



**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

**MEMORANDA OF JUDGE
ELIZA B. YU ISSUED TO
LEGAL RESEARCHER
MARIEJOY P. LAGMAN AND
TO COURT STENOGRAPHER
SOLEDAD J. BASSIG, ALL OF
METROPOLITAN TRIAL
COURT, BRANCH 47, PASAY
CITY**

A.M. No. P-12-3033
(Formerly A.M. No. 10-8-97-MeTC)

Present:

CARPIO,*
LEONARDO-DE CASTRO,**
Acting Chairperson,
BERSAMIN,
DEL CASTILLO, and
VILLARAMA, JR., JJ.

Promulgated:

15 AUG 2012

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DECISION

LEONARDO-DE CASTRO, J.:

This administrative case originates from a letter¹ dated July 28, 2010 of Executive Judge Bibiano G. Colasito of the Metropolitan Trial Court (MeTC), Pasay City, transmitting to the Office of the Court Administrator

* Per Special Order No. 1284 dated August 6, 2012.

** Per Special Order No. 1226 dated May 30, 2012.

¹ Rollo, p. 1.

(OCA) for appropriate action the following memoranda and orders issued by Judge Eliza B. Yu (Judge Yu) to two members of her staff at the MeTC, Branch 47, Pasay City, and their subsequent letter-explanations: a) Memoranda² dated June 16 and 22, 2010 to Mariejoy P. Lagman (respondent Lagman), Legal Researcher; b) Memorandum³ dated July 16, 2010 to Soledad J. Bassig (respondent Bassig), Court Stenographer; c) letters⁴ dated June 22 and 24, 2010 from respondent Lagman; d) letters⁵ dated July 20 and August 17, 2010 from respondent Bassig; and e) Orders⁶ dated August 13 and 16, 2010.

In a letter⁷ dated October 12, 2010, the OCA required Judge Yu to submit certified photocopies of the documents pertinent to her complaints against respondents Lagman and Bassig in order for the OCA to take appropriate action on the matter.

In response, Judge Yu submitted the required documents and in a letter⁸ dated October 26, 2010, charged respondent Lagman with grave misconduct, falsification, usurpation of judicial functions, and dishonesty. Judge Yu likewise charged respondent Bassig with misconduct, falsification, usurpation of judicial functions, and gross insubordination.

The charges of grave misconduct, falsification, usurpation of judicial functions, and dishonesty

² Id. at 2 and 7.

³ Id. at 29.

⁴ Id. at 6 and 9.

⁵ Id. at 31 and 47. The second letter was subsequently sent to the OCA on August 19, 2010 by Executive Judge Bibiano G. Colasito.

⁶ Id. at 46 and 48. Both orders were subsequently sent to the OCA on August 19, 2010 by Executive Judge Bibiano G. Colasito.

⁷ Id. at 32.

⁸ Id. at 33.

**against respondent Mariejoy
P. Lagman**

Judge Yu, in her Memorandum⁹ dated June 10, 2010, directed respondent Lagman to explain why she included and called Civil Case No. M-PSY-09-09232, entitled “*Toyota Financial Services Philippines vs. Vivian Villanueva, et al.*,” during the hearing on June 9, 2010, when the said case was not even calendared on that day.

In a letter¹⁰ dated June 10, 2010, respondent Lagman explained that the counsel of one of the parties, a certain Atty. Condez, questioned the failure of the court to calendar his “Ex-Parte Motion for Reconsideration” on June 9, 2010, as specifically stated in his motion. Respondent Lagman reasoned that she was forced to call the case due to the insistence of Atty. Condez to set his motion for hearing on the said date. She stated that it was an unintentional and honest mistake on her part and asked the indulgence and forgiveness of Judge Yu.

In another Memorandum¹¹ dated June 16, 2010, Judge Yu again directed respondent Lagman to explain why there was a discrepancy in the dates in Civil Case No. 482-01, entitled “*Antonia Villanueva, et al. vs. Laura Perez, et al.*” Judge Yu pointed out that the *Constancia* dated April 22, 2010 stated that the hearing had been reset to June 17, 2010, while the Minutes of the Hearing dated April 22, 2010 indicated the resetting to July 1, 2010. Judge Yu further alleged that the *Constancia* stated that she was in Cardona, Rizal, when in fact, she was attending the 57th Orientation of Newly-Appointed Judges.

⁹ Id. at 60; This was not included in the transmittal letter of Executive Judge Bibiano G. Colasito but was sent by Judge Eliza B. Yu to the OCA.

¹⁰ Id. at 61.

¹¹ Id. at 2-5.

