

EN BANC

[**A.M. No. MTJ-16-1879 (Formerly OCA IPI No. 14-2719-MTJ), July 24, 2018**]

**ANONYMOUS, COMPLAINANT, VS. JUDGE BILL D. BUYUCAN,
MUNICIPAL CIRCUIT TRIAL COURT, BAGABAG-DIADI, NUEVA
VIZCAYA, RESPONDENT.**

DECISION

PER CURIAM:

Before the Court is an administrative matter filed with the Office of the Court Administrator (OCA) against respondent Judge Bill D. Buyucan (Judge Buyucan).^[1]

The Facts

As gathered from the records, the factual antecedents are as follows:

On June 26, 1969, Proclamation No. 573 was signed, which set aside certain lands of the public domain as permanent forest reserves.^[2] Included in the said reservation was a 193-hectare parcel of land located in Sitio Tapaya, Villaros, Bagabag, Nueva Vizcaya, a portion of which was granted to the Department of Agriculture (DA) for research purposes (Subject Property).^[3] Accordingly, the Subject Property was declared for taxation purposes by the DA as evidenced by T.D. ARP No. 2005-03017-0117^[4] and is now known as the Department of Agriculture Cagayan Valley Hillyland Research Outreach Station (DA-CVHILROS).^[5]

As there was a need to clear the Subject Property of informal settlers already residing therein, the DA filed several criminal and civil cases before the Municipal Circuit Trial Court of Bagabag-Diadi, Nueva Vizcaya (MCTC), which is presided over by respondent Judge Buyucan.^[6]

Among the cases filed before the MCTC were: (i) Civil Case No. 626 for Forcible Entry, entitled "Province of Nueva Vizcaya v. Eling Valdez, et al.," and (ii) Criminal Cases No. 4691 and 5094 for Malicious Mischief, entitled "People of the Philippines v. Eling Valdez" and "People of the Philippines v. Amado Valdez *alias* Eling," respectively.^[7] The said cases were eventually dismissed by respondent Judge Buyucan in separate Decisions dated May 22, 2008^[8] and June 16, 2008.^[9]

A few months later, in August 2008, respondent Judge Buyucan acquired a parcel of land located *within* the Subject Property for One Hundred Fifty Thousand Pesos (P150,000.00) from Eling Valdez, the same respondent in the previously dismissed cases, together with Ernesto A. Bagos, Isaija Suarez, and a certain Casmin as co-vendors.^[10] The purported sale was evidenced by a "Waiver of Rights and

Improvements."^[11]

Subsequently, complaints for Malicious Mischief were again filed before the MCTC against the informal settlers, entitled "People of the Philippines v. Arsenio Apostol and John Doe" and docketed as Criminal Case Nos. 5597 and 5598.

A Motion for Voluntary Inhibition dated March 9, 2009 was then filed by the Office of the Solicitor General (OSG), seeking the inhibition of respondent Judge Buyucan as he was also residing within the very same property involved in the said criminal cases.^[12] The OSG alleged that his continued presence in the Subject Property had "emboldened" the other informal settlers to continue with their illegal occupation therein.^[13] Respondent Judge Buyucan, however, refused to recuse himself from hearing the said cases.^[14]

As a result of the foregoing, in a Letter dated March 1, 2013,^[15] the OMB^[16] informed the OCA of an anonymous text message received by the Ombudsman Lifestyle Check Hotline on February 20, 2013, as follows:

Gud day po, gusto ko lang iparating sa inyo itong problema namn dto sa brgy. Villaros, Bagabag Nueva Vizcaya tungkol po sa isang naturingan Judge dto po sa aming bayan kasip nagpatayo po cia ng bahay eh pagkaalam po naming dpo sa kanya yung lupa at wala po kamng makita na building permit tapos maluwang pa ang kanyang sinakop na lupa para kanyang panabong na maunkan imbes n asana kami ang makinabang san po paki imbistigahan po ito maraming salamat po!!!

