Supreme Court E-Library

No pronouncement as to costs.

SO ORDERED.

Puno, Kapunan, Pardo, and *Ynares-Santiago, JJ.*, concur.

EN BANC

[A.M. No. P-94-1076. November 22, 1999]

JUDGE ENRIQUE M. ALMARIO, *complainant, vs.* **ATTY. JAMESWELL M. RESUS, Clerk of Court, and NORA SACLOLO, Stenographic Reporter, RTC, Branch 15, Naic, Cavite,** *respondents.*

SYNOPSIS

In a letter-complaint filed on 25 August 1994, complainant judge charged Clerk of Court Jameswell Resus and Stenographic Reporter Nora Saclolo of his court with gross misconduct. According to complainant, respondent Saclolo prepared a transcript of stenographic notes (TSN) of an *ex-parte* hearing held in the morning of 22 March 1994 in the office of respondent Resus wherein depositions of Mrs. Trinidad Enriquez, applicant in LRC Cases Nos. NC-453 to 458, had been taken. Complainant could not, however, believe that such proceeding would have taken place because it was only on 15 August 1994 that the applicant moved for the taking of deposition on the ground that she was no longer physically fit to travel long distance trips. In a Supplemental Complaint, complainant judge also charged both respondents with falsification of the TSN in GLRO Case No. 8340 by making it appear that a hearing in the case was held on 8 June 1994. The case was referred to Executive Judge Rolando Diaz of the RTC of Cavite City, for investigation, report and recommendation. In his Report, Judge Diaz found that no falsification of TSN in LRC Cases Nos. NC-455 to 458

Supreme Court E-Library

was committed, since respondent Saclolo neither signed the alleged falsified or ghost transcript nor certified to its truth and correctness. Anent the charge of falsification of the TSN in GLRO Case No. 8340, he found that a proceeding for the reception of evidence indeed took place on 8 June 1994. If at all, what was patently erroneous was the insertion into the TSN of Prosecutor Vida's cross-examination questions propounded during the second hearing held sometime after the receipt by the court of the Notice of Appearance of the OSG. Accordingly, Judge Diaz recommended that the charges of falsification be dismissed but that the respondents be reprimanded or admonished. In its Memorandum of 1 July 1999, the OCA recommended that respondents be suspended from office for six months without pay, with a stern warning that a repetition of similar acts be dealt with more severely.

The Supreme Court found respondents guilty of grave misconduct and conduct prejudicial to the best interest of the service. Respondent Saclolo deserved to be dismissed from the service for her grave misconduct in preparing in advance a TSN of a hearing yet to take place and in inserting it into the records of the case even though the hearing did not push through and presented it to the Judge, instead of disregarding it. To the mind of the Court, there was a clear conspiracy to fabricate the transcript of stenographic notes of an alleged reception of evidence. As for respondent Resus, even assuming arguendo that he did not have a hand in the preparation of the subject TSN, he must be held answerable for willfully turning a blind eye on the acts of respondent Saclolo. He never questioned Saclolo about the TSN nor did he report such irregularity or anomaly to complainant Judge. Being the administrative officer of the court and having control and supervision over all court records, he cannot just wash his hands now and go scot-free. Anent the second charge, the Court found that two hearings were held on different dates, and yet respondent Saclolo prepared only one TSN dated 8 June 1994. She just inserted in the TSN the cross-examination questions propounded by Prosecutor Vida during the subsequent hearing, thereby making it appear that only one hearing was conducted in that date. And respondent Resus tolerated this. He even made that TSN as basis for his order. By their acts, they have compromised and undermined the public's faith in the records of the court below and, ultimately,

Supreme Court E-Library

the integrity of the judiciary. Hence, the Court ordered the dismissal of the respondents from service with forfeiture of all benefits and with prejudice to reemployment in the Government or any agency thereof.

SYLLABUS

1. **ADMINISTRATIVE LAW; COURT PERSONNEL; MISCONDUCT.—** We find respondents Saclolo and Resus guilty of grave misconduct and conduct prejudicial to the best interest of the service. Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from the service, the misconduct must be serious, important, weighty, momentous and not trifling. It must also have direct relation to, and be connected with, the performance of official duties amounting either to maladministration or willful, intentional neglect or failure to discharge the duties of the office.

