

THIRD DIVISION

[A.M. No. P-09-2726 [Formerly OCA IPI No. 08-2923-P], August 28, 2013]

A.M. No. P-10-2884 [Formerly OCA IPI No. 08-2750-P]

JUDGE ROBERTO P. BUENAVENTURA, METROPOLITAN TRIAL COURT, BRANCH 63, MAKATI CITY COMPLAINANT, VS. FE A. MABALOT, CLERK OF COURT III, METROPOLITAN TRIAL COURT, BRANCH 63, MAKATI CITY, RESPONDENT.

DECISION

MENDOZA, J.:

This pertains to the Integrated Report and Recommendation,^[1] dated June 15, 2012, of Executive Judge Benjamin T. Pozon (*Judge Pozon*), Regional Trial Court, Makati City, in the above entitled administrative matters, submitted through the Office of the Court Administrator (OCA), finding that respondent Fe A. Mabalot (*Mabalot*) had committed simple misconduct and conduct prejudicial to the best interest of the service.

The Facts

OCA I.P.I. No. 08-2750-P (Now A.M. No. P-10-2884)

In a letter,^[2] dated December 12, 2007, Judge Roberto P. Buenaventura (*Judge Buenaventura*), Presiding Judge, Metropolitan Trial Court, Branch 63, Makati City (*MeTC*), requested the transfer of Mabalot, Clerk of Court (*CoC*) III of the same branch, for Conduct Prejudicial to the Best Interest of the Service and Act Violative of Section 3(a) of Republic Act (*R.A.*) No. 3019 or the Anti-Graft and Corrupt Practices Act.

Judge Buenaventura learned about a text message sent by Mabalot to Felipe De Sesto, Jr. (*De Sesto*), one of his staff assigned as Chairman of the Committee on Revision, in an election case, "*Gaviola v. Torres*," pending in his sala. The text message intimated that she personally knew Atty. Gaviola, the husband of the protestant in the said case. It concerned the delivery of something to De Sesto from Gaviola's husband, who was the former boss of Mabalot. Its tenor suggested a bribery which Mabalot was trying to mediate relative to the case. The text message reads:

Manong Jun nabigay ba sa yo yong pinabibigay ni Atty. Gaviola dating boss ko sa Landbank asawa ng protestant ni Torres dagdagan daw sa pasko don't worry dworry di malalaman ni Judge pinabibigay sa akin pero pinadidiretso ko sa yoo sa yo.^[3]

Judge Buenaventura averred that the said matter caused grave concern on his part considering that the credibility of the whole process of the election protest pending in his sala was at stake. For said reason, he stated that he had lost his trust and confidence in Mabalot. There was, therefore, a need for her immediate transfer to protect the integrity of his office.

On December 13, 2007, the said letter-request was endorsed as a complaint by MeTC Executive Judge Henry Laron (*Judge Laron*) to the OCA, for appropriate action and disposition, with a manifestation that Mabalot had already been detailed to the Office of the Clerk of Court, MeTC, Makati City, per Memorandum, dated December 13, 2007.^[4] The said administrative complaint was docketed as OCA IPI No. 08-2750-P.

In her Comment,^[5] dated February 1, 2008, Mabalot denied the allegation that she was involved in a bribery or corrupt act alluded to in the said text message. She argued that had it been true that she intended to favor the protestant, she could have simply taken the keys to the padlocks of the ballot boxes which were left by Grace Beltran in the chambers during the recount of votes. Analyzing the text message, she pointed out that the message sender "had not a hand in the bribery" as the text message was only a query if De Sesto had received whatever Atty. Gaviola gave and it was not even clear from the message what he would give. She categorically denied that she was the author of the text message which could be the doing of some individuals who took the opportunity of using her cellular phone when she left the said phone on her table.