Gud am po, yung tinutukoy po maimbistigahan ay si judge Bill Buyucan ng MTC Bagacg, N.V., tnx/.^[17]

In an Indorsement dated April 4, 2013,^[18] the OCA referred the Letter dated March 1, 2013 to Hon. Fernando F. Flor, Jr. (Judge Flor), Executive Judge of the Regional Trial Court of Bayombong, Nueva Vizcaya, for investigation and report.

In his Report dated May 16, 2013,^[19] Judge Flor gathered the following facts:

1. Judge Buyucan is occupying an approximate area of one (1) hectare where he keeps and maintains his fighting cock farm. A year ago, he started constructing a two-storey house made of strong materials without securing a building permit. This is confirmed by the Municipal Engineer of Bagabag in its Certification dated May 15, 2013.
2. The land occupied by Judge Buyucan is part of the 193 hectares given to the Department of Agriculture (DA) by virtue of Presidential Decree No. 573 dated June 26, 1969, intended for research purposes and for planting of various plants and trees. The land is declared for taxation purposes in the name of the DA as

evidenced by Tax Declaration ARP No. 2005-03017-0117.

x x x x

5. The Department of Environment and Natural Resources Office through its CENR Officer issued a Certification that the DENR-Officer has not issued any grant, authority under a license, lease, permit or any tenurial document to enter or occupy or possess portions of the land within the DA-CVHILROS.^[20]

In a Letter dated November 15, 2013,^[21] the OCA directed respondent Judge Buyucan to comment on the charges contained in the Letter dated March 1, 2013.

In his Letter dated December 13, 2013,^[22] respondent Judge Buyucan denied knowledge of the DA's ownership of the Subject Property and instead claimed that the land he was occupying was within the road-right-of-way (RRW) of the Department of Public Works and Highways (DPWH) beside the Nueva Vizcaya-Isabela National Road.^[23] Respondent Judge Buyucan also claimed that the alleged two (2)-storey house actually belonged to his nephew and that what he constructed were merely a "temporary Ifugao native house" and an adjacent shanty.^[24] He further stated that he is, in any case, ready to vacate the area if and when the DPWH needs it.^[25]

In a Resolution dated October 15, 2014,^[26] the Court resolved to refer the matter back to Judge Flor to conduct a thorough determination and/or confirmation of facts and to submit a more exhaustive report thereon, to wit:

[D]espite the Report dated May 16, 2013 of Judge Flor, there are still factual issues that need to be clarified especially on the matter of Judge Buyucan's alleged squatting and occupation of the land supposedly reserved for Department of Agriculture Cagayan Valley Hillyland Research Outreach Station (DA-CVHILROS), his alleged construction of a 2-storey house without a building permit, a fighting cock farm on the said parcel of land, and an Ifugao native house allegedly within the road right of way of the Department of Public Works and Highways.^[27]

Accordingly, sometime in December 2014, Judge Flor, together with a representative of this Court,^[28] conducted an ocular inspection of the Subject Property.^[29]

In the meantime, respondent Judge Buyucan filed a Supplemental Answer/Comment dated December 16, 2014,^[30] denying once again the allegations of his squatting on the Subject Property and insisting that the land he purchased was within the RRW of the DPWH.^[31] He likewise insisted that he did not own a fighting cock farm and that the structures he built were made of light and indigenous materials and thus exempted from the requirement of a building permit under Presidential Decree (P.D.) No. 1096.^[32] Further, respondent Judge Buyucan alleged that the two (2)-

storey house described in the Report dated May 16, 2013 is actually owned by his brother, Gabriel Buyucan, who purchased the lot sometime in June 2008 from a certain Larry Valdez, as evidenced by a Waiver of Rights and corroborated by several affidavits.^[33]