2. **ID.; ID.; COURT STENOGRAPHER; ACCEPTANCE OF A "TRIAL GUIDE" FROM APPLICANT'S COUNSEL CONSIDERED ANOMALOUS.—** With respect to LRC Cases Nos. NC 453-458, it was indeed anomalous for respondent Saclolo to accept from Atty. Valerio, counsel for the applicant therein, a "trial guide" that allegedly aid her in transcribing her stenographic notes. Indeed, as opined by the OCA, court stenographers can use cassette recorders or ask the assistance of court interpreters whenever they have a hard time deciphering the testimonies of witnesses. Besides, contrary to Saclolo's claim, it would not be difficult to understand the testimony of Mrs. Enriquez because, being an old woman, she would have a tendency to speak slowly. More importantly, stenographers are supposed to take steno notes only of matters that transpire during court hearings or preliminary investigations, as well as the dictations of the judge or clerk of court, and transcribe these notes thereafter.

3. **ID.; ID.; ID.; PREPARATION OF T.S.N. IN ADVANCE AND ATTACHING IT TO RECORD OF CASE CONSTITUTES GRAVE MISCONDUCT. —** Saclolo, deserves to be dismissed from the service for her grave misconduct in preparing in advance a TSN of a hearing yet to take place and inserting it into the

Supreme Court E-Library

records of the case even though the hearing did not push through. The fact that she did not affix her signature thereon or certify to the truth or correctness thereof is of no moment. As aptly opined by the OCA, her acts were violative of the very essence of a TSN, which is supposed to be a faithful and exact recording of all matters that transpire during a court proceeding. To tolerate such acts would open the floodgates to fraud by, or graft and corruption of, judges and court personnel.

4. **ID.; ID.; CLERK OF COURT; WILLFUL FAILURE TO MAINTAIN THE AUTHENTICITY AND CORRECTNESS OF COURT RECORDS CONSTITUTES GRAVE MISCONDUCT.**— As for respondent Resus, even assuming *arguendo* that he did not have a hand in the preparation of the subject TSN, he must be held answerable for willfully turning a blind eye on Saclolo's acts of preparing the said TSN in advance and attaching it to the records of the LRC cases. He admitted having received from Saclolo a copy of that TSN. But, despite the fact that the hearing on 22 March 1994 did not push through, he never questioned Saclolo about that TSN; instead, he allowed that TSN to remain attached to the records of the LRC cases. Nor did he report such irregularity or anomaly to complainant Judge. Being the administrative officer of the court and having the control and supervision over all court records, he cannot just wash his hands now and go scot-free. In short, he cannot even claim simple neglect of duty. The circumstances attending the irregularity or impropriety herein charged demonstrated beyond doubt Resus' deliberate participation in its commission or perpetration. As a clerk of court, Resus is specifically mandated to safeguard the integrity of the court and its proceedings, and to maintain the authenticity and correctness of court records. His willful and intentional failure to obey this mandate constituted grave misconduct or conduct highly prejudicial to the best interest of the service, which warrants dismissal from the service.

5. **ID.; ID.; RESPONDENTS, BY THEIR ACTS, HAVE COMPROMISED AND UNDERMINED THE INTEGRITY OF JUDICIARY.**— We agree with the findings of Judge Diaz and the OCA that an *ex-parte* hearing indeed took place on 8 June 1994 in GLRO Case No. 8340. There is no dispute, however, that the said hearing was not terminated on that day because Public Prosecutor Vida had still to wait for the OSG's Notice

Supreme Court E-Library

of Appearance before he could cross-examine the witnesses. The hearing was thus continued only after the court received the Notice of Appearance and after Prosecutor Vida received the Authority for him to represent the government in that case. Two hearings were thus held on different dates, and yet respondent Saclolo prepared only one TSN dated 8 June 1994. She just inserted in that TSN the cross-examination questions propounded by Prosecutor Vida during the subsequent hearing, thereby making it appear that only one hearing was conducted in that case. And Resus tolerated this; he even made that TSN as basis for his draft order. By their acts, they have compromised and undermined the public's faith in the records of the court below and, ultimately, the integrity of the Judiciary.

