND EMPLOYEES; COURT PERSONNEL; GROSS MISCONDUCT; NOT PROVEN IN CASE AT BAR.— In the present case, there is no sufficient, clear and convincing evidence to hold Divina administratively liable for Gross Misconduct as charged in the undated anonymous letter. As found during the investigation, apart from the allegation of the "Concerned Citizen," not a scintilla of evidence was proffered to establish that she demanded and solicited the amount of ₱20,000.00 from a party in a pending case before the RTC in exchange for the prompt preparation of the TSN. It bears to point out that the author of the undated anonymous letter never came out in the open to testify before the Investigating Judge to support his claim that Divina had engaged in an illegal activity to make money out of a case pending before the RTC. Accusation is not synonymous with guilt. This brings to fore the application of the age-old but familiar rule that he who alleges a fact has the burden of proving it for mere allegation is not evidence. Reliance on mere

Supreme Court E-Library

allegation, conjectures and suppositions will leave an administrative complaint with no leg to stand on. The allegation of "Concerned Citizen" that Divina attempted to extort ₱20,000.00 has remained as such and, thus, cannot be admitted as evidence, let alone given evidentiary weight. As it stands, this charge of attempted extortion has remained unsubstantiated and, hence, should be dismissed.

3. ID.; ID.; ID.; ID.; NORM OF CONDUCT TO BE OBSERVED.— The Court has always stressed that the behavior of all employees and officials involved in the administration of justice, from judges to the most junior clerks, is circumscribed with a heavy burden of responsibility. All court personnel must observe strict propriety and decorum to preserve and maintain the public's respect for and trust in the judiciary. Needless to say, every act and word of all court personnel should be characterized by prudence, restraint, courtesy and diligence.

4. REMEDIAL LAW; EVIDENCE; CREDIBILITY; THE FINDINGS AND EVALUATION OF THE INVESTIGATION JUDGE ARE ACCORDED FULL RESPECT; ACCUSATION OF EXTORTION, NOT PROVEN WITH SUFFICIENT EVIDENCE IN THE CASE AT BAR.— [T]he accusation of extortion by Ricardo against Divina is bereft of merit and, hence, must also be dismissed. The charge of extortion is a factual matter which must be established and proved with sufficient competent evidence. Complainant, upon whom rests the burden of proving his cause of action, failed to show in a satisfactory manner the facts upon which he based his claim. No clear and solid proof was offered by Ricardo to show that Divina demanded money from him in exchange for immediate preparation of his TSN. As found by the Investigating Judge, Ricardo even admitted that he voluntarily gave money to Divina each time the latter would ask for it because he believed that this would expedite the transcription of their stenographic notes. The Court is in full accord with the findings and evaluation of the Investigating Judge whose assessment and appreciation of evidence are quite competent and convincing. An accusation of extortion is a very serious charge which, if properly substantiated, would entail not only the respondent's dismissal from the Judiciary but also a possible criminal prosecution. To be sure, it will take more than a mere ambiguous testimony of a lone witness to lend an aura of credibility to such accusation.

Supreme Court E-Library

5. POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; COURT PERSONNEL; COURT STENOGRAPHERS; LACK OF DEDICATION IN THE PERFORMANCE OF ONE'S DUTIES, ESTABLISHED IN THE CASE AT BAR.— The records, however, are replete with evidence clearly showing that Divina is less than zealous in the performance of her official duties as court stenographer. As such, she failed to live up to the standard of efficiency and professionalism that the Judiciary demands from its court personnel. For one, Divina failed to strictly follow Administrative Circular No. 24-90 that prescribes the time for completion and submission of TSN. Although the Court is solicitous of the plight of court stenographers, being saddled with heavy workload is not compelling reason enough to justify Divina's failure to faithfully comply with the prescribed period provided in Administrative Circular No. 24-90 and, thus, she must be faulted. Otherwise, every government employee charged with inefficiency would resort to the same convenient excuse to evade punishment, to the great prejudice of public service. Moreover, as observed by Judge Escalada, of the four stenographers assigned to his court, only Divina was found to be delinquent in the transcription of stenographic notes. It is noteworthy that Administrative Circular No. 24-90 imposes upon all court stenographers the duty to transcribe the stenographic notes within twenty days from the time they had been taken, regardless of the presence or the absence of a demand for those notes by the parties. Neither does the above justification proffered by Divina constitute as sufficient excuse for her not to remit a portion of her collection from Ricardo for requests of copies of the TSN in the total amount of ₱600.00. Section 11, Rule 141 of the Rules of Court clearly provides that payment for requests of copies of the TSN shall be made to the Clerk of Court, and that a third of the portion of such payment accrues to the Judicial Development Fund *(JDF),* with only two-thirds thereof to be paid to the stenographer concerned. Thus, a stenographer is not entitled to the full amount of the TSN fees. Payment likewise cannot be made to her as the payment is an official transaction that must be made with the Clerk of Court. For all her foregoing shortcomings, Divina has shown her lack of dedication in the performance of her duties. As court stenographer, she knows or ought to know that she performs an important role in running the machinery