Judge Yu also called the attention of respondent Lagman to a similar mistake she made in connection with the preparation of the Minutes of the Hearing for Civil Case No. SCC-10-55, entitled “*Laura Asuncion vs. Diosdado Riño*.” According to Judge Yu, respondent Lagman prepared the Minutes of the Hearing on May 28, 2010 when no such hearing was conducted on the said date. Judge Yu alleged that respondent Lagman wrote in the said Minutes that the hearing of the case was terminated and thereafter submitted the case for decision.

Respondent Lagman admitted in a letter¹² dated June 22, 2010, that she failed to notice and correct the different hearing dates in the *Constancia* and the Minutes dated April 22, 2010, in Civil Case No. 482-01, which she explained were actually prepared by the stenographer on duty. She also acknowledged the mistake made in the Minutes of the Hearing which should have indicated the name of then Acting Presiding Judge Josephine Vito Cruz, and not the name of Judge Yu. Respondent Lagman asked for the indulgence and forgiveness of Judge Yu for the inadvertent mistakes she had committed and promised that the same would not be repeated.

With regard to the mistakes made in the preparation of the Minutes of the Hearing for Civil Case No. SCC-10-55, respondent Lagman denied having submitted the case for decision. She maintained that, as reflected in the Minutes, she had merely stated that the complainant appeared while the defendant neither appeared nor filed his answer. Respondent Lagman also contended that she should not be blamed if complainant, who arrived on time, signed the Minutes without waiting for the arrival of Judge Yu. She further explained that she simply allowed the complainant to sign the Minutes of the Hearing after the latter requested and manifested that she

¹² Id. at 6.

would come back after her other appointments. Unfortunately, the complainant did not come back. Respondent Lagman asserted that all her acts were within the bounds of the law, and that she neither committed any corrupt acts nor intended to defy any rules.

In a Memorandum¹³ dated June 22, 2010, Judge Yu directed respondent Lagman to explain the discrepancy in the total number of pending criminal and civil cases indicated in the physical inventory conducted on February 8, 2010, and those recorded in the January and February 2010 monthly reports, which were both submitted to the Court Management Office of the Supreme Court.

Respondent Lagman, in a letter-explanation¹⁴ dated June 24, 2010, clarified that there was actually no discrepancy in the total number of pending criminal and civil cases since the results of the physical inventory conducted on February 8, 2010, which were for the year-end December 31, 2009, were the same results that were submitted to the Supreme Court on February 16, 2010. She further explained that the inventory did not include the newly-raffled cases as they were supposed to be included in the report for the month of January 2010, which at that time, had not yet been completed. Respondent Lagman stated that all the statistics indicated in the reports were actual and legitimate numbers, and that if ever there was indeed a discrepancy, the Court Management Office would have called her attention regarding the errors.

**The charges of misconduct,
falsification, usurpation of judicial
functions, and gross**

¹³ Id. at 7.

¹⁴ Id. at 9.

**insubordination against respondent
Soledad J. Bassig**

In a Memorandum¹⁵ dated July 16, 2010, Judge Yu required respondent Bassig to explain why the latter should not be charged with gross insubordination and grave misconduct for drafting the Minutes of the Hearing dated July 16, 2010 in Civil Case No. B-03-08, entitled “*Rodelio R. Hilario vs. Shirley Pabilona, et al.*” and letting the counsels of the parties sign therein, when in fact no hearing was conducted on the said date.

In a letter-explanation¹⁶ dated July 20, 2010, respondent Bassig clarified that the plaintiff in Civil Case No. B-03-08 filed a motion and set the same for hearing on July 16, 2010. However, Judge Yu acted on the motion and issued an Order on July 15, 2010, requiring the defendants to comment on the said motion. Respondent Bassig explained that the parties to the case came to their office on July 16, 2010, as set in the motion, and requested that they be allowed to sign the Minutes of the Hearing to simply show that they appeared before the court on the said date. She explained that she did not make it appear that there was a hearing as she merely reiterated the Order dated July 15, 2010 of Judge Yu. Respondent Bassig added that she did not intend to commit any wrong and begged the indulgence of Judge Yu for any mistake she may have committed in the preparation of the Minutes.

In connection with a pending criminal case (Criminal Case Nos. 04-178 & 179 CFM, entitled “*People of the Philippines vs. Kenneth Yap Yu*”) before the *sala* of Judge Yu, she issued an Order¹⁷ dated August 16, 2010 directing respondent Bassig to explain why the subpoena sent to the defense

¹⁵ Id. at 29-30.

¹⁶ Id. at 31.

¹⁷ Id. at 46.

witnesses bore trial dates different from the trial dates specified in the Order and in the Transcript of Stenographic Notes.¹⁸ Judge Yu emphasized that such mistake “contributes to the delay in the administration of justice punishable by contempt of court.”

