

EN BANC

[A.C. No. 7253, August 29, 2017]

**ATTY. PLARIDEL C. NAVA II, COMPLAINANT, VS. PROSECUTOR
OFELIA M. D. ARTUZ, * RESPONDENT.**

[A.M. No. MTJ-08-1717] (FORMERLY OCA IPI NO. 07-1911-MTJ)

**ATTY. PLARIDEL C. NAVA II, COMPLAINANT, VS. JUDGE OFELIA
M. D. ARTUZ, MUNICIPAL TRIAL COURT IN CITIES OF ILOILO
CITY, BRANCH 5, RESPONDENT.**

D E C I S I O N

PER CURIAM:

For resolution are the two (2) consolidated cases filed by complainant Atty. Plaridel C. Nava II (Nava) against respondent then Prosecutor, now Presiding Judge, Ofelia M. D. Artuz (Artuz) of the Municipal Trial Court in Cities of Iloilo City, Branch 5, (MTCC, Br. 5): (a) A.C. No. 7253 that sought to disbar Artuz, then a Prosecutor at the time of the filing of the petition; and (b) A.M. No. MTJ-08-1717 (formerly OCA IPI No. 07-1911-MTJ) that sought to nullify the nomination and appointment of Artuz as Presiding Judge of the MTCC, Br. 5, for being patently illegal, improper, and irregular.

The Facts

A.C. No. 7253

In the Petition for Disbarment^[1] dated February 10, 2006 (disbarment case), Nava claimed that on July 28, 2005, he filed a Request for Inhibition and Re-raffle^[2] of his client's case before the Office of the City Prosecutor of Iloilo City on the ground that he and Artuz, as then the assigned prosecutor handling his client's case, are not in good terms because they are adversaries in various administrative and criminal cases.^[3] In response to his request, Artuz filed her comment,^[4] where she willfully and viciously maligned, insulted, and scorned him and his father, who is not a party to the case,^[5] thus, Nava asserted that Artuz violated Canon 8 of the Code of Professional Responsibility (CPR) that enjoins lawyers to conduct themselves with courtesy, fairness, and candor toward their colleagues in the profession.^[6] He added that Artuz: (a) made malicious and false accusations in her comment when she accused him of crimes which are baseless and purely conjectural; (b) had maliciously filed criminal cases against him, along with others, before the Department of Justice (DOJ) intended to harass, annoy, vex, and humiliate him; and (c) had maligned her former superior and colleague, City Prosecutor Efrain V. Baldago,^[7] which acts constitute grave misconduct and are violative of the CPR and of Republic Act No. (RA) 6713.^[8]

In a Resolution^[9] dated August 2, 2006, the Court referred the disbarment case to the DOJ for appropriate action.

Meanwhile, record shows that Nava filed before the Judicial and Bar Council (JBC) an opposition^[10] dated January 4, 2006, to the application for judgeship of Artuz. Notwithstanding, Artuz was appointed on September 28, 2006^[11] and took her Oath of Office as Presiding Judge of the MTCC, Br. 5 on October 9, 2006.^[12] Thus, the record of the disbarment case was retrieved from the DOJ^[13] and referred to the Office of the Court Administrator (OCA) for appropriate action.^[14]

A.M. No. MTJ-08-1717

In the petition^[15] for nullification of the nomination and appointment of Artuz as Presiding Judge of MTCC, Br. 5 filed on October 17, 2006 (nullification case), Nava alleged that Artuz is unfit and incompetent to be appointed as a trial judge as she faces "several criminal and administrative cases, the nature of which involves her character, competence, probity, integrity and independence which should not have been disregarded in her application to the judiciary."^[16] These cases are: (a) four (4) disbarment cases - A.C. No. 6605 filed by a certain Zenaida Ramos, A.C. No. 7253 filed by him, a case filed by a certain Julieta Laforteza on July 11, 2006,^[17] and another filed by a certain Herminia Dilla on November 9, 2005; (b) four (4) criminal cases filed before the Office of the Ombudsman-Visayas (Ombudsman) - OMB-V-C-06-0218-D, OMB-V-C-06-0219-D, OMB-V-C-06-220-D, and OMB-V-C-06-221-D; and (c) one (1) criminal case - I.S. No. 2175-05, and one (1) administrative case filed on October 23, 2003, both pending before the DOJ.^[18]

Nava reiterated that during her incumbency as a public prosecutor, Artuz received numerous judicial fines and admonition for tardiness, absences without prior notice, and lack of interest to prosecute cases. In fact, some of the cases she handled were dismissed due to her dismal performance.^[19] Further, Nava narrated specific incidents showing Artuz's character as vindictive, oppressive, and discourteous.^[20]