Supreme Court E-Library

of our trial court system and that TSNs are vital for the speedy disposition of cases.

6. ID.; ID.; ID.; ID.; ID.; MITIGATION OF ADMINISTRATIVE LIABILITY, PROPER IN THE CASE AT BAR.— The Court notes that Divina has not been previously charged administratively and that she has been in the service of the Judiciary for a long time, fifteen (15) years at the time of the occurrence of the incident with Atty. Camacho. Also, it appears on record that Divina was given a "Satisfactory" rating by Judge Escalada for the period January to March 2007 and a "Very Satisfactory" rating by Judge Tanciangco, for the period April to June 2007. In view of this, the Court is inclined to give Divina the benefit of the doubt and to construe her subsequent favorable performance ratings as an indication of improvement in the discharge of her duties. These circumstances do not cure her infractions but can mitigate her administrative liability. Taken in this light, the Court finds the imposable penalty recommended by the OCA in its September 14, 2010 Memorandum as fair and appropriate.

APPEARANCES OF COUNSEL

Zuniga Law Office for Ricardo M. Ricardo.

D E C I S I O N

MENDOZA, *J.*:

This disposition addresses the administrative complaints against respondent, Maria Concepcion M. Divina *(Divina),* Court Stenographer of the Regional Trial Court of Balanga City, Bataan, Branch 3 *(RTC),* to wit: **1]** an undated anonymous letter-complaint[1] filed by a "Concerned Citizen" charging her with Gross Misconduct for her alleged attempt to extort ₱20,000.00 in exchange for the Transcript of Stenographic Notes *(TSN)* of their case; **2]** a letter-complaint[2] dated August 24, 2005 of Atty. Teodoro O. Camacho III *(Atty. Camacho)* for her alleged arrogant behavior;

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[1] *Rollo,* p. 5.

[2] *Id.* at 20.

Supreme Court E-Library

and **3]** a complaint-affidavit[3] filed by Ricardo M. Ricardo *(Ricardo)* charging her with extortion and inefficiency.

As synthesized by the Office of the Court Administrator *(OCA)* in its September 14, 2010 Memorandum,[4] the facts of the case are as follows:

> Records show that sometime in 2005, an anonymous complaint was filed by a "Concerned Citizen" against Maria Concepcion M. Divina, Court Stenographer, Regional Trial Court, Branch 3, Balanga City, Bataan, for Grave Misconduct. According to the letter-sender, respondent demanded Twenty Thousand Pesos (₱20,000.00) from them in exchange for the Transcript of Stenographic Notes of their case. Respondent allegedly threatened them that if they failed to give her money, she would not prepare the Transcript of Stenographic Notes (TSN) they were requesting, which would result in the delay in the disposition of their case.
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> On December 8, 2005, the matter was referred to Honorable Remigio M. Escalada, Jr., Executive Judge, Regional Trial Court, Balanga City, Bataan, for discreet investigation. On March 2, 2006, Judge Escalada submitted his investigation report. He claimed that he could not ascertain the identity of the letter-writer. However, one court litigant executed a sworn statement alleging that respondent demanded money from him when he asked for a copy of TSN. Integrated Bar of the Philippines (IBP) Bataan Chapter President, Atty. Teodoro O. Camacho III, likewise complained about the arrogance of respondent when he requested for a TSN, which respondent failed to submit on time. When Judge Escalada conducted an inventory of the docket folders, he discovered that respondent had a backlog of untranscribed stenographic notes as far back as 2001.
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> On March 6, 2006, the anonymous complaint was referred to respondent for comment. Ms. Divina denied that she demanded Twenty Thousand Pesos (₱20,000.00) from a court litigant, and that she had been delaying the release of the TSN of cases assigned to her. She maintained that most of the time, TSNs were given for free because majority of the litigants in their court are indigents and her townmates. She even had to bring home some of her work so that

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[3] *Id.* at 13.