Respondent Bassig explained in a letter¹⁹ dated August 17, 2010, that it was actually not her, but Court Stenographer Froilan Robert Tomas, who prepared the subpoena in the said criminal case. According to her, Tomas narrated that he merely copied the entries in the previous subpoena that he made and inadvertently omitted to include the August 16, 2010 hearing date. Respondent Bassig contended that she missed correcting the hearing dates indicated in the subpoena issued as there were 17 cases calendared on July 6, 2010. She added that the mistake was not deliberately done but was simply inadvertence on her part.

Judge Yu averred that respondent Bassig committed several errors, which were done either to tire the former in making the corrections or to cause harm should the former sign the orders without meticulously checking them. She cited respondent Bassig’s mistake in drafting an Order²⁰ dated August 13, 2010, which stated that in the Sheriff’s Return dated August 10, 2010, the Summons was not served since the defendants cannot be located at their given address, and that the case be sent to the archives in the meantime. Judge Yu claimed that the Sheriff’s Return²¹ dated August 10, 2010, on the contrary, clearly stated that the summons was duly served.

¹⁸ Id. at 50-53.

¹⁹ Id. at 47.

²⁰ Id. at 48.

²¹ Id. at 54.

In separate letters²² both dated January 3, 2011, Court Administrator Jose Midas P. Marquez directed respondents Lagman and Bassig to submit their respective comment/manifestation on the various memoranda issued by Judge Yu which resulted in the filing of the instant administrative complaint against them.

In an undated Comment/Manifestation,²³ respondent Lagman countered Judge Yu's charges of Grave Misconduct, Falsification, Usurpation of Judicial Function and Dishonesty. She reiterated the explanations she previously gave to Judge Yu and maintained that she acted within the bounds of the law and the rules. Thus, she denied having committed any acts constituting grave misconduct or corruption. Respondent Lagman prayed that charges against her be dismissed for lack of merit.

Likewise, respondent Bassig, in an undated Comment/Manifestation,²⁴ refuted the accusations made against her by Judge Yu. She argued that she had no intention of usurping the judicial functions of Judge Yu. Respondent Bassig maintained that she neither committed a corrupt act nor intended to defy any law or rules. She likewise prayed that the complaint against her be dismissed for lack of merit.

In a letter²⁵ dated January 13, 2011, Judge Yu reiterated the infractions allegedly committed by respondents Lagman and Bassig and recommended that the OCA indorse the criminal aspect of the administrative case against them to the Office of the Ombudsman.

²² Id. at 131-132.

²³ Id. at 133-134.

²⁴ Id. at 137-138.

²⁵ Id. at 144.

In a Memorandum²⁶ dated November 9, 2011, the OCA held respondents Lagman and Bassig administratively liable for simple neglect of duty and submitted the following recommendations:

1. The Memoranda of Judge Eliza B. Yu against Mariejoy P. Lagman, Legal Researcher and Soledad J. Bassig, Court Stenographer, both of the Metropolitan Trial Court, Branch 47, Pasay City be REDOCKETED as a regular administrative matter;
2. Ms. Lagman and Ms. Bassig be found GUILTY of simple neglect of duty; and
3. Ms. Lagman and Ms. Bassig be REPRIMANDED and be STERNLY WARNED that the commission of the same or similar acts in the future shall be dealt with more severely.²⁷

In the Resolution dated February 1, 2012, this Court, among others, redocketed the Memoranda of Judge Yu against respondents Lagman and Bassig as a regular administrative matter and required “the parties to manifest if they are willing to submit the administrative matter for decision/resolution on the basis of the records/pleadings filed.”²⁸

In compliance, Judge Yu submitted her Manifestation²⁹ dated April 17, 2012. Likewise, respondents Lagman and Bassig submitted their undated joint manifestation³⁰ and maintained that the charges filed by Judge Yu against them were pure harassment. Respondents Lagman and Bassig further manifested that they neither committed any grave misconduct nor disregarded any law or rule.

We adopt the findings of fact of the OCA and hold respondents Lagman and Bassig liable for simple neglect of duty. Simple neglect of duty

²⁶ Id. at 160-168.

²⁷ Id. at 167-168.

²⁸ Id. at 170-171.

²⁹ Id. at 173-189.

³⁰ Id. at 248-249.

is defined as the failure to give attention to a task or the disregard of a duty due to carelessness or indifference.³¹

Here, respondent Lagman showed carelessness or indifference in the performance of her duties. As Officer-in-Charge, she was remiss in her duties to give due care and attention to established procedure in the calendar of cases. Respondent Lagman should have properly informed Judge Yu of the inadvertent omission of Civil Case No. M-PSY-09-09232 in the list of calendared cases for hearing. She should have sought the necessary permission from Judge Yu before calling the case as she was still under her direct supervision.