6. **ID.; ID.; THE CONDUCT OF COURT PERSONNEL MUST ALWAYS BE BEYOND REPROACH.—** Time and again, this Court has stressed that all those involved in the dispensation of justice, from the presiding judge to the lowliest clerk, must always be beyond reproach. Their conduct or behavior must, at all times, be circumscribed with the heavy burden of responsibility as to let them free from any suspicion that may taint the judiciary. As the administration of justice is a sacred task, this Court condemns and cannot countenance any act or omission on the part of court personnel that would violate the norm of public accountability and diminish or even just tend to diminish the faith of the people in the judiciary.

RESOLUTION

***PER CURIAM*:**

In a letter-complaint[1] filed on 25 August 1994, complainant Judge Enrique M. Almario, then Presiding Judge of Branch 15 of the Regional Trial Court (RTC) of Naic, Cavite, charged Clerk of Court Jameswell Resus and Stenographic Reporter Nora Saclolo of his court with gross misconduct in connection

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[1] *Rollo*, 1-2.

Supreme Court E-Library

with LRC Cases Nos. NC-453 to 458[2] and GLRO Case No. 8340.[3]

After submission by the parties of their respective pleadings, this Court, in its resolution of 25 October 1995, referred this case to Executive Judge Rolando Diaz of the RTC of Cavite City, Branch 17, for investigation, report, and recommendation.

Culled from the pleadings and evidence submitted, the following are the respective versions of the complainant and the respondents:

According to the complainant Judge, sometime on the first week of August 1994, Atty. Herminio Valerio, counsel for applicant Trinidad Enriquez in LRC Cases Nos. NC-453 to 458, approached him and manifested that he would file a motion for the taking of deposition of the said applicant. On 8 August 1994, respondent Nora Saclolo brought to him the records of the said cases. Much to his surprise, he saw a transcript of stenographic notes[4] (hereafter TSN) of an *ex-parte* hearing held in the morning of 22 March 1994 in the office of respondent Resus wherein Mrs. Enriquez was said to have testified and later cross-examined by a representative of the Office of the Solicitor General (OSG). The said TSN was neither signed nor certified to by respondent Saclolo but was, nevertheless, attached to the *expediente.* This prompted the complainant to conduct an informal investigation at his chambers to determine what actually happened on 22 March 1994.

The TSNs[5] of that investigation, separately prepared by two court stenographers, disclosed that respondent Saclolo admitted that an *ex-parte* reception of evidence was held on the date in question but that she committed a mistake in transcribing the venue of the hearing, which should have been Silahis Hotel, Manila, and not Naic, Cavite. Complainant Judge could not,

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[2] Petitions for registration of titles.

[3] Petition for the issuance of a co-owner's duplicate transfer certificate of title.

[4] Exhibit "1" for Saclolo and Exh. "C" for Complainant; *Rollo,* 3-38.

[5] Exh. "B"; *Id.,* 59-75.

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however, believe that such a proceeding would have taken place because it was only on 15 August 1994 that the applicant moved for the taking of deposition on the ground that she was "no longer physically fit to travel long distance trips."[6] Believing that the subject TSN is a transcript of a "ghost proceeding," complainant Judge filed the instant complaint.

In a Supplemental Complaint, complainant Judge also charged both respondents with falsification of the TSN in GLRO Case No. 8340 by making it appear that a hearing in that case was held on 8 June 1994. The TSN was initialed in every page and certified to by respondent Saclolo; and based thereon, respondent Resus prepared a draft order to be signed by complainant Judge. According to complainant Judge, there could be no such hearing and Prosecutor Ernesto Vida could not have participated therein, as stated in the TSN, considering that the written appearance of the OSG and Vida's designation from the OSG came only on 17 June 1994.[7]

For their part, respondents claimed that on 21 March 1994, Atty. Herminio Valerio, counsel for applicant Trinidad Enriquez in LRC Cases Nos. NC-453 to 458, handed to respondent Saclolo a "trial guide" containing questions to, and answers by, applicant Enriquez. Saclolo was supposed to use this as a guide in the *ex-parte* presentation of evidence because Mrs. Enriquez, who was old and sickly, might not be able to stay in court for a long time. However, on the date set for the *ex-parte* hearing, Atty. Valerio informed respondent Resus that he would not push through with the presentation of evidence, since Mrs. Enriquez was not disposed to testify on that date. Thus, Saclolo disregarded the unsigned TSN, which she had already prepared. The admission made by Saclolo that an *ex-parte* reception of evidence was held on 22 March 1994 in Silahis International Hotel was due to her nervousness and fear when she was interrogated by complainant to shed light on the matter.