[4] *Id.* at 193-200.

Supreme Court E-Library

she can finish transcribing them and she reports for work even on her birthdays and when her children were in the hospital, just to finish her work.

Considering the gravity of the charges against the respondent and in order to afford her a chance to answer the accusations against her, the Court, in its Resolution of October 11, 2006, referred the complaint to Judge Escalada, for a full-blown investigation. The Clerk of Court of Regional Trial Court, Branch 3, Balanga City, Bataan, was likewise required to conduct an inventory of all untranscribed stenographic notes of respondent.

In compliance with the October 11, 2006 Resolution, Judge Escalada reported that respondent faces three (3) charges; (1) extortion and delay in submitting the Transcript of Stenographic Notes in Civil Case No. 7400; (2) delay in submitting the TSN covering the proceeding in other cases; and (3) belligerent attitude exhibited against Atty. Teodoro O. Camacho III.

In the investigation conducted by Judge Escalada, Mr. Ricardo M. Ricardo, petitioner in Civil Case No. 7400, for annulment of marriage, testified that he was not the author of the anonymous complaint and his "Sinumpaang Salaysay," dated January 16, 2006, was the only complaint he filed against respondent for the delay in the submission of Transcript of Stenographic Notes. He alleged that on the day he took the witness stand, respondent waved her hand at him while he was still outside the courtroom, and after the hearing, respondent told him to secure the TSN of his testimony in order that the psychologist/expert witness may review the same. Respondent asked money from him and he gave her One Hundred Pesos (₱100.00), the only money he could spare. Before the date of the hearing wherein he would present the psychologist, he approached the respondent and asked her about the transcript, but he was told by respondent that, "*Marami pa akong ginagawa at marami pang nakapila, kaya di ko pa magawa*." He followed up his request for the TSN for several times, but he felt that respondent was making it difficult for him to get the transcript. Thus, the next time respondent asked money from him, he readily gave her Five Hundred Pesos (₱500.00), although he was aware that the transcript costs only Ten Pesos (₱10.00) per page. In August 2005, he went again to respondent to ask for the transcript, but respondent failed to give him the TSN.

Atty. Camacho's complaint stemmed from a verbal row he had with respondent on August 18, 2005 at the lawyer's table while a

Supreme Court E-Library

hearing was going on. Atty. Camacho testified that, on August 18, 2005, he was at the sala of Regional Trial Court, Branch 3, Balanga City, Bataan, as counsel of one of the accused, and waiting for his case to be called. He was then holding the TSN of the case, where Atty. Eliodoro S. Baluyot was the counsel of the other accused. He told Atty. Baluyot that he could ask for a copy of the said TSN from respondent. When respondent heard what he had advised Atty. Baluyot, respondent arrogantly asked him, with piercing eyes, *"Gusto mo ngayon ko kukunin?"* Complainant claimed that it was not his intention to direct respondent to rise from her seat and get the TSN from the staff room. According to complainant, prior to the incident, he had repeatedly requested for the TSN from respondent who promised to give him a copy few days before the scheduled hearing. When he eventually got the TSN, respondent even retorted, "*Hindi ko naman dinagdagan yan and in 20 years na pagtatrabaho ko dito, tama ang aking ginagawa.*" Complainant realized that the reason why respondent was slow in finishing the transcripts, especially for IBP Legal Aid cases, was because she would not be paid, due to previous arrangement of the IBP with court stenographers to give the TSN for free to lawyers rendering services *pro bono*.[5]

In his Investigation Report[6] dated March 12, 2007, Judge Remigio M. Escalada, Jr. *(Judge Escalada)* found Divina liable for violation of Section 11 of Rule 141 due to her unauthorized collection of payments from complainant Ricardo for the TSN in Civil Case No. 7400. Judge Escalada also found her liable for unjustified delay in preparing the TSN in Civil Case No. 7400 despite repeated demands of Ricardo and for failure to timely submit the TSN due from her in other cases. The Investigating Judge, however, accorded Divina the benefit of the doubt on Ricardo's allegation of extortion in the light of his ambiguous testimony on the matter. In the absence of sufficient proof, Judge Escalada absolved Divina of the extortion charge by the "Concerned Citizen," whose identity had remained unknown even until the investigation was over.

