

EN BANC

[A.M. No. P-08-2576, June 02, 2020]

**ALEJANDRO S. BUÑAG, COMPLAINANT, VS. RAUL T. TOMANAN,
RESPONDENT.**

DECISION

PER CURIAM:

Before Us is an administrative complaint^[1] filed by Alejandro Buñag (Alejandro) against Raul Tomanan (Raul), Legal Researcher and Officer-in Charge, Clerk of Court, Regional Trial Court of Boac, Marinduque, Branch 94 (RTC Branch 94) for grave misconduct, sexual harassment, grave abuse of authority, conduct unbecoming of court employees, and immorality.

Facts of the Case

Alejandro is the husband of Ivie S. Buñag (Ivie), Court Stenographer III of the RTC Branch 94 but detailed at the Municipal Trial Court (MTC) of Gasan, Marinduque. Alejandro and Ivie (collectively, Spouses Buñag) narrated the events that transpired in their respective statements.^[2]

During a drinking session inside the chambers of Judge Rodolfo B. Dimaano (Judge Dimaano) on December 5, 2005, Ivie noticed that her officemates laughed while Raul was behind her. She texted him later that night to ask what he did and Raul replied that he kissed her hair twice. Ivie inquired why he did that and he responded "*ano ka ba, di na tayo mga bata para di mo maintindihan yan.*"^[3]

On December 15, 2005, Ivie went with Raul and their fellow employees, Conchitina R. Luarca (Conchitina) and Rowel Noriega (Rowel), to Sunset Beach Resort in Gasan, Marinduque.^[4] However, Ivie sent a text message to Raul in January 2006 telling him to stop whatever he thought was going on between them because it was wrong. Raul replied "*ngayon pa, andito na ito baka lalo tayong magkahiyaan pag magkikita tayo sa opisina.*" He confessed that he has feelings for her and that it was too bad that they already had their own families. Raul refused to put an end to whatever was going on between them. When Ivie asked him what would happen if their officemates discovered it, he said "*huwag kang aamin at baka pagtismisan tayo at saka sina Conchitina at Rowel lang naman ang nakakaalam.*" Raul also said that he will deal with his wife when she comes home.^[5]

On February 24, 2006, Ivie together with Rowel, Conchitina, Raul, Marilyn L. Jardiniano (Marilyn), Gina N. Quimora (Gina), and Sheriff Ferdinand Jandusay (Sheriff Ferdinand) went to Sheriff Floresil Fernandez's (Sheriff Floresil) house in Caganhao-Boac, Marinduque using Judge Dimaano's official vehicle.^[6] Later that day, a celebration was held supposedly for Ivie's upcoming birthday at the RTC Branch 94.^[7] Photographs were taken during the celebration showing employees of

the RTC Branch 94 drinking, eating, and singing *karaoke*.^[8] However, Ivie claimed that she merely acceded to her colleague's request to provide food and drinks because her birthday is actually on the 20th of May.^[9]

Sheriff Floresil brought Raul and Ivie to his house again on September 1 and 22, 2006.^[10] Alejandro was unaware of it until Ivie confessed to him what happened.^[11]

On July 27 and 28, 2007, Ivie showed Alejandro text messages containing derogatory remarks, accusations, and threats.^[12] They suspected that it was from Raul's wife, Anafe Tomanan (Anafe). They received other messages on August 23, 2007. One message reads "*Hayop kng puta ka ikaw pa ang nagapakita ng motibo asawa ko ikaw p nagabaliktad! Sumpain k ng kalandian mo? Mahiya k sa dios! Puta ka!*." They replied to some messages and deleted the rest.^[13]

On the same day, Alejandro accompanied Ivie to the RTC. Afterward, he saw Raul waiting for a vehicle along the street. He could not help himself so he approached Raul and asked him "*Bakit natalo mo ang asawa ko.*" This resulted in a fistfight between Raul and Alejandro. Raul filed a complaint for physical injuries against Alejandro the following day. Ivie also filed a complaint for libel against Anafe. Both actions remain unresolved at the time that Alejandro filed his complaint against Raul.^[14]

On October 1, 2007, Raul reported back to work after taking a study leave to review for the bar examinations. Ivie noticed that he was accompanied by a bodyguard who sent a text message whenever she would leave the office. On October 11, 2007, Raul told Ivie to tell Alejandro that he was not afraid of him. In the afternoon of October 15, 2007, Ivie called Alejandro to inform him that Raul wanted him to know that he was not afraid of him. Alejandro went to the RTC Branch 94 but was prevented by Sheriff Ferdinand from entering.^[15] Alejandro just waited for Ivie until she could go home. Juris Jardiniano (Juris), Marilyn's husband, arrived while he was waiting and went inside the office. A commotion occurred.^[16] Juris later left the office and was visibly angry.^[17] Juris supposedly caught Marilyn drinking and hit her. Consequently, Juris and Marilyn separated.^[18]