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[6] Exh. "A"; *Id.*, 76.

[7] *Rollo*, 120-121.

Supreme Court E-Library

As regards the "ghost hearing" in GLRO Case No. 8340 allegedly held on 8 June 1994, respondents explained that after the initial hearing on 2 June 1994 wherein jurisdictional facts were established, complainant Judge issued an order delegating to respondent Resus the reception of evidence. On 8 June 1994, notwithstanding the fact that Public Prosecutor Ernesto Vida had no authority yet from the OSG, respondent Resus proceeded with the *ex-parte* hearing, as agreed by the parties. It was also agreed that the case would not be submitted for resolution until after receipt by the court of the Notice of Appearance from the OSG. On 17 June 1994, the said Notice of Appearance was received by the court. Another hearing was then held, with Prosecutor Vida cross-examining the witnesses. Resus thereafter prepared a draft order and submitted it to complainant Judge on 15 December for the latter's approval.

To refute complainant's allegation that no hearing was held on 8 June 1994, respondents presented the affidavits of Court Interpreter Angelina P. Erni,[8] Public Prosecutor Ernesto Vida,[9] and Atty. Bernard Stuart del Rosario,[10] counsel of the petitioner in GLRO Case No. 8340, stating that a hearing was actually conducted by Clerk of Court Resus on 8 June 1994 and that they were present therein.

In his Report dated 5 February 1997, Judge Diaz found that no falsification of TSN in LRC Cases Nos. NC-455 to 458 was committed, since respondent Saclolo neither signed the alleged falsified or ghost transcript nor certified to its truth and correctness. Anent the charge of falsification of the TSN in GLRO Case No. 8340, he found that a proceeding for the reception of evidence indeed took place on 8 June 1994. This proceeding was proper, as it was in accord with the lawful order of complainant Judge delegating the reception of evidence to Resus. If at all, what was patently erroneous was the insertion into the 8 June 1994 TSN of Prosecutor Vida's cross-examination

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[8] *Rollo*, 135.

[9] *Id.*, 136.

[10] *Id.*, 216.

Supreme Court E-Library

questions propounded during the second hearing held sometime after the receipt by the court of the Notice of Appearance of the OSG.

Judge Diaz then recommended that the charges of falsification be dismissed but that the respondents be reprimanded or admonished for making insertions in the TSN of the 8 June 1994 hearing, with a warning of a stiffer penalty in case of repetition of similar acts.

In its Memorandum of 1 July 1999, the Office of the Court Administrator (OCA) held that the advance preparation of the TSN in the LRC cases, albeit not constituting falsification, was at the very least an attempt to foist upon the court a falsified transcript of a non-existing hearing. Respondent Saclolo may be held liable for this anomalous and wrongful conduct. As to respondent Resus, even assuming that he did not have a hand in the preparation of the said TSN he, nevertheless, became an accomplice after the fact by using that TSN as basis of his draft order dated 8 August 1994[11] and by his failure to report the anomalous deed. Both respondents may also be held answerable for the intercalation into the TSN of 8 June 1994 of the cross-examination questions propounded by Prosecutor Vida at a subsequent date. These acts put into serious doubt the integrity of court proceedings and court records of the cases involved. Thus, the OCA recommended that the respondents be suspended from office for six months without pay, with a stern warning that a repetition of similar acts would be dealt with more severely.

We find respondents Saclolo and Resus guilty of grave misconduct and conduct prejudicial to the best interest of the service.

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from the service, the misconduct must be serious, important, weighty, momentous and not trifling. It must also have direct relation

[11] *Rollo*, 39.

Supreme Court E-Library

to, and be connected with, the performance of official duties amounting either to maladministration or willful, intentional neglect or failure to discharge the duties of the office.[12]

With respect to LRC Cases Nos. NC-453 to - 458, it was indeed anomalous for respondent Saclolo to accept from Atty. Valerio, counsel for the applicant therein, a "trial guide" that would allegedly aid her in transcribing her stenographic notes. Indeed, as opined by the OCA, court stenographers can use cassette recorders or ask the assistance of court interpreters whenever they have a hard time deciphering the testimonies of witnesses. Besides, contrary to Saclolo's claim, it would not be difficult to understand the testimony of Mrs. Enriquez because, being an old woman, she would have a tendency to speak slowly. More importantly, stenographers are supposed to take steno notes only of matters that transpire during court hearings or preliminary investigations, as well as the dictations of the judge or clerk of court,[13] and transcribe these notes thereafter.