Anent the charge of belligerent attitude by Atty. Camacho, Judge Escalada opined that it was not sufficiently established,

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[5] *Id.* at 193-196.

[6] *Id.* at 37-44.

Supreme Court E-Library

although evidence on this score all the more showed how inefficient and ineffective Divina had become as a stenographer. For her infractions, Judge Escalada recommended that Divina be suspended from service for not less than six (6) months without pay. Further, he suggested that, after serving her suspension penalty, Divina be transferred to any first-level court in Bataan as she could not cope with the more demanding work in the second-level court.

The Court referred the investigation report of Judge Escalada to the OCA for evaluation, report and recommendation as per Resolution[7] dated March 28, 2007.

In the Memorandum[8] dated August 22, 2007, the OCA echoed the findings of Judge Escalada and agreed that Divina was guilty of inefficiency in the performance of duty and violation of Section 11, Rule 141 and Section 17, Rule 136 of the Rules of Court, and Administrative Circular No. 24-90 dated July 12, 1990. The OCA said, however, that it could not adopt the penalty recommended by Judge Escalada considering the numerous TSNs that Divina failed to timely transcribe which definitely contributed to the delay in the administration of justice. The OCA also noted the "Unsatisfactory" performance rating she was given for the period from July to December 2006. It recommended instead, a penalty of suspension from service for one (1) year without pay.

In the Resolution[9] dated September 10, 2007, the Court resolved to: 1) re-docket the complaint as a regular administrative matter; 2) direct the Clerk of Court of the RTC to properly monitor the Stenographic Reporters under her supervision; and 3) order Judge Escalada to review the performance rating of Divina for the period from January to June 2007, pursuant to Circular No. 172-2003 dated December 2, 2003 and to submit his recommendations to this Court through the Performance Evaluation Committee *(PERC),* OCA.

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[7] *Id.* at 35.

[8] *Id.* at 157-165.

[9] *Id.* at 166-167.

Supreme Court E-Library

In compliance with the directive, Judge Escalada submitted a letter[10] dated October 30, 2007 informing the Court that he gave Divina a "Satisfactory" rating for her work performance from January to March 2007. Judge Erasto D. Tanciangco *(Judge Tanciangco)*, Presiding Judge of the 1st Municipal Circuit Trial Court of Dinalupihan Hermosa, Bataan *(MCTC)*, where Divina was detailed from April to September 2007, gave her a "Very Satisfactory" rating for the period April to June 22, 2007. Instead of six (6) months suspension, Judge Escalada recommended that the Court impose upon Divina the penalty of suspension from the service for two (2) months, without salary and with warning, considering that Divina's work performance had improved.

In the Resolution[11] dated January 21, 2008, the Court again referred this October 30, 2007 letter of Judge Escalada to the OCA for evaluation, report and recommendation.

Pursuant thereto, the OCA issued its Memorandum[12] dated July 11, 2008 stating that Divina's improvement in her work performance would not exonerate her from her culpability for inefficiency and violation of the Code of Conduct for Court Personnel, particularly, Section 4, Canon 1 which prohibits court personnel from accepting any fee or remuneration beyond what they receive or are entitled to in their official capacity. The OCA recommended that Divina be found guilty of gross violation of the Code of Conduct for Court Personnel for demanding money over and above the fees of TSN as provided for in the Rules and recommended that she be dismissed from service with forfeiture of all salaries and benefits, except accrued leave credits to which she may be entitled, and with disqualification from reinstatement or appointment to any public office, including government-owned and controlled corporation.

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[10] *Id.* at 168-170.

[11] *Id.* at 173.

[12] *Id.* at 176-178.

Supreme Court E-Library

On October 28, 2009, the Court issued its Resolution[13] requiring the parties to manifest if they were willing to submit the case for decision/resolution on the basis of the pleadings filed. On January 14, 2010, Divina filed her Manifestation and Motion[14] (With Explanation for the Late Filing of the Same) praying for the reopening of the case for further investigation and reception of evidence. On the other hand, Atty. Joe Frank Zuniga *(Atty. Zuñiga)*, counsel for Ricardo, filed his Compliance[15] dated December 9, 2009 wherein he expressed his desire to submit the case for resolution based on the pleadings on record.

