

SECOND DIVISION

[OCA IPI No. 15-4429-P, December 06, 2017]

**ISAGANI R. RUBIO, COMPLAINANT, VS. IGMEDIO J. BASADA,
COURT LEGAL RESEARCHER II, BRANCH 117, REGIONAL TRIAL
COURT [RTC], PASAY CITY, RESPONDENT.**

RESOLUTION

CAGUIOA, J:

An Administrative Complaint^[1] dated May 28, 2015 was filed by complainant Isagani R. Rubio against respondent Igmedio J. Basada, Legal Researcher II, Branch 117, Regional Trial Court (RTC), Pasay City, for violations of the Code of Conduct for Court Personnel, Republic Act (R.A.) Nos. 6173^[2] and 3019^[3], as well as regulations of the Housing and Land Use Regulatory Board (HLURB).

The charges of complainant Rubio against respondent Basada stem from their rivalry in the administration of the Camella Springville City West Homeowners' Association.

Complainant Rubio accused respondent Basada of misrepresenting himself as a law graduate, and questioned the qualifications of respondent Basada as Legal Researcher II.^[4] Complainant Rubio claimed that respondent Basada's duties as president of the homeowners' association conflicts with his functions as court legal researcher, citing several instances when respondent Basada attended meetings and hearings for and in behalf of the homeowners' association.^[5] Complainant Rubio also accused respondent Basada of violating the Anti-Graft and Corrupt Practices Act when he solicited and accepted donations from several individuals without properly informing the general membership of the homeowners' association.^[6]

Complainant Rubio further faulted respondent Basada for violating HLURB rules and procedures, particularly through the following acts: (a) declaring himself president of the homeowners' association following the resignation of its president on December 27, 2013; (b) accepting honorarium/remuneration as an officer of the board without informing the members of the homeowners' association, and suppressing their freedom to air their legitimate concerns; (c) causing complainant Rubio's expulsion from the association on the ground that he is a *persona non grata*, without giving him the benefit of due process of law; and (d) causing the filing of criminal cases against complainant Rubio and other officials and members of the association who opposed respondent Basada's administration.^[7]

In his defense, respondent Basada denied misleading anyone about his academic background.^[8] Respondent Basada asserted that he performs his duties as a legal researcher during regular office hours and only attends to his tasks as president of the homeowners' association after office hours and during weekends.^[9] Respondent Basada admitted that as president of the homeowners' association, he solicited and

accepted donations from certain politicians, however, he vehemently denied receiving said donations in his personal capacity or in the course of his official duties and functions as an employee of the court.^[10]

Respondent Basada surmised that the instant administrative complaint was filed as a form of leverage for the criminal cases he filed against complainant Rubio.^[11] Respondent Basada argued that the issues raised in the instant complaint, which involve the administration of the homeowners' association, are not related to his work in the judiciary, and therefore must be dismissed for lack of jurisdiction.^[12]

In a Report^[13] dated February 23, 2017, the OCA recommended that the Administrative Complaint against respondent Basada be dismissed for lack of merit. However, the OCA also recommended that respondent Basada be directed to relinquish his position as president of the homeowners' association in order to fully devote his time in his duties and functions as Court Legal Researcher.^[14]

After considering the allegations in the Administrative Complaint and respondent Basada's explanation, the OCA found as follows:

The instant administrative complaint should be dismissed for insufficiency of evidence, but this notwithstanding, respondent Basada should be directed to relinquish his post as president of the homeowners association and concentrate on his work as a legal researcher.

Most allegations raised by complainant Rubio against respondent Basada stem from their rivalry within the homeowners association, and have nothing to do with respondent Basada's duties as legal researcher. It is alleged that respondent Basada did not follow the procedures of the HLURB when he assumed the post of president of the homeowners association. Respondent Basada is also accused of failing to properly discharge the duties as president and of indiscriminately filing criminal cases against complainant Rubio and anyone else who opposed the legitimacy of his administration.

In *Re: Rivas Compound Homeowners Association vs. Mr. Francis A. Cervantes*, where the court employee was accused of failing to properly account for the funds collected during his term as president of the homeowners association, the Court held that it "*cannot take cognizance of a number of the allegations leveled against respondent Cervantes being of the nature that should properly be threshed out in a court or agency clothed with jurisdiction.*" In the instant administrative complaint, the allegations against respondent Basada in the performance of his duty as president of the homeowners association should be addressed to the HLURB, the agency that has the jurisdiction to resolve controversies and disputes relating to homeowners associations.

Regarding the allegation that respondent Basada claimed to be a law graduate when he did not even reach second year in law school, the records in his 201 file show that he earned 47 units in Bachelor of Laws at New Era University and 20 units in Pamantasan ng Lungsod ng Maynila, covering a total of six (6) semesters, or almost three (3) years.

This is attested to by Mr. Gertrudes L. Villalon, School Registrar, Pamantasan [ng] Lun[g]sod ng Maynila. It is also worth stressing that all papers relative to respondent Basada's appointment as a legal researcher were duly scrutinized by the Supreme Court Selection and Promotion Board - Lower Courts. In the absence of proof to the contrary, the presumption is that he met the requirements for the said position.

Anent the allegation that respondent Basada has been remiss in the performance of his duties in court because of his additional obligation as president of the homeowners association, this is belied by his "very satisfactory" ratings in his Performance Evaluation reports. However, in Administrative Matter No. 88-6-002-SC, 21 June 1988, the Court denied the request of Ms. Esther C. Rabanal, Technical Assistant II, Leave Section, Office of the Administrative Services, this Court, to work as an insurance agent after office hours, including Saturdays, Sundays, and holidays. The Court held that the entire time of judiciary officials and employees must be devoted to government service to insure efficient and speedy administration of justice. As compared to an insurance agent, the position of president of a homeowners association is far more demanding. Respondent Basada himself admitted that there were occasions when he had to take a leave of absence from work to attend to the meetings of the homeowners association. The needs of the homeowners, both being multiple and pressing, require full-time attention, and with this, respondent Basada should relinquish his position as president of the homeowners association.^[15]

The Court agrees with the recommendation of the OCA to dismiss the instant administrative complaint against respondent Basada. However, the Court sees no reason to require respondent Basada to relinquish his post as president of the homeowners' association.

Section 5, Canon III of the Code of Conduct for Court Personnel^[16] allows court personnel to obtain outside employment provided the head of office authorizes it and that the following requirements are fulfilled:

- (a) The outside employment is not with a person or entity that practices law before the courts or conducts business with the Judiciary;
- (b) The outside employment can be performed outside of normal working hours and is not incompatible with the performance of the court personnel's duties and responsibilities;
- (c) The outside employment does not require the practice of law; *Provided, however,* that court personnel may render services as professor, lecturer, or resource person in law schools, review or continuing education centers or similar institutions;
- (d) The outside employment does not require or induce the court personnel to disclose confidential information acquired while performing official duties; and
- (e) The outside employment shall not be with legislative or