Spouses Buñag waited for Raul. They saw him board Sheriff Ferdinand's vehicle and followed them. When Raul disembarked from the vehicle, he confronted Spouses Buñag and urged Sheriff Ferdinand to hit Alejandro. Upon the prodding of one Herberto Rosales, Spouses Buñag left and went home.^[19]

Ivie also told Alejandro that Rowel and Conchitina were having an extramarital affair.^[20] In fact, Conchitina became pregnant sometime in November 2006 but had to undergo surgery because her pregnancy was ectopic. Rowel and Conchitina would constantly fight inside the RTC Branch 94.^[21] As for Ivie's transfer to the MTC, she said that she did not request it but merely agreed to it in order to distance herself from Raul.^[22]

In his Counter-Affidavit^[23] dated March 27, 2008, Raul refuted Spouses Buñag's allegations and staunchly denied having any romantic feelings for Ivie. *First*, he denied that Anafe sent text messages to Ivie. *Second*, he claimed that it was Alejandro who went to the RTC Branch 94 to challenge him to a fistfight. *Third*, Ivie

was the one who requested her transfer to the MTC, as proven by her letter to the Executive Judge of the RTC in Boac. *Fourth*, they never had a drinking session in Judge Dimaano's chambers. The pictures submitted by Ivie was during her personal birthday celebration. She assured them that Judge Dimaano permitted her to celebrate her birthday.^[24] *Fifth*, he never went with Ivie to Sheriff Floresil's house because he was working at that time. *Sixth*, Conchitina and Rowel were not having an affair. They are professionals who treated each other like siblings. *Seventh*, Marilyn did not separate from Juris because he beat her up.^[25]

In support of his defense, Raul submitted the sworn statements of Jose Lucito R. Garcia (Jose),^[26] Enrico M. Nebreja (Enrico),^[27] Ma. Liza D. Macunat,^[28] Ethel L. Moreno,^[29] Rowel,^[30] Ferdinand,^[31] Conchitina,^[32] Marilyn,^[33] and Gina^[34] (collectively, the RTC employees). They all denied the allegations of Spouses Buñag. They claimed that the February 24, 2006 celebration was for Ivie's birthday. She, herself, prepared the food and drinks. They were merely posing for fun in the pictures taken during the event.^[35] With respect to what happened on October 15, 2007, they averred that Alejandro exclaimed "*Nasaan ang ulol nyong amo, andine ako sa labas, antayin ko sya*" when he arrived at the RTC. Since Raul was not there, he left. When Raul arrived, he asked who was looking for him and what his problem was. Ivie then called someone on her cellphone. A few moments later, Alejandro arrived. He was shouting and cursing, demanding that Raul meet him outside. Raul did not go out.^[36] The RTC employees also denied that they had drinking sessions inside Judge Dimaano's chambers. If at all, they would do it when there is a special occasion and with the permission of Judge Dimaano.^[37]

Conchitina and Rowel denied having an affair with each other.^[38] Marilyn also refuted the allegations against her and Juris. She explained that they have personal problems as spouses.^[39]

On November 12, 2008, the Court resolved to re-docket the complaint against Raul and all the other court personnel involved as a regular administrative matter and refer it to the Executive Judge of the RTC of Boac, Marinduque for investigation, report, and recommendation within 60 days from receipt of the records.^[40]

Investigating Judge Manuelito O. Caballes (Judge Caballes) submitted a partial report^[41] dated April 21, 2009 stating that the RTC employees claimed that the celebration on February 24, 2006 was for Ivie's upcoming birthday. Ivie was the one who provided the food and the drinks. She even brought the Magic Sing microphone. They merely posed for the pictures during the incident.^[42] Since Supreme Court Administrative Circular (A.C.) No. 1-99^[43] prohibits drinking within the premises of the court, including the judge's chamber, Judge Caballes suggested that the employees be required to submit their individual affidavit regarding the pictures so that they may explain their participation.^[44]

Ivie submitted her Counter-Affidavit^[45] on January 26, 2009, wherein she expounded on her allegations against Raul and her co-employees. Thereafter, Alejandro filed motions for inhibition of Judge Caballes and preventive suspension of Raul and other involved personnel^[46] but these were denied by the Court on July 8, 2009 for lack of merit.^[47]