In the Resolution[16] dated April 5, 2010, the Court referred Atty. Zuniga's December 9, 2009 Compliance and January 13, 2010 Manifestation to the OCA. On September 14, 2010, the OCA issued its Memorandum[17] where the following recommendations were submitted for the consideration of the Court: 1) to deny Divina's motion to reopen the case; and 2) to mete the penalty of suspension for one (1) year without pay against Divina for inefficiency in the performance of duty and violation of Section 11, Rule 141 and Section 17, Rule 136 of the Rules of Court and Circular No. 24-90 dated July 12, 1990, with a caveat that a repetition of the same or similar acts in the future shall be dealt with more severely.[18]

After a judicious review of the records, the Court finds that this case can be decided based on the pleadings filed by the parties and the reports submitted by the Investigating Judge and the OCA. Divina's motion for further investigation and presentation of evidence is denied considering that she was already afforded sufficient opportunity to controvert and refute the accusations against her through her comment and testimony during the full-blown investigation conducted by Judge Escalada.

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[13] *Id.* at 180.

[14] *Id.* at 181-182.

[15] *Id.* at 184.

[16] *Id.* at 191.

[17] *Id.* at 193-200.

[18] *Id.* at 199-200.

Supreme Court E-Library

The issue to be resolved now is whether or not Divina is guilty of the charges hurled against her. In this regard, the Court determines that the findings of the OCA in its September 14, 2010 Memorandum, are well-taken.

In administrative proceedings, the quantum of proof necessary for a finding of guilt is substantial evidence or such evidence as a reasonable mind may accept as adequate to support a conclusion. The complainant has the burden of proving by substantial evidence the allegations in the complaint.[19]

In the present case, there is no sufficient, clear and convincing evidence to hold Divina administratively liable for Gross Misconduct as charged in the undated anonymous letter. As found during the investigation, apart from the allegation of the "Concerned Citizen," not a scintilla of evidence was proffered to establish that she demanded and solicited the amount of ₱20,000.00 from a party in a pending case before the RTC in exchange for the prompt preparation of the TSN. It bears to point out that the author of the undated anonymous letter never came out in the open to testify before the Investigating Judge to support his claim that Divina had engaged in an illegal activity to make money out of a case pending before the RTC.

Accusation is not synonymous with guilt. This brings to fore the application of the age-old but familiar rule that he who alleges a fact has the burden of proving it for mere allegation is not evidence. Reliance on mere allegation, conjectures and suppositions will leave an administrative complaint with no leg to stand on.[20] The allegation of "Concerned Citizen" that Divina attempted to extort ₱20,000.00 has remained as such and, thus, cannot be admitted as evidence, let alone given evidentiary weight. As it stands, this charge of attempted extortion has remained unsubstantiated and, hence, should be dismissed.

The charge of belligerent/arrogant behavior against Divina must likewise fail. A circumspect scrutiny of the records has

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[19] *Aldecoa-Delorino v. Abellanosa*, A.M. No. P-08-2472, October 19, 2010, 633 SCRA 449, 462.

[20] *Alfonso v. Ignacio*, 487 Phil. 1, 7 (2004).

Supreme Court E-Library

revealed that the testimony of Atty. Camacho is inadequate to establish his claim and to hold her liable for misconduct. The Court fully subscribes to the findings of the Investigating Judge whose observation deserves to be quoted at length, thus:

> Apropos the incident between complainant Camacho and the respondent, the Investigating Judge is at a loss on how to make a categorical disposition. The testimony of complainant Camacho is as credible as that of respondent's insofar as the incident in question is concerned. Although this Investigating Judge was present when the spat took place, his attention was focused at a case then being heard. It would have been easier for the Investigating Judge to make a clear-cut finding had complainant Camacho or respondent, on their own, offered the testimony of Atty. Eliodoro S. Baluyot or of any other person who may have been an eyewitness in support of their versions. Verily, some leeway must be allowed to the justification proffered by respondent. It is not hard to imagine the situation the respondent was in at the time of the incident. She should have all eyes and ears at the hearing then in progress, and yet, a lawyer in front of her kept on asking her about a copy of a TSN which is not even due to him but to some other lawyer. This is not to say, however, that the respondent should be absolved entirely of what had happened between her and complainant Camacho. The fact is that a TSN was due from her and it took a lot of requests from said complainant before she made it available. xxx[21]

The Court has always stressed that the behavior of all employees and officials involved in the administration of justice, from judges to the most junior clerks, is circumscribed with a heavy burden of responsibility.[22] All court personnel must observe strict propriety and decorum to preserve and maintain the public's respect for and trust in the judiciary. Needless to say, every act and word of all court personnel should be characterized by prudence, restraint, courtesy and diligence.

