

THIRD DIVISION

[A.M. No. RTJ-13-2363 (Formerly OCA IPI No. 13-4149-RTJ), February 25, 2015]

**SAMAHAN NG MGA BABAE SA HUDIKATURA (SAMABAHU),
COMPLAINANT, VS. JUDGE CESAR O. UNTALAN, REGIONAL TRIAL
COURT, BRANCH 149, MAKATI CITY, RESPONDENT.**

D E C I S I O N

VILLARAMA, JR., J.:

The present administrative case stemmed from an unsigned letter received by the Office of the Chief Justice (OCJ) on April 18, 2013, purportedly written by a group of female court employees styled as "*Samahan ng mga Babae sa Hudikatura*" (SAMABAHU).

The aforesaid letter charging respondent with sexual harassment reads:

April 5, 2013

Hon. Maria Lourdes P.A. Sereno

Chief Justice

Supreme Court of the Philippines

P. Faura St., Manila

Ma'am,

Tulong po, marami po kaming kasamahang babae dito sa RTC, Makati na binabastos at hinihipuan sa SUSO, PUWET at harapang bahagi ng katawan ni Judge Cesar Untalan, [J]udge ng RTC, 149, at naging Acting Judge ng RTC Br. 145.

Isa siyang MANYAKIS na nagtatago sa Bible pero kurap at salbahe sa empleyado. Kawawa po ang mga kasama kong sina:

1) Sarah - court aide ng Br. 149, tuwing pinapapasok siya ni Judge Untalan sa kuwarto niya ay hinihipuan ito umiiyak na lang.

2) Tess Rol - Stenographer ng Br. 65 at kamag-anak ni Sarah, pinuntahan niya si Sarah sa Br. 149 para tanungin sa tsismis, pero siya rin ay hinipuan sa PUWET ni Judge Untalan kaya minura niya ito.

3) Weng - Clerk III, RTC 145 mas madalas siyang hipuan sa puwet kahit galit na galit siya noong Acting Judge sa Br. 145 si Judge Manyakis.

4) Marissa - Stenographer, Br. 145 hinipuan din sa suso.

5) Ana San Pedro - Process Server, Br. 145 HINALIKAN sa nguso habang hinihimas ang SUSO.

6) Sarah - Interpreter, Br. 145. Hinalikan din at hinimas ang suso.

May nakakita po sa kanila. Ang 2 nasa huli (Ana & Sarah) ay pumayag na pagsamantalahan dahil lahat sila ay takot sa banta ni Judge na ibabagsak ang performance rating noon.

7) Aurora - Legal Researcher, Br. 149. Dinukot din ni Judge Untalan ang gilid ng suso.

NATATAKOT PO SILA para daw pong BALIW si Judge, ipapsychological test po siya.

SAKLOLO ipatawag po niyo sila upang malaman ang totoo.

SUSPENDEHIN MUNA si manyakis habang iniimb[e]stigahan o ilipat sa ibang Br. sa Metro Manila `wag sa Makati.

Alam po ito ng Judge ng 145 na si Judge Calpatura, at marami pang Huwes. Pati ba sila ay takot kay Judge Untalan?

Mayabang siya at bastos, pag binati mo siya ng "Good morning Judge" ang isasagot parati sa iyo ay "What is good in the morning?".

Corrupt siya at yumaman nang maging Judge ng "Commercial Court." We challenge you your Honor, gawin niyong "Drugs Court" siya para di siya kumita. Tingnan niyo ang Administrative cases niya NPAKARAMI. Malakas daw siya sa inyo at kay DCA Delorino at Vice-President Binay. (Bakit matagal idecide mga administrative case niya?)

Noong isang Linggo sinigawan niya at hiniya si Atty. Jamora Br. Clerk of Court at Process Server ng RTC Br. 56 dahil sa agawan ng parking ng kotse niya at Judge Pascua ng Br. 56. Nilamukos at ibinato sa mukha ng Process Server ang papel na katunayan na kay Judge Pascua ang parking space sabay mura kay Atty. Jamora at Process Server. BALIW NA PO SI JUDGE UNTALAN, SAKLOLO. Babae ka rin po.

SAMAHAN NG MGA BABAE SA HUDIKATURA^[1]

The anonymous letter was referred to the Office of the Court Administrator (OCA) which dispatched a team of four (4) lawyers tasked to conduct a "discreet investigation" and submit a report. The team verified the identities of the alleged victims named in the letter thru telephone calls. They eventually met with two female employees of Makati City RTC, namely Mrs. Rowena "Weng" P. Ripdos (Ripdos), Clerk III at Branch 145, and Ms. Marissa Fe B. Herradura (Herradura).

