

## EN BANC

**[ A.M. No. MTJ-18-1908 (Formerly OCA IPI No. 14-2674-MTJ), January 16, 2018 ]**

**BERNARDITA F. ANTIPORDA, COMPLAINANT, VS. FRANCISCO A. ANTE, JR., PRESIDING JUDGE, MUNICIPAL TRIAL COURT IN CITIES, VIGAN, CITY, ILOCOS SUR, RESPONDENT.**

### DECISION

#### PER CURIAM:

This administrative case arose from a verified complaint<sup>[1]</sup> for grave misconduct filed by complainant Bernardita F. Antiporda (complainant) against respondent Judge Francisco A. Ante, Jr. (respondent), Presiding Judge of the Municipal Trial Court in Cities (MTCC) in Vigan, Ilocos Sur.

#### The Facts

Complainant alleged that between 7:30 and 8:00 in the morning of March 2, 2014, she was in the backyard of a house located at Rizal St., Barangay III, Vigan City, Ilocos Sur, when respondent, who was in the adjacent lot attending to his fighting cocks, suddenly confronted her by saying, "*Apay nga agkuskusilap ka?* (Why are you glaring/pouting at me?)" Then, he approached her, slapped her face several times, and whipped her with a dog chain. He also pointed a .45 caliber pistol at complainant, as well as her boarders and workers Clarinda Ridao (Ridao), Rosario Rabe (Rabe), and Pedro Alquiza (Alquiza), who witnessed the incident.<sup>[2]</sup>

Although complainant admitted having glared at respondent at the time, she explained that it was because she discovered that respondent had maliciously reported to the Office of the City Engineer of Vigan that her house was being renovated without the necessary building permit inspite of the fact that she secured one. She alleged that it was actually respondent who had building code violations, as the drainage pipes in his house were left exposed outside the firewall abutting her property.<sup>[3]</sup>

To bolster her allegations, complainant offered in evidence: (1) her Sworn Statement dated March 3, 2014;<sup>[4]</sup> (2) Police Blotter Report dated March 3, 2014;<sup>[5]</sup> (3) Medical Report dated March 3, 2014;<sup>[6]</sup> (4) pictures of her body showing the hematoma caused by respondent;<sup>[7]</sup> (5) pictures of the exposed drainage pipes from respondent's house;<sup>[8]</sup> and (6) Sworn Statements of witnesses Alquiza, Rabe, and Ridao.<sup>[9]</sup>

In defense,<sup>[10]</sup> respondent claimed that it was complainant who attempted to kill him by ordering Alquiza and two (2) others to attack him with *bolos*. He denied that

he slapped and whipped her with a dog chain, averring instead that it was *she* who struck him with a steel chain. He also maintained that complainant harbored a grudge against him for having reported her illegal house renovation to the Engineering Department of the City Hall of Vigan. Although complainant indeed secured a building permit therefor, she did so only after the renovation was completed.<sup>[11]</sup>

In support of his defense, respondent submitted the affidavit<sup>[12]</sup> of Misael Frando (Frando), a first degree cousin of complainant, who witnessed the incident and narrated that it was complainant who held the dog chain and that she snapped it, striking respondent on the head.<sup>[13]</sup> When respondent got hold of the chain, complainant hurriedly went inside her house and directed three (3) men with knives to kill respondent. Upon seeing respondent's gun, however, they retreated.<sup>[14]</sup> Moreover, respondent dismissed the affidavits of Rabe and Ridao, who he asserted were not physically present at the time of the incident, as well as that of Alquiza, who was complainant's laborer.<sup>[15]</sup> In fact, he had already filed a criminal complaint<sup>[16]</sup> for attempted homicide against complainant and Alquiza as a result of the incident.<sup>[17]</sup>

In a letter<sup>[18]</sup> dated November 11, 2014, complainant sought the dismissal of the administrative complaint against respondent, explaining that respondent had not intentionally caused her harm, and that whatever injury she sustained as a result of the incident was accidental. As such, she prayed that the charge against respondent be dropped in order "to restore the good relationship existing" between them.

However, in a Memorandum<sup>[19]</sup> dated May 4, 2015, the Office of the Court Administrator (OCA) denied complainant's request, as the mere desistance or recantation of a complainant in an administrative complaint against any member of the bench does not necessarily result in the dismissal thereof.<sup>[20]</sup> Instead, the OCA referred the matter to Executive Judge Marita Bernales Balloguing (Judge Balloguing) of the Regional Trial Court of Vigan City, Ilocos Sur, for investigation, report, and recommendation.<sup>[21]</sup>

In her Report<sup>[22]</sup> dated March 30, 2016, Judge Balloguing found that complainant had indeed sustained physical injuries inflicted by respondent. However, she believed that it was complainant who held the steel chain, which she used to defend herself when respondent approached her. Judge Balloguing also found that respondent had a grudge against complainant because he reported the illegal renovation of her house to the authorities, opining that he could have instead advised her to secure the necessary building permit. She posited that this could have triggered complainant's anger towards respondent, prompting her to glare at him at the time and date of the incident. On that note, Judge Balloguing further opined that respondent could have exercised maximum tolerance towards complainant, and rejected his explanation that he approached complainant simply to shake her hand, pointing out that he did so in order to confront her for glaring at him.<sup>[23]</sup>

In a Supplemental Report<sup>[24]</sup> dated November 15, 2016, Judge Balloguing recommended that respondent be found guilty of acts unbecoming of a judge and be

sanctioned with either a fine or suspension.<sup>[25]</sup>

### **The OCA's Report and Recommendation**

In a Memorandum<sup>[26]</sup> dated July 17, 2017, the OCA, while concurring with Judge Balloguing's conclusions of fact, disagreed with respect to the recommended penalty.

Citing Judge Balloguing's findings, the OCA found that respondent's behavior during the incident left much to be desired, having failed to exercise more tolerance and self-restraint in dealing with complainant. Had he done so, he could have prevented the incident from further escalating. As such, respondent's infliction of physical injuries on complainant amounts to grave misconduct, which contravenes the Code of Judicial Conduct.<sup>[27]</sup>

Under the Revised Rules on Administrative Cases in the Civil Service (RRACCS),<sup>[28]</sup> grave misconduct is a grave offense punishable by dismissal from service even on the first offense. However, respondent had been previously found administratively guilty of grave misconduct, acts unbecoming of a judge, oppression, and abuse of authority in A.M. No. MTJ-02-1411 (formerly OCA IPI No. 96-208-MTJ) entitled "*Jocelyn Briones v. Judge Francisco A. Ante, Jr.* " dated April 11, 2002 and was suspended for three (3) months, with a warning that a repetition of the same shall be dealt with more severely.<sup>[29]</sup>

In view thereof, the OCA initially observed that respondent should be dismissed from service with forfeiture of all benefits, except accrued leave credits, if any, and with prejudice to reemployment in the government or any subdivision, agency or instrumentality thereof, including government-owned and controlled corporations and government financial institutions.<sup>[30]</sup> However, in light of respondent's retirement on November 7, 2017 and finding the extreme penalty of dismissal much too harsh, considering his twelve (12) years in the judiciary, the OCA instead recommended that a fine of P100,000.00 be imposed, to be deducted from his retirement benefits should the Court resolve this administrative matter after his retirement.<sup>[31]</sup>

### **The Issue Before the Court**

The sole issue for the Court's resolution is whether or not respondent should be held administratively liable.

### **The Court's Ruling**

Canon 2 of the New Code of Judicial Conduct<sup>[32]</sup> states that "[i]ntegrity is essential not only to the proper discharge of the judicial office but also to the personal demeanor of judges." Thus, Sections 1 and 2 thereof provide:

Section 1. Judges shall ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of a reasonable observer.

Section 2. The behavior and conduct of judges must reaffirm the people's faith in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done.

Further, Sections 1 and 2 of Canon 4 thereof states:

#### CANON 4 *Propriety*

Propriety and the appearance of propriety are essential to the performance of all the activities of a judge.

Section 1. Judges shall avoid impropriety and the appearance of impropriety in all of their activities.

Section 2. As a subject of constant public scrutiny, judges must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. In particular, judges shall conduct themselves in a way that is consistent with the dignity of the judicial office.

A judge should always conduct himself in a manner that would preserve the dignity, independence and respect for himself/herself, the Court, and the Judiciary as a whole. He must exhibit the hallmark judicial temperament of utmost sobriety and self-restraint. He should choose his words and exercise more caution and control in expressing himself. In other words, a judge should possess the virtue of *gravitas*.

[33] Judges are required to always be temperate, patient, and courteous, both in conduct and in language.[34]

In this case, the OCA, affirming the findings of Judge Balloguing, found that respondent's behavior towards complainant amounted to a conduct that the Court cannot countenance. Apart from being a display of arrogance, respondent's demeanor and actuations, which resulted in physical injuries to complainant, are in direct contravention of the virtues of patience, sobriety, and self-restraint so espoused by the Court and highly expected of a member of the judiciary. Regardless of the reason for the incident, respondent, being a magistrate, should have observed judicial temperament which requires him to be always temperate, patient, and courteous, both in conduct and in language.[35]

Respondent's acts, therefore, constitute grave misconduct, which the Court defines as "a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer." [36] The