In his testimony before Judge Diaz, Atty. Valerio admitted having handed to respondent Saclolo a copy of his trial guide. He allegedly prepared it for his guidance in the presentation of evidence and also for Saclolo's guide in transcribing her stenographic notes. Curiously, this alleged trial guide was denominated as "Transcript of stenographic notes"; thus:

Transcript of stenographic notes of the proceedings of the *ex-parte* presentation of evidence before the duly designated commissioner, Atty. Jameswell Resus, Branch Clerk of Court, pursuant to the order of the Honorable Court dated March 15, 1994 held at the Office of Branch Clerk of Court, RTC, Cavite, Branch XV, on March 22, 1994 at 10:00 a.m. (Italics supplied).[14]

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[12] *Manuel v. Calimag*, A.M. No. RTJ-99-1441, 28 May 1999, citing *Amosco v. Magro*, 73 SCRA 107 [1976] and *In re Impeachment of Horilleno*, 43 Phil. 212 [1922].

[13] Section B (4), Chapter II, Manual for Clerks of Court.

[14] Exhibit "G" for Complainant; Exh. "2" for Saclolo; Copy of *Rollo*, 64-68.

Supreme Court E-Library

This Court cannot help but wonder why this trial guide, which was supposedly intended to assist Saclolo, was transformed into a formal TSN. The TSN admittedly prepared by Saclolo, as patterned after the trial guide, was in its final form – double-spaced, properly margined, paginated, and complete with the following: (1) a list of names of persons who purportedly participated in the proceedings; (2) an order allegedly dictated in open court by the hearing officer; and (3) a certification that the said TSN is "true and correct."

It is not disputed that no hearing took place on 22 March 1994. This notwithstanding, Saclolo attached the said TSN to the records of the cases and presented it to the Judge, instead of disregarding it.

To the mind of the Court, there was a clear conspiracy to fabricate the transcript of stenographic notes of an alleged reception of evidence.

Hence, Saclolo, deserves to be dismissed from the service for her grave misconduct in preparing in advance a TSN of a hearing yet to take place and in inserting it into the records of the case even though the hearing did not push through. The fact that she did not affix her signature thereon or certify to the truth or correctness thereof is of no moment. As aptly opined by the OCA, her acts were violative of the very essence of a TSN, which is supposed to be a faithful and exact recording of all matters that transpire during a court proceeding. To tolerate such acts would open the floodgates to fraud by, or graft and corruption of, judges and court personnel.

As for respondent Resus, even assuming *arguendo* that he did not have a hand in the preparation of the subject TSN, he must be held answerable for willfully turning a blind eye on Saclolo's acts of preparing the said TSN in advance and attaching it to the records of the LRC cases. He admitted having received from Saclolo a copy of that TSN.[15] But, despite the fact that the hearing on 22 March 1994 did not push through, he never

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[15] TSN, 27 November 1996, 57.

Supreme Court E-Library

questioned Saclolo about that TSN; instead, he allowed that TSN to remain attached to the records of the LRC cases. Nor did he report such irregularity or anomaly to complainant Judge. Being the administrative officer of the court and having the control and supervision over all court records,[16] he cannot just wash his hands now and go scot-free. In short, he cannot even claim simple neglect of duty. The circumstances attending the irregularity or impropriety herein charged demonstrated beyond doubt Resus' deliberate participation in its commission or perpetration.

As a clerk of court, Resus is specifically mandated to safeguard the integrity of the court and its proceedings, and to maintain the authenticity and correctness of court records.[17] His willful and intentional failure to obey this mandate constituted grave misconduct or conduct highly prejudicial to the best interest of the service, which warrants dismissal from the service.