On June 17, 2013, Ripdos and Herradura executed their respective affidavit-complaints^[2] before the City Prosecutor of Makati.

In her Affidavit-Complaint,^[3] Ripdos alleged that on April 22, 2011, she and Herradura remained at Branch 145 while their office mates went out for lunch. Respondent suddenly arrived and shouted for her to come inside the chambers. She was made to sit in front of respondent's table while respondent looked angrily at her. She then asked "*Bakit po, Judge?*" and respondent inquired if her husband was around. When she replied that her husband, who is an employee of the Makati City Hall detailed at Branch 145, was not there, respondent quickly stood up saying "*pahalik*" while holding her cheeks. She hurriedly rose from her seat and told respondent she was going out but he also stood up, saying "*sandali! pahalik ulit.*" Respondent embraced her and kissed her on the neck and chest while rubbing his body against hers. She tried to push him away but respondent knelt down with one hand clasping her waist while the other was on her breast. Respondent's face was slumped on her womb while her hand was on her breast; his body seemed to be "*nanggigigil.*" When respondent stopped and released her, she quickly went out of the chambers and ran towards Herradura. She narrated to Herradura what respondent did to her and Herradura exclaimed "*Putang-inang Judge, iyan pati ako pinisil ang aking suso*" at the same time demonstrating how respondent pinched her breast.

After the alleged incident, Ripdos claimed that respondent threatened her with a low performance rating and transfer to the Office of the Clerk of Court (OCC). Since then, she tried to avoid the respondent but when the time for accomplishing the employees' performance ratings came, respondent summoned her and her husband. Respondent declared that he intended to write this Court to request for her removal and attach her performance rating with "Satisfactory" grade. When she retorted that she will just respond to such charge, he got mad and told her she is hard-headed and that he will talk to the judge who will replace him at Branch 145 to give her a low rating. At this point, she told respondent that he knows what he did to her. Upon hearing this, respondent changed his mood and calmly told them that he actually went to church where St. Andrew pleaded to him because if she is dismissed from her job, she and her husband would be pitiful and they would have no means to send their children to school, and respondent would see them living on the streets while his car passes by them. Respondent then warned her not to complain to the administration because no one will believe her, she is just an employee and her enemy is a Judge and he can have her removed.

Herradura corroborated the statement of Ripdos that she divulged to her what respondent did to her. She narrated her own experience with respondent whom she claimed pinched her breast twice while she was working in front of the computer and respondent was standing behind her. When she asked respondent why, the latter did not answer and just left. She felt shaken and later told everybody in Branch 146 and her office, and also Atty. Danilo Lacson, what happened to her. Sometime thereafter, respondent called her to his chambers and told him that her office mates have many stories about her. She repeatedly denied it but respondent kept on saying she was lying. Respondent also asked her to report to him what Anna, Sarah and "Tatang" (retired clerk) have been saying about him, which confused her because these were his loyal employees and thus she refused. Respondent then said the reason he called for her was to tell her he will give her a low performance rating if she will not apologize right away, but she told him she does not know what she has to apologize for. After this, respondent said her office mates dislike her because she does not talk to them. She dared him to call all her office mates to confront them but respondent

said "Never mind, no need." Respondent then reiterated he was going to give her a low performance rating, and when she asked why respondent said "I don't have to tell you, you know." He even made her read each criterion in the performance rating sheet, saying she would fail. Again, he insinuated at another employee ("Tatang") who supposedly complained that she does not talk to him, and she denied having dealt negatively with said employee. She told respondent that she and her office mates have been together for 20 years already and have not quarreled until now, which respondent did not take well as it alluded to him as the reason for the rift. When respondent insisted he will still give her a low rating, she replied that she will just fight it and told him he was being unfair and unjust. Realizing that she will not apologize to him, he asked how the matter was going to end and she told him it was him who is more broad-minded.^[4]

In their Report^[5] dated October 1, 2013, the investigating team submitted the foregoing affidavits and stated that they have gathered information that the following staff members serve as the "eyes and ears" of respondent: Myrna Dizon and Roberto Guilang (locally funded employees) and Eugyne del Rosario (Clerk III, Branch 149, RTC Makati City). The team said it is necessary to place respondent under suspension "to literally clear the air and ensure an unhampered investigation"^[6] as they believed once respondent is suspended, "more victims will come out or it will be easier for the Team to reach out and solicit more information/evidence."^[7] It was further recommended that Dizon and Guilang be recalled to their mother unit while del Rosario in the meantime should be detailed to the OCC-RTC Makati City.