Due to the excessive delay in the submission of the report, Court Administrator Jose Midas P. Marquez wrote a letter^[48] dated November 3, 2015 to Executive Judge Antonina C. Magturo (Executive Judge Magturo) of the RTC of Boac, Marinduque asking for the status of the investigation. Executive Judge Magturo requested for an extension of 30 days within which to find the *rollo* of the case that Judge Caballes failed to turnover.^[49] Executive Judge Magturo was finally able to submit the Report/Recommendation^[50] dated November 4, 2009 on February 11, 2016.^[51]

Judge Caballes recommended the dismissal of the complaints against Raul and Ivie. Judge Caballes held that Ivie acted within the bounds of what can be considered as good behavior. There is no basis to hold her liable for grave misconduct, oppression, grave abuse of authority, and conduct prejudicial to the best interest of the service.^[52] Likewise, Raul cannot be held liable for psychological harassment, oppression, and falsification of public document.^[53] Ivie failed to prove that the malicious text messages sent to her were from Anafe. Judge Caballes ruled that just because the number of the sender of the text messages has the area code of Saudi Arabia, and Anafe works in said country, does not mean that she sent those messages. After all, there are numerous Filipinos working in Saudi Arabia.^[54]

Report and Recommendation of the Office of the Court Administrator

The Office of the Court Administrator (OCA) issued its Memorandum^[55] dated December 29, 2016, wherein it recommended that Raul be found guilty of grave misconduct through sexual harassment, immorality, and conduct unbecoming of a court employee and be ordered dismissed from government service with cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office, and barred from taking civil service examinations.^[56] The OCA was convinced that Spouses Buñag's allegations were true. Their candid narration together with the photographs sufficiently established Raul's administrative culpability.^[57] That Alejandro exposed himself and Ivie to public ridicule and scrutiny shows that their charges are not fabricated. Thus, their positive testimony is more convincing than Raul's denial, which is not corroborated by disinterested and credible witnesses.^[58] Even assuming that Ivie and Raul did not have any sexual relations, he is still liable for immorality. Raul admitted the genuineness of the photographs. His position therein together with Ivie is disgraceful. It was inappropriate and appalling, especially since he is a married man.^[59] Further, Raul's admission that he permitted drinking sprees during office hours makes him liable for conduct unbecoming of court personnel.^[60]

The OCA recommended the imposition of the penalty of the most serious charge, that is grave misconduct, and considered the charges of immorality and conduct unbecoming a court employee as aggravating circumstances in line with Section 50, Rule 10 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS).^[61]

Issue

The issue before Us is whether Raul is guilty of grave misconduct, immorality, and conduct unbecoming a court employee.

Ruling of the Court

We agree with the recommended penalty of the OCA.

Section 3 of the Court's Administrative Matter No. 03-03-13-SC regarding the Rule on Administrative Procedure in Sexual Harassment Cases and Guidelines on Proper Work Decorum in the Judiciary defines work-related sexual harassment as those committed by an official or employee in the Judiciary who, having authority, influence or moral ascendancy over another in a work environment, demands, requests or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the latter. Section 4 states that work-related sexual harassment is committed when:

(a) The sexual favor is made as a condition in the hiring or in the employment, reemployment or continued employment of said individual, or in granting said individual favorable compensation, terms, conditions, promotions, or privileges; or the refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in any way would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee. It shall include, but shall not be limited to, the following modes:

1. Physical, such as malicious touching, overt sexual advances, and gestures with lewd insinuation.
2. Verbal, such as requests or demands for sexual favors, and lurid remarks.
3. Use of objects, pictures or graphics, letters or written notes with sexual underpinnings.
4. Other acts analogous to the foregoing.

(b) The above acts would impair the employee's rights or privileges under existing laws; or

(c) The above acts would result in an intimidating, hostile or offensive environment for the employee.

Spouses Buñag accused Raul of sexually harassing Ivie by kissing her hair without her knowledge or permission and courting her in spite of their marital status and her request for him to stop. They also accused Raul of taking advantage of Ivie when she was brought to Sheriff Floresil's house. Raul denied their allegations.

Time and again, We have said that no married woman would cry assault, subject herself and her family to public scrutiny and humiliation, and strain her marriage in order to perpetrate a falsehood.^[62] Thus, We agree with the OCA that Spouses Buñag's candid narration of the events that transpired is more credible than Raul's denial. It is incredulous that Spouses Buñag would fabricate a charge as serious as Ivie's involvement with another man. In fact, Alejandro was in an altercation with Raul because of it. Raul has not provided a plausible reason as to why Spouses Buñag would falsely accuse him. Moreover, one of the pictures submitted by Ivie shows that Raul was inappropriately close to her. This gives weight to Ivie's claim that Raul has not acted in accordance with what is considered as acceptable behavior of a married man.