In her defense,^[21] Artuz alleged that the nullification case is a desperate retaliatory move on Nava's part because of the disbarment case she filed against him, where he was found guilty of gross misconduct and suspended from the practice of law for a period of two (2) months.^[22] She claimed that the charges filed against her were already dismissed or outrightly not given due course.^[23] She thus prayed that the nullification case be dismissed, since she met all the qualifications and has none of the disqualifications for a judicial position.^[24]

Meanwhile, on October 19, 2006, the OCA wrote separate letters for the DOJ and the Ombudsman, requesting information as to the date of filing and status of the criminal and administrative cases filed against Artuz before their respective offices, and whether she has been duly notified thereof.^[25]

In a letter^[26] dated January 29, 2007, the DOJ, through Assistant Chief State Prosecutor Richard Anthony D. Fadullon, stated that it only learned of the criminal

cases filed against then Prosecutor Artuz through Regional State Prosecutor Domingo J. Laurea, Jr. (RSP Laurea). The latter furnished said office of copy of his 2nd Indorsement^[27] dated March 16, 2006, forwarding the records of the cases to Officer-in-Charge Virginia Palanca-Santiago of the Deputy Ombudsman's Office (OIC Santiago), due to RSP Laurea's inhibition from the said cases. As regards the administrative cases filed against Artuz, in her capacity as then public prosecutor, the DOJ stated that there was already a draft resolution as of October 2005; its contents, however, could not, at that time, be disclosed as it was still subject for review by the Office of the DOJ Secretary.

On the other hand,^[28] in a letter dated November 22, 2006 (which the OCA-Legal Office received only on September 4, 2007), OIC Santiago informed the OCA that OMB-V-C-06-0218-D, OMB-V-C-06-0219-D, OMB-V-C-06-0220-D, and OMB-V-C-06-0221-D, all entitled "*Herminia Dilla v. Ofelia Artuz*," were received by the Ombudsman on March 24, 2006; that Artuz was notified of the three (3) cases wherein she filed her counter-affidavit and position paper; and that two (2) of the cases are pending resolution, while the other two (2) were already forwarded to the *Tanodbayan* for appropriate action.

On February 27, 2007, the OCA requested^[29] from the Secretary of the JBC a certified copy of Artuz's Personal Data Sheet (PDS),^[30] which she submitted relative to her application to the judiciary. On March 13, 2007, then Clerk of Court and *Ex Officio* JBC Secretary Ma. Luisa D. Villarama forwarded to the OCA the application documents of Artuz on file with the JBC, including the latter's PDS subscribed and sworn to on October 28, 2005 (October 28, 2005 PDS).^[31]

In a Memorandum^[32] dated October 3, 2007, the OCA noted that the nullification case is deemed mooted by Artuz's appointment to the judiciary, but nonetheless opined that the Court can review her appointment, pursuant to its administrative supervision powers under Section 6, Article VIII of the Constitution.^[33] Thus, it recommended that Artuz "be [directed] to show cause within ten (10) days from receipt of notice why no disciplinary action should be taken against her for not disclosing in her [October 28, 2005 PDS] filed with the JBC the fact that she has been formally charged and that she has pending criminal, administrative and disbarment cases."^[34]

The Court adopted the OCA's recommendation in a Resolution^[35] dated November 28, 2007.

On February 7, 2008,^[36] Artuz filed her Compliance^[37] to the November 28, 2007 Resolution, alleging that the disbarment case against her has already been dismissed by the Court on December 6, 2007.^[38] She likewise denied the accusations against her and claimed that she will never exchange her thirty-one (31) years of government service by perjuring her records, much less her PDS. Finally, she reiterated that she had complied with all the requirements of the JBC and possessed all the qualifications and none of the disqualifications for the appointment to the judiciary.^[39] The Court referred her compliance to the OCA for evaluation, report, and recommendation.^[40]

In a Resolution^[41] dated August 20, 2008, the Court, upon the recommendation of the OCA in its Memorandum^[42] dated July 11, 2008, resolved to: (a) consider as unsatisfactory her compliance with the Court's November 28, 2007 show cause Resolution for her failure to sufficiently explain why no disciplinary action should be taken against her for not disclosing in her October 28, 2005 PDS the fact that she has been formally charged; (b) re-docket the complaint as a regular administrative matter, *i.e.*, A.M. No. MTJ-08-1717; and refer the administrative matter to the Executive Judge of the Regional Trial Court of Iloilo City (RTC) for further investigation.