Thereafter, in compliance with the Resolution dated October 15, 2014, Judge Flor submitted a Report dated January 20, 2015,^[34] submitting additional evidence and essentially refuting respondent Judge Buyucan's statements in his Letter dated December 13, 2013. The following facts were further established in the said Report: (i) respondent Judge Buyucan was indeed squatting on the Subject Property; (ii) the informal settlers in the Subject Property were mostly members of the same Ifugao tribe of respondent Judge Buyucan;^[35] (iii) respondent Judge Buyucan had several confrontations with the representatives of the Office of the Solicitor General with respect to his illegal occupation of the Subject Property;^[36] and (iv) respondent Judge Buyucan erected a building of strong materials on the Subject Property without procuring the necessary building permit.^[37]

In a Supplemental Report dated February 16, 2015,^[38] Judge Flor recommended the penalty of dismissal from the service against respondent Judge Buyucan as a result of the foregoing acts.

In a Resolution dated September 21, 2016,^[39] the Court referred the matter to the OCA for evaluation, report and recommendation.

The OCA 's Report and Recommendation

In its Memorandum dated May 23, 2017 (OCA Memorandum), the OCA found respondent Judge Buyucan liable for gross misconduct for his illegal occupation and refusal to vacate the Subject Property despite demands from the DA-CVHILROS.^[40] Such conduct, the OCA opined, encouraged other illegal settlers to continue occupying portions of the Subject Property in defiance of the orders of the DA.^[41] The OCA further opined that respondent Judge Buyucan's act of acquiring a portion of the Subject Property from Eling Valdez three (3) months after deciding a case in his favor was unethical and was indicative of a lack of independence and impartiality.^[42]

The OCA recommended thus:

IN VIEW OF THE FOREGOING, it is respectfully recommended for the consideration of the Honorable Court that:

- (1) The instant administrative complaint be RE-DOCKETED as a regular administrative matter against Judge Bill D. Buyucan, Municipal Circuit Trial Court, Bagabag-Diadi, Nueva Vizcaya;
- (2) Judge Buyucan be found GUILTY of gross misconduct and violation of the Code of Judicial Conduct and be SUSPENDED

for a period of six (6) months from office without salary and other benefits; and

- (3) Judge Buyucan be ordered to IMMEDIATELY VACATE the land owned by the Department of Agriculture-Cagayan Valley Hilly Land Research Outreach Station, REMOVE the structures he introduced thereon; and SUBMIT a report on his compliance within a period of thirty (30) days from notice.

Respectfully submitted.^[43]

Issue

Whether respondent Judge Buyucan is guilty of gross misconduct.

The Court's Ruling

Respondent Judge Buyucan is liable. After a judicious review of the records, the Court adopts the findings in the OCA Memorandum with modification only as to the penalty recommended.

In administrative cases, the quantum of proof required is only substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion.^[44] Pertinently, as with factual findings of trial courts, credence should be accorded to the findings of the investigating judge who had the opportunity to hear witnesses and observe their demeanor.^[45]

In this case, the liability of respondent Judge Buyucan hinges on whether he is in fact illegally occupying a portion of the Subject Property. The Court finds in the affirmative.

The evidence on record is unequivocal. As summarized in the OCA Memorandum:

To prove that Judge Buyucan illegally occupied the land reserved for the DA-CVHILROS, Executive Judge Flor submitted a Sworn Statement executed by Ernesto Bagos, Antonio M. Balut and Reynaldo G. Garcia, Jr. The affidavit states that: (1) Bagos was one of the vendors who sold his occupation of the land and its improvements to Judge Buyucan; (2) Balut was one of the carpenters who constructed the 2-storey house and was paid by Edwin Buyucan, nephew of Judge Buyucan; and (3) Garcia, Jr. was the *Barangay* Captain of Villaros who witnessed the execution of the Waiver of Rights between Bagos and Judge Buyucan. He also submitted the Affidavit dated January 29, 2009 of Ms. Celerina T. Miranda stating that Judge Buyucan is one of those who is occupying a portion of the area of DA-CVHILROS and built a rest house and cultivated portions thereof and planted pineapple, mangoes and corn. The affidavit was executed to support a Motion to Inhibit Judge Buyucan. In another