After evaluation, the OCA concluded that the allegations in the anonymous complaint are far from being figments of the imagination as the complainants described in detail their experience with respondent. It thus recommended that the case be docketed as a regular administrative matter and referred to the Court of Appeals (CA) Presiding Justice to be raffled off among their Justices for investigation, report and recommendation. Respondent was placed under preventive suspension and directed to file his comment to be submitted to the CA Investigating Justice. Further, the OCA ordered that del Rosario be detailed to the OCC-RTC Makati City, and that Dizon and Guilang return to the City Government of Makati.

In his Comment,^[8] respondent denied all the allegations of improper conduct imputed to him and submitted the supporting affidavits of his three female employees (Atty. Grace C. Tang-Togado, Branch Clerk of Branch 149; Shara Joy Brillo, Branch 149 Court Aide; and Aurora T. Usero-Jackson, Legal Researcher II at Branch 149). He argued that the standard of substantial evidence is not met in this case considering that the alleged date mentioned by Ripdos in her affidavit, April 22, 2011, was in fact an official holiday as it was Good Friday. The manner in which the "discreet investigation" was conducted was likewise assailed by respondent, pointing out that the OCA team's findings were apparently based on hearsay from unnamed sources. Respondent also lamented the fate of Dizon, Guilang and del Rosario who were unjustly labeled as "moles" by anonymous, unevaluated sources. He stressed that the team itself admitted the flaws in their investigation, as they had to resort to measures in order for them to reach out and "solicit more information/evidence." As to the charge of corruption, respondent asserted there was no evidence on record except for the allegation in the anonymous letter. Accordingly, he prayed for the dismissal of the complaint.

The case was assigned to CA Justice Danton Q. Bueser who conducted hearings where the following witnesses testified: Atty. Analiza T. Parra (OCA), Ripdos, Herradura, Herman Manigbas, respondent Judge Untalan, Shara Joy Brillo, Rosanna San Pedro and Ma. Aurora Usero-Jackson.

In his Final Report and Recommendation, Justice Bueser found respondent guilty beyond reasonable doubt of sexual harassment as he exercised moral ascendancy over the complaining female court employees. He found the testimonies given by Ripdos and Herradura credible and that their silence for two years before filing the present complaint can be explained by their fear of losing their jobs. On respondent's denial, Justice Bueser declared that it cannot prevail over the witnesses' credible testimony. He thus recommended that respondent be meted the penalty of dismissal from the service with forfeiture of retirement benefits except accrued leave credits.

After thorough evaluation of the records, we are unable to concur with the findings and conclusions of the Investigating Justice.

In administrative proceedings, the complainant has the burden of proving the allegations in his complaint with substantial evidence, i.e., that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.

[9] Further, it is settled that the assessment of the credibility of witnesses is a function primarily lodged in the Investigating Justice.^[10] The findings of investigating magistrates are generally given great weight by the Court by reason of the unmatched opportunity to see the deportment of the witnesses as they testified.

[11] The rule which concedes due respect, and even finality, to the assessment of credibility of witnesses by trial judges in civil and criminal cases applies *a fortiori* to administrative cases.^[12] However, there are some exceptions to the rule according finality to the trial judge's assessment of a witness' testimony, such as when his evaluation was reached arbitrarily or when the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which would affect the result of the case.^[13]

In this case, the OCA and the Investigating Justice found credible the allegation of Ripdos that respondent made sexual advances on her despite respondent's assertion that such incident could not have happened considering that the date stated in her Affidavit (dated June 17, 2013) - April 22, 2011- was Good Friday, a regular holiday and hence all government offices including courts are closed. Notably, it was only during the investigation proper at the CA that Ripdos corrected herself in her Judicial Affidavit^[14] dated June 2, 2014, after respondent had raised the issue in his Comment, thus:

88. QUESTION: Sinasabi ni Judge Untalan sa kanyang Motion for Reconsideration at Comment na ang date na April 22, 2011, kung kelan nangyari umano ang pangmo-molestiya sa iyo, ay Biyernes Santo o Good Friday. Nabasa mo ba ito?

ANSWER: Opo.