During the investigation, Artuz reiterated her previous allegations that the nullification case is frivolous, malicious, and a harassment citing her complaint for disbarment against Nava which resulted in the latter's suspension from the practice of law for a period of two (2) months.^[43] Artuz presented: (1) a Certification^[44] dated January 30, 2007 issued by the DOJ, certifying that she has no pending administrative case; (2) a Certification^[45] dated June 15, 2004 issued by the Ombudsman, stating that she has no pending criminal and administrative cases; and (3) the Court's Resolution^[46] dated November 21, 2005, noting the dismissal of her disbarment case.

On February 16, 2011, the Court, on Artuz's motion,^[47] relieved Executive Judge (EJ) Antonio M. Natino from investigating the matter and directed First Vice EJ Danilo P. Galvez (EJ Galvez), RTC, Iloilo City to continue with the investigation.^[48]

In his Investigation Report^[49] dated September 30, 2014, EJ Galvez submitted that Artuz missed the point of the administrative matter as she failed to explain why she omitted or falsely answered the subject questions in her October 28, 2005 PDS submitted before the JBC.^[50] He noted that, while a disbarment case filed against her had been pending before the DOJ since October 23, 2003, Artuz nonetheless did not answer the PDS question requiring disclosure of any pending case or complaint filed against her. Worse, she answered "NO" when asked whether she had been charged with, convicted of, or sanctioned for violation of any law, decree, ordinance, or regulation, or otherwise found guilty of an administrative offense in the same PDS.^[51] In another PDS^[52] dated November 6, 2006, which she filed before the Office of the Administrative Services-OCA (OAS-OCA), Artuz likewise answered "NO" to the question "*Have you ever been formally charged?*".^[53] EJ Galvez opined that Artuz omitted and falsely answered these questions purposely to deceive the JBC which was then deliberating on her application.^[54]

In a Resolution^[55] dated February 23, 2015, the Court referred the September 30, 2014 Investigation Report of EJ Galvez to the OCA for evaluation, report, and recommendation.

The OCA's Evaluation and Recommendation

In the Memorandum^[56] dated November 3, 2015 issued in A.M. MTJ-08-1717, the OCA recommended that Artuz be found guilty of Grave Misconduct, Dishonesty, and Falsification of Public Documents, and accordingly be dismissed from service effective immediately.^[57]

The OCA agreed with EJ Galvez's observation that Artuz not only missed the point of the investigation, but also the opportunity to explain her side as to why she did not disclose in her two (2) PDS - submitted on October 28, 2005 and November 6, 2006 (subject PDS) - the material fact that she had been formally charged.^[58] To the OCA, Artuz deliberately lied in her answers in the subject PDS to conceal the truth and make it appear that she is qualified for a judgeship position to which she was eventually appointed.^[59] Had she disclosed this material fact, the JBC would have surely disqualified her from nomination for judgeship based on its rules. Her act of making an obviously false statement in her two (2) PDS is a clear indication that she does not deserve any position in the judiciary.^[60] Worse, she repeatedly disregarded the Court's directives to show cause why no disciplinary action should be taken against her for not disclosing in the subject PDS the fact that she had been formally charged and that she had pending criminal, administrative, and disbarment cases.^[61]

In this light, the OCA held that Artuz's act of making untruthful statements in her two (2) PDS amounts to dishonesty and falsification of an official document which carries the extreme penalty of dismissal from service with forfeiture of all retirement benefits, except accrued leave credits, and perpetual disqualification from reemployment in the government service.

In the interim, the OCA, in a Memorandum^[62] dated August 7, 2014 issued in A.C. No. 7253, recommended that A.C. No. 7253 (disbarment case) be consolidated with A.M. No. MTJ-08-1717 (nullification case), which the Court adopted in a Resolution^[63] dated June 17, 2015.

The Issues Before the Court

The essential issues for the Court's resolution are whether or not Artuz is guilty of: (a) Grave Misconduct, Dishonesty, and Falsification of official document for her failure to disclose in the subject PDS the material fact that she had been formally charged; and (b) Grave Misconduct and violating the CPR and RA 6713.

The Court's Ruling

The Court agrees with the findings and recommendations of the OCA in A.M. No. MTJ-08-1717 that Judge Artuz is guilty of Grave Misconduct, Dishonesty, and Falsification of official document for her false statements in her two (2) PDS and for her willful defiance of Court directives.

Misconduct has been defined as any unlawful conduct, on the part of the person concerned with the administration of justice, prejudicial to the rights of the parties or to the right determination of the cause.^[64] It implies wrongful, improper, or unlawful conduct, not a mere error of judgment, motivated by a premeditated, obstinate or intentional purpose, although it does not necessarily imply corruption or criminal intent, and must have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office.^[65]