In this case, Divina's demeanor at the time was nothing but an isolated emotional outburst after being apparently distracted

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[21] *Rollo*, p. 44.

[22] *Office of the Court Administrator v. Montalla*, A.M. No. P-06-2269, December 20, 2006, 511 SCRA 328, 331.

Supreme Court E-Library

from taking down stenographic notes of a proceeding because of the repetitious and annoying requests of Atty. Camacho for a copy of the TSN, not for himself, but for his lawyer friend. To the mind of the Court, Divina's conduct was not of such deplorable and contemptible nature that would serve as valid basis to slap her with an administrative and disciplinary sanction in view of the facts obtaining in this case. Besides, there is no showing that her behavior at that time was calculated merely to disrespect, humiliate or insult Atty. Camacho before those present during the hearing. It is significant to note that Atty. Camacho has not cited any other similar incident to validate his accusation of her alleged belligerent attitude towards him.

Meanwhile, the accusation of extortion by Ricardo against Divina is bereft of merit and, hence, must also be dismissed. The charge of extortion is a factual matter which must be established and proved with sufficient competent evidence. Complainant, upon whom rests the burden of proving his cause of action, failed to show in a satisfactory manner the facts upon which he based his claim. No clear and solid proof was offered by Ricardo to show that Divina demanded money from him in exchange for immediate preparation of his TSN. As found by the Investigating Judge, Ricardo even admitted that he voluntarily gave money to Divina each time the latter would ask for it because he believed that this would expedite the transcription of their stenographic notes.

The Court is in full accord with the findings and evaluation of the Investigating Judge whose assessment and appreciation of evidence are quite competent and convincing. An accusation of extortion is a very serious charge which, if properly substantiated, would entail not only the respondent's dismissal from the Judiciary but also a possible criminal prosecution. To be sure, it will take more than a mere ambiguous testimony of a lone witness to lend an aura of credibility to such accusation.

The records, however, are replete with evidence clearly showing that Divina is less than zealous in the performance of her official duties as court stenographer. As such, she failed to live up to the standard of efficiency and professionalism that the Judiciary demands from its court personnel.

Supreme Court E-Library

For one, Divina failed to strictly follow Administrative Circular No. 24-90[23] that prescribes the time for completion and submission of TSN. Thus:

> 2. (a) All stenographers are required to transcribe all stenographic notes and to attach the transcript to the record of the case not later than twenty (20) days from the time the notes are taken. The attaching may be done by putting all said transcripts in a separate folder or envelope, which will then be joined to the records of the case.
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> (b) The stenographer concerned shall accomplish a verified monthly certification as to compliance with this duty. xxx

The Court cannot turn a blind eye on Divina's clear violation of the foregoing circular which is evident from the open court orders given by Judge Escalada, Presiding Judge of RTC, Balanga City, Branch 3. In the Order[24] dated November 24, 2005 in Criminal Case Nos. 7837-7840 entitled *People v. Roberto dela Peña*, the promulgation of judgment had to be deferred because of her delayed submission of the required TSN. In the Order[25] dated November 24, 2005 in Criminal Case No. 9786 entitled *People v. Fernando Uno y Giray;* Order[26] dated January 19, 2006 in Criminal Case No. 9084 entitled *People v. Ariel De Guzman y Santos;* and Order[27] dated February 15, 2006 in Criminal Case No. 9697 entitled *People v. Danilo Bonuel y Cuevas,* the scheduled hearings were reset to much later dates due to the unavailability or non-transcription by Divina of the stenographic notes she took during the previous hearings. Divina offered no explanation for her failure to comply with the prescribed deadline.

Records also disclose that Judge Escalada issued a Memorandum[28] dated February 6, 2006 addressed to Divina

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[23] Promulgated by this Court on July 12, 1990 and took effect on August 1, 1990.

[24] *Rollo,* p. 14.

[25] *Id.* at 15.

[26] *Id.* at 15-a.