With regard to the discrepancies in the dates in Civil Case No. 482-01, we understand that the said mistakes could not be blamed solely on respondent Lagman as she was not the one who prepared the documents. However, the errors in the *Constancia* and in the Minutes of the Hearing could have been avoided and corrected had respondent Lagman paid more attention to the details specified in the documents, *i.e.*, the date of hearing and the name of the then Presiding Judge Vito Cruz.

Similarly in Civil Case No. SCC-10-55, respondent Lagman did not follow established procedure when she allowed one of the parties to sign the Minutes of the Hearing without waiting for the arrival of Judge Yu. It must be remembered that the Minutes of the Hearing is a very important document which gives a brief summary of the events that took place at the session or hearing of a case. It is, in fact, a capsulized history of the case at a given session or hearing, for it states the date and time of session; the names of the judge, clerk of court, stenographer and court interpreter who

³¹ *Calo v. Dizon*, A.M. No. P-07-2359, August 11, 2008, 561 SCRA 517, 533.

were present; the names of the counsel of the parties who appeared; the party presenting evidenced marked; and the date of the next hearing.

We, however, agree with the OCA that there was actually no usurpation of judicial authority, since contrary to the allegations of Judge Yu, the Minutes of the Hearing did not state that the case had been submitted for decision but merely indicated the appearance of the complainant and the absence of defendant and his failure to file his answer. Likewise, with regard to the alleged discrepancies in the number of pending cases in the inventory and monthly reports, we agree with the OCA that respondent Lagman had clearly explained and clarified the reports and inventory that she had submitted to the Court Management Office of the Supreme Court.

With regard to respondent Bassig, we also find her liable for simple neglect of duty for her failure to follow the established procedure in the conduct of hearings. As alleged by Judge Yu, respondent Bassig made it appear that a hearing was conducted for Civil Case No. B-03-08 on July 16, 2010 when in fact, no hearing was actually conducted on the said date. Moreover, respondent Bassig also committed mistakes in the dates specified in the subpoena issued by the court in Criminal Case Nos. 04-178 & 179 CFM. She also failed to pay particular attention to the details of a draft Order dated August 13, 2010 that she prepared, stating that the summons in the Sheriff's Return was not served. On the contrary, the summons was actually duly served.

In the instant case, respondent Bassig could have rectified the inadvertent mistakes in the drafting of the subpoena, order, and Minutes of the Hearing had she given more effort and attention in reviewing the drafts and not putting the blame on other court personnel. She should have gone over the drafts and made sure that the papers were correct and in order.

Thus, it is clear that respondent Bassig was remiss in her duties as the Officer-in-Charge. She failed to supervise her subordinates well and to efficiently conduct the proper administration of justice.

From the foregoing, we hold that the mistakes or errors in the contents of the orders, subpoena, and Minutes of the Hearing committed by respondents Lagman and Bassig could be attributed to their lack of attention or focus on the task at hand. These could have easily been avoided had they exercised greater care and diligence in the performance of their duties. We find respondents Lagman and Bassig liable for simple neglect of duty.

In *Pilipiña v. Roxas*,³² we held that:

The Court cannot countenance neglect of duty for even simple neglect of duty lessens the people's confidence in the judiciary and ultimately in the administration of justice. By the very nature of their duties and responsibilities, public servants must faithfully adhere to, hold sacred and render inviolate the constitutional principle that a public office is a public trust; that all public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency.³³

Under Section 52, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service,³⁴ simple neglect of duty is classified as a less grave offense, punishable by suspension without pay for one (1) month and one (1) day to six (6) months for the first offense. We, however, consider the following factors as mitigating: (1) their length of service in the judiciary - respondent Lagman's 12 years and respondent Bassig's 42 years; (2) their mistakes or errors appearing not to have prejudiced any public interest or private party; and (3) the instant case being the first offense for both of them in their long years of service in the Judiciary.


³² A.M. No. P-08-2423, March 6, 2008, 547 SCRA 676.

³³ Id. at 682-683.


³⁴ Civil Service Commission Resolution No. 991936, August 31, 1999.

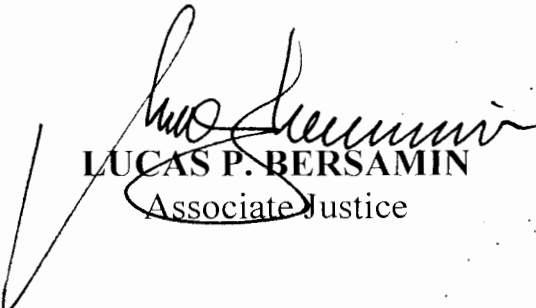
WHEREFORE, respondents MARIEJOY P. LAGMAN and SOLEDAD J. BASSIG are hereby found guilty of simple neglect of duty. They are **REPRIMANDED** and **STERNLY WARNED** that the commission of the same or similar acts in the future shall be dealt with more severely.

SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice