

## FIRST DIVISION

**[ A.M. No. P-18-3842 (Formerly OCA IPI No. 12-3965-P), June 11, 2018 ]**

**CONSTANCIA BENONG-LINDE, COMPLAINANT, VS. FELADELFA L. LOMANTAS, SOCIAL WELFARE OFFICER II, OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT, TAGBILARAN CITY, BOHOL, RESPONDENT.**

### D E C I S I O N

#### **DEL CASTILLO, J.:**

We resolve a Complaint dated September 22, 2012 filed by Constanica Benong-Linde (complainant) charging Social Welfare Officer II Feladelfa L. Lomantas (respondent), with abuse of authority, dishonesty and conduct unbecoming a court employee, relative to SP Proc. No. 2853, entitled *Constancia Benong-Linde v. Archiles B. Linde and Aloha B. Sarzuelo*, for custody of minor children pending before the Regional Trial Court (RTC) of Tagbilaran City, Branch 03.

#### ***Factual Background***

Complainant averred that minors Mary Arianne Sarzuelo (Mary) and Alec Joriz Sarzuelo (Alec) were born out of wedlock to her son, Archiles B. Linde (Archiles) and his former girlfriend, Aloha Sarzuelo (Aloha). When Archiles and Aloha parted ways, complainant took care of Mary and Alec. Believing that exercising custody over these minor children was in their best interest, complainant filed before the RTC of Tagbilaran City a verified Petition<sup>[1]</sup> for custody docketed as SP Proc. No. 2853. However, in an Order<sup>[2]</sup> dated August 9, 2012, the RTC of Tagbilaran City archived the custody case for failure to personally serve summons upon Archiles who was abroad at the time.

According to complainant, at around 9:00 p.m. on April 30, 2012, respondent went to her house and forced her to house Mary and Alec from their sleep purportedly to enable her (respondent) to conduct a case study on these minors. The respondent also informed her that the success or failure of the case "depended upon the tip of her ballpen". Complainant was surprised at this arrogant outburst as the proceedings for the custody case had yet to commence; moreover, the RTC had not yet directed respondent to conduct a case study.

On September 8, 2012, at around 7:00 a.m., respondent again went to complainant's house and tried to force complainant and her grandchildren to board her car, purportedly as part of her case study. Complainant refused, and told respondent that they would hear mass at 12:00 noon that day, as it was Mary's 12<sup>th</sup> birthday. However, when complainant and Mary arrived at the church, they were met by respondent and Aloha, who, along with four other persons, got hold of Mary. Complainant then went to the police station near the church to have the incident

recorded. Complainant claimed that respondent also repaired to the police station, and therein announced that she had control over the custody case. Complainant then suggested to respondent that Mary be allowed to go home as she (complainant) had planned a birthday party for her; and that after the birthday party Aloha could spend time with Mary. However, Aloha did not agree to this suggestion. All of a sudden, Mercy Sarzuelo (Mercy), Aloha's mother, dragged Mary and forced her inside respondent's car. Complainant tried to go with them, but respondent pushed her out of the car, causing her to fall down on the pavement. Respondent then left with her companions, taking Mary with them. Complainant promptly made a police report of this incident. Later, complainant learned that on September 19, 2012, Aloha, together with Mercy and respondent, went to Mary's school, and asked for the issuance of Mary's card and her Form 137. On said occasion, respondent bragged to Mary's teacher that nobody could file a case against her because she was a court employee.

Respondent denied the charges against her. She claimed: (1) that on the morning of September 8, 2012, she received a text message from Aloha and Mercy informing her that they had arrived at Tagbilaran City from Leyte and that they intended to go to the church where Mary was expected to hear mass, as it was Mary's birthday; (2) that she (respondent) and her daughter were also at the church as they usually hear mass on a Saturday; (3) that outside the church, she saw Mary hugging Aloha while complainant who was nearby appeared to be arguing with Aloha; (4) that she went near them, and when asked about her opinion, she said that the law favors the choice of the minor and since the minor wanted to live with Aloha, the minor's preference should be respected; (5) that complainant was infuriated by her opinion; (6) that desirous of a peaceful resolution of the problem, she advised the parties to repair to the police station to discuss their problem; (7) that after this, Aloha requested her (respondent) to bring them to the Greenwich Plaza Marcela; and (8) that she asked complainant to join them there, but the latter refused. Respondent claimed that on September 19, 2012, she merely accompanied Aloha to Mary's school.

In her Reply-Affidavit,<sup>[3]</sup> complainant claimed that she was constrained to file the present administrative complaint because she wanted to bring to the attention of the proper authorities respondent's rude behavior as a Social Worker, specifically her uncalled for and officious meddling in a pending custody case that was none of her business at all.

The Court, upon recommendation of the Office of the Court Administrator (OCA), resolved<sup>[4]</sup> to refer the matter to the Executive Judge of RTC Tagbilaran City, Bohol for investigation, report and recommendation.

### ***Report and Recommendation of the Investigating Judge***

In his Investigation Report<sup>[5]</sup> of June 29, 2016, Investigating Judge Suceso A. Arcamo (Judge Arcamo) of the RTC of Tagbilaran City noted that complainant, in an Affidavit of Desistance<sup>[6]</sup> dated June 1, 2016, had manifested her loss of interest in pursuing the instant administrative case. In the said affidavit, complainant said that she had already forgiven respondent and that she wanted to buy peace as she had been ordained as 3<sup>rd</sup> Order of the Servants of Mary.

Notwithstanding this Affidavit of Desistance, Judge Arcamo, however, thought it proper to proceed with the investigation given the fact that complainant did not say that the allegations in the complaint were false or made up. In due course, Judge Arcamo made the following findings: (1) that it was improper for respondent, as a social welfare officer, to prematurely intervene in the custody case which had been archived for failure to serve summons; (2) that respondent's behavior and conduct showed bias and partiality to one party *i.e.* Aloha; and (3) that respondent clearly displayed arrogance in stating that the success or failure of your case depends upon the tip of my ballpen." Hence, Judge Arcamo recommended that respondent be held guilty of simple misconduct and that she be penalized with suspension for one month.

### **OCA Report and Recommendation<sup>[7]</sup>**

The OCA agreed *in toto* with the findings and recommendation of Judge Arcamo thus

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In the instant case, as correctly pointed out by x x x Judge Arcamo, there was no reason for respondent x x x to intervene on behalf of either party since the custody case was archived by the court. It is admitted by respondent x x x that on 8 September 2012, Aloha x x x texted her that she was in Tagbilaran City to see her daughter at the St. Joseph Cathedral. Thus, it can be surmised that there was prior communication between them to meet at the St. Joseph Cathedral and it was not by mere coincidence that respondent x x x witnessed the altercation between complainant x x x and Aloha x x x. Respondent x x x even assisted Aloha x x x in bringing them to Greenwich Plaza Marcela.

Furthermore, respondent x x x went to the extent of using force against complainant x x x. This Office agrees with x x x Judge Arcamo that more weight and credence should be given to the allegations of complaint x x x that she was pushed out of the car by respondent x x x. This was corroborated by the affidavit of a certain Christine S. Zamora, a candle vendor in the church, who saw complainant x x x limping. The incident was also recorded in the police blotter under Entry No. 504 dated 8 September 2012.

Moreover, this Office finds credence in the allegation of arrogance on the part of respondent x x x. Respondent x x x denied that she boasted that the success or failure of the custody case is in the "tip of her ballpen". However, there is a whiff of truth that respondent x x x displayed arrogance when she accompanied Aloha x x x to the San Isidro Elementary School. In the affidavit, Corazon E. Mendez, the teacher-in-charge of Mary x x x, stated that respondent x x x boasted that she could not be refused because she is a Supreme Court employee and going to the school is part of her case study on the custody case of Mary x x x.

Clearly, respondent x x x failed to meet the exacting standards required of employees of the judiciary when she persisted in intervening in the custody case despite its having been archived. Also, respondent['s] arrogance is further shown when she brandished her position and used