[27] *Id.* at 17.

[28] *Id.* at 16.

Supreme Court E-Library

directing her to immediately submit the TSN in *People v. Reynaldo Albarda* dated December 20, 2001, April 29, 2003 and February 4, 2005 under pain of disciplinary action should she fail to do so. On February 27, 2006, Divina received from Judge Escalada another letter[29] dated February 23, 2006 requiring her to submit with utmost dispatch the long overdue TSN in numerous civil and criminal cases contained in a 7-page list.[30] Due to her noncompliance, Judge Escalada was constrained to issue another Memorandum[31] dated April 18, 2006 directing her to submit all the TSNs due from her on or before May 2006 and excluding her, in the meantime, from court duty of taking down stenographic notes during hearings. In evaluating Divina's work performance, Judge Escalada rated Divina "Unsatisfactory" for the period from July to December 2006. Her poor rating was due to her delays in submitting the required TSNs.

Further, it was shown that Margarita H. Quicho *(Ms. Quicho)*, Officer-in-Charge of the RTC, submitted an inventory of overdue TSN[32] of Divina as of January 28, 2006, consisting of four (4) pages in compliance with the October 11, 2006 Resolution of the Court. Said inventory disclosed that Divina had a total of **109** untranscribed notes, 3 of which were taken in April, August and November 2001, 5 in 2002, 12 in 2003, 22 in 2004, and 67 in 2005. According to Ms. Quicho, Divina still had to submit the TSN as of January 12, 2007.

Lastly, the evidence shows that Divina gave Ricardo difficult time in securing the needed TSN in Civil Case No. 7400. Despite numerous requests and follow-ups, Ricardo failed to get from her copies of the TSN though he already paid for them. Notably, she submitted the TSN in Civil Case No. 7400, covering the proceedings taken on October 17, 2002 and on May 12, 2005,

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[29] Records, p. 84.

[30] *Id.* at 85-91.

[31] *Id.* at 83.

[32] *Id.* at 94-97.

Supreme Court E-Library

only on January 23, 2006.[33] Hence, she incurred an *intolerable delay of three (3) years, three (3) months and five (5) days in transcribing the stenographic notes of October 17, 2002 hearing consisting of only thirteen pages,*[34] *while it took her eight (8) months and ten (10) days to transcribe the May 12, 2005 hearing consisting of only eight (8) pages.*[35]

In a desperate bid to exonerate herself from administrative liability and to justify her delays, Divina cited her heavy workload and the need to transcribe the stenographic notes in several other cases as well. She bared that she had to bring home some of her notes so that she could finish transcribing them and in the process, she spent a part of her salary for tape recorder, blank cassette tape, batteries and the like. She also claimed that she had to report for work even on her birthdays and when her children were in the hospital just to complete her duties and obligations.

Although the Court is solicitous of the plight of court stenographers, being saddled with heavy workload is not compelling reason enough to justify Divina's failure to faithfully comply with the prescribed period provided in Administrative Circular No. 24-90 and, thus, she must be faulted. Otherwise, every government employee charged with inefficiency would resort to the same convenient excuse to evade punishment, to the great prejudice of public service. Moreover, as observed by Judge Escalada, of the four stenographers assigned to his court, only Divina was found to be delinquent in the transcription of stenographic notes. It is noteworthy that Administrative Circular No. 24-90 imposes upon all court stenographers the duty to transcribe the stenographic notes within twenty days from the time they had been taken, regardless of the presence or the absence of a demand for those notes by the parties.[36]

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[33] *Rollo,* p. 43.

[34] Records, pp. 112-124.

[35] *Id.* at 125-132.

[36] *Alcover v. Bacatan*, 513 Phil. 77, 83 (2005).

Supreme Court E-Library

Neither does the above justification proffered by Divina constitute as sufficient excuse for her not to remit a portion of her collection from Ricardo for requests of copies of the TSN in the total amount of ₱600.00. Section 11,[37] Rule 141 of the Rules of Court clearly provides that payment for requests of copies of the TSN shall be made to the Clerk of Court, and that a third of the portion of such payment accrues to the Judicial Development Fund *(JDF),* with only two-thirds thereof to be paid to the stenographer concerned. Thus, a stenographer is not entitled to the full amount of the TSN fees. Payment likewise cannot be made to her as the payment is an official transaction that must be made with the Clerk of Court.