Anent the second charge, we agree with the findings of Judge Diaz and the OCA that an *ex-parte* hearing indeed took place on 8 June 1994 in GLRO Case No. 8340. There is no dispute, however, that the said hearing was not terminated on that day because Public Prosecutor Vida had still to wait for the OSG's Notice of Appearance before he could cross-examine the witnesses.[18] The hearing was thus continued only after the court received the Notice of Appearance and after Prosecutor Vida received the Authority for him to represent the government in that case. Two hearings were thus held on different dates, and yet respondent Saclolo prepared only one TSN dated 8 June 1994. She just inserted in that TSN the cross-examination questions propounded by Prosecutor Vida during the subsequent hearing, thereby making it appear that only one hearing was conducted in that case. And Resus tolerated this; he even made

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[16] *Bandong v. Ching*, 261 SCRA 10, 15 [1996].

[17] *RTC Makati Movement Against Graft and Corruption v. Dumlao*, 247 SCRA 108, 118 [1995]; *Panuncio v. Icaro-Velasco*, 297 SCRA 159, 161 [1998].

[18] TSN, 27 November 1996, 47, 53.

Supreme Court E-Library

that TSN as basis for his draft order.[19] By their acts, they have compromised and undermined the public's faith in the records of the court below and, ultimately, the integrity of the Judiciary.

Time and again, this Court has stressed that all those involved in the dispensation of justice, from the presiding judge to the lowliest clerk, must always be beyond reproach. Their conduct or behavior must, at all times, be circumscribed with the heavy burden of responsibility as to let them free from any suspicion that may taint the judiciary.[20] As the administration of justice is a sacred task, this Court condemns and cannot countenance any act or omission on the part of court personnel that would violate the norm of public accountability and diminish or even just tend to diminish the faith of the people in the judiciary.

WHEREFORE, for their grave misconduct and conduct highly prejudicial to the best interest of the service, respondents Branch Clerk of Court Jameswell Resus and Stenographic Reporter Nora Saclolo are hereby ordered *DISMISSED* from the service, effective upon service on them of this Resolution, with forfeiture of all benefits and with prejudice to reemployment in the Government or any subdivision, instrumentality or agency thereof, including government-owned -or-controlled corporations.

This Resolution is immediately executory. The Clerk of Court is directed to cause immediate service of this Resolution to each of the respondents.

Let copies of this Resolution be furnished the Office of the Court Administrator; the Executive Judges of the Regional Trial Courts of the City of Cavite and the Province of Cavite; the Presiding Judge of Branch 15 of the Regional Trial Court of Cavite; and the Chief of the Public Information Office, Supreme Court.

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[19] *Rollo,* 123.

[20] *Juntilla v. Calleja*, 262 SCRA 291, 297 [1996]; *Quiroz v. Orfila*, 272 SCRA 324, 329-330 [1997]; *Office of the Court Administrator v. Alvarez*, 287 SCRA 325, 330 [1998]; *Office of the Court Administrator v. Diaz*, A.M. No. P-93-794, 18 February 1999; *Samonte v. Gatdula*, A.M. No. P-99-1292, 26 February 1999.

Supreme Court E-Library

SO ORDERED.

Davide, Jr., C.J. Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and *De Leon, Jr., JJ.*, concur.

THIRD DIVISION

[A.M. No. P-99-1341. November 22, 1999]

JULITO BIAG, *complainant, vs.* **LUALHATI GUBATANGA,** *respondent.*

SYNOPSIS

By virtue of a "Release Order" issued by Clerk of Court Lualhati Gubatanga, Angel Manuel was released on bail. Said order was stamped with the words "Original Signed". In fact, the original copy of said order had not been so signed. Judge Wilhelmina Arcega denied having knowledge of said order and refused to affix her signature thereon. Respondent Gubatanga was ordered to return the cash bond and to have the accused Manuel brought to the judge who issued the warrant of arrest. By then, accused Manuel can no longer be found, his whereabouts unknown. Hence, this administrative complaint against Lualhati Gubatanga.

The Clerk of Court is not empowered to issue the questioned order in the name of the judge. It was gross misrepresentation on the part of respondent to issue the Release Order stamped "original signed," knowing that the original had not in fact been signed, thus causing the release of the accused Angel Manuel without a proper court order. By taking a direct hand in the release of the accused, who is now at large, respondent is guilty of grave misconduct as she had arrogated unto herself the disposition of a judicial matter pending adjudication before the court. Respondent was found guilty of misconduct and imposed a six months suspension without pay.