For all her foregoing shortcomings, Divina has shown her lack of dedication in the performance of her duties. As court stenographer, she knows or ought to know that she performs an important role in running the machinery of our trial court system and that TSNs are vital for the speedy disposition of cases. Divina must be reminded that the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat and, hence, it becomes the imperative and sacred duty of each and everyone in the court to maintain its good name and standing as a true temple of justice.[38] The lackadaisical attitude displayed by Divina in performing her duties hampered the prompt and proper administration of justice.

No less than the Constitution mandates that public officers and employees must at all times serve the people with utmost responsibility, integrity and efficiency.[39] Indeed, public office

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[37] Sec. 11. Stenographers. — Stenographers shall give certified transcript of notes taken by them to every person requesting the same upon payment to the Clerk of Court of (a) TEN (₱10.00) PESOS for each page of not less than two hundred and fifty words before the appeal is taken and (b) FIVE (₱5.00) PESOS for the same page, after the filing of the appeal, provided, however, that one-third (1/3) of the total charges shall accrue to the Judiciary Development Fund (JDF) and the remaining two-thirds (2/3) to the stenographer concerned.

[38] *Judge Ibay v. Lim*, 394 Phil. 415, 421-422. (2000).

[39] Article XI, Section 1, 1997 Constitution.

Supreme Court E-Library

is a public trust. Divina indubitably violated this trust by failing to diligently fulfill her duties. Her delay and inefficiency in punctually transcribing the notes she took of court proceedings assigned to her definitely prejudiced public service and jeopardized the faith and confidence of the affected litigants in the Judiciary.

The Court notes that Divina has not been previously charged administratively and that she has been in the service of the Judiciary for a long time, fifteen (15) years at the time of the occurrence of the incident with Atty. Camacho.[40] Also, it appears on record that Divina was given a "Satisfactory" rating by Judge Escalada for the period January to March 2007 and a "Very Satisfactory" rating by Judge Tanciangco, for the period April to June 2007. In view of this, the Court is inclined to give Divina the benefit of the doubt and to construe her subsequent favorable performance ratings as an indication of improvement in the discharge of her duties. These circumstances do not cure her infractions but can mitigate her administrative liability. Taken in this light, the Court finds the imposable penalty recommended by the OCA in its September 14, 2010 Memorandum as fair and appropriate.

WHEREFORE, respondent Maria Concepcion M. Divina, Court Stenographer of the Regional Trial Court of Balanga City, Branch 3, is found *GUILTY* of inefficiency and violation of the provisions of Administrative Circular No. 24-90 dated July 12, 1990 and Section 11, Rule 141 of the Rules of Court. She is hereby *SUSPENDED FROM SERVICE* for the period of *ONE (1) YEAR* without pay, with a stern warning that repetition of the same or similar acts in the future shall be dealt with more severely.

Let a copy of this Decision be attached to the 201 file of the respondent.

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[40] Records, p. 65.

Supreme Court E-Library

SO ORDERED.

Carpio,[*] *Peralta (Acting Chairperson), Abad,* and *Villarama, Jr.,*[**] *JJ.,* concur.

SECOND DIVISION

[A.M. No. P-11-3009. November 16, 2011]
(Formerly A.M. OCA I.P.I. No. 10-3386-P)

BEATRIZ B. OÑATE, *complainant, vs.* **SEVERINO G. IMATONG, Junior Process Server, Municipal Circuit Trial Court, Piat, Cagayan,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; COURT PERSONNEL; EXACTING STANDARDS OF ETHICS AND MORALITY FOR COURT EMPLOYEES ARE REQUIRED TO MAINTAIN THE PEOPLE'S FAITH IN THE COURTS AS DISPENSERS OF JUSTICE WHOSE IMAGE IS MIRRORED BY THEIR ACTUATIONS.— The exacting standards of ethics and morality for court employees are required to maintain the people's faith in the courts as dispensers of justice whose image is mirrored by their actuations. In this case involving no less than his widowed sister-in-law, respondent Imatong fell short of these exacting standards of morality demanded from court employees.

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[*] Designated as additional member in lieu of Associate Justice Estela M. Perlas-Bernabe, per Special Order No. 1152-A dated November 11, 2011.

[**] Designated as additional member in lieu of Associate Justice Presbitero J. Velasco, Jr., per Raffle dated November 14, 2011.