She further claimed, among others, that in her long years of government service, she had performed her duties with utmost responsibility and efficiency, guided by the principle that "public office is a public trust;" that in her entire service, it was the first time that she was charged with an administrative offense which was obviously motivated by personal ire; and that as she was nearing her mandatory retirement age, she would not risk her long years of government service by peddling a bribe from a party in a case. Confirming the manifestation of Judge Laron, she added that inasmuch as she could no longer work effectively with Judge Buenaventura, considering the strained relations, she requested to be detailed to another position where she could serve her salary's worth.^[6]

Pursuant to the recommendation of the OCA, the Court in a Resolution,^[7] dated March 4, 2009, referred the matter to then Executive Judge Maria Cristina J. Cornejo of RTC, Makati City, for investigation, report and recommendation within sixty (60) days from notice. The latter, however, recused herself and the case was referred to then Vice Executive Judge Pozon, Presiding Judge, RTC, Makati.

On October 9, 2009, the pre-hearing conference was held and the parties agreed to dispense with a formal hearing and presentation of witnesses or other evidence, and considered the matter closed and submitted for resolution.

As agreed upon, the only issue was whether or not Mabalot had some participation in the suspected bribery.

On October 12, 2009, Judge Buenaventura furnished the Investigating Judge with a copy of his Reply to Mabalot's Comment, which he had filed with the OCA on

October 17, 2008, but was not included in the records endorsed by the Court.

Thereafter, Judge Pozon submitted his Report and Recommendation,^[8] dated November 13, 2009. In the said Report, it was established that the subject text message was sent from a cellular phone with number 0928-7787724 belonging to Mabalot. Nonetheless, the facts showed that Mabalot did not accept any offer or promise or receive a gift or present. Thus, some elements of the crime of direct bribery under Article 210 of the Revised Penal Code (RPC) were lacking.

The report concluded that Mabalot could not be criminally liable for direct bribery. Neither could she be liable for indirect bribery, as defined and penalized under the RPC, as what was offered by Atty. Gaviola was not intended for her but for De Sesto. Judge Pozon, however, found Mabalot liable for violation of the Code of Conduct for Court Personnel. "[I]nstead of suggesting to Atty. Gaviola to directly give that 'something' to Felipe De Sesto as [she] should have discouraged, if not totally reject or decline the said offer intended for De Sesto. Being the Branch CoC, she should be the first among the court employees to zealously guard the public trust character of her office."^[9] Mabalot's acts, according to Judge Pozon, constituted misconduct.

OCA IPI No. 08-2923-P (Now A. M. No. P-09-2726)

In his letter-complaint,^[10] dated May 19, 2008, Judge Buenaventura reported to Judge Laron the disturbing actuations of Mabalot. In his Affidavit,^[11] dated May 22, 2008, Judge Buenaventura claimed, among others, that on May 6, 2008, Mabalot went to his chamber, rudely accused him of being the cause of all her miseries and threatened to harm or kill him; and that, in the presence of other staff members of Branch 63, she hurled insulting words at him, mocking even his religious practice of praying regularly; that sensing that she was not in her right frame of mind, he avoided any discussion with her and just let what she wanted to say until she left his chambers; that after she left his office, she made a threat, in the presence of other court personnel, that she was going to kill him; that this threat was confirmed by Rowena Soller (*Soller*), Branch COC, MeTC, Branch 65, who reported that she (Mabalot) stated in her presence that she was going to kill Judge Buenaventura and then kill herself afterwards; and that a series of text messages to him then followed, threatening that she would get even with him by destroying him and his family.

Judge Buenaventura averred that Mabalot's actuations in making threats against his life and her attempts to "blackmail" him were not only acts unbecoming of a court personnel but should be given serious attention in the light of judicial-related killings where a number of judges had already been killed.

Judge Buenaventura observed that Mabalot appeared to be very mentally disturbed and suggested that an evaluation of her mental capacity or fitness to carry out court duties and responsibilities be conducted.

In her Affidavit and Counter-Affidavit,^[12] dated June 2, 2008, Mabalot alleged, among others, that on May 6, 2008, she went to MeTC, Branch 63, to get her own personal law books and to talk to Judge Buenaventura to tell him that her illegal detail was about to expire as well as her intention to report her situation to the Chief Justice as advised by some judges who were her friends; that she was also to tell Judge Buenaventura to stop Liza Pamittan from spreading the rumor that she was

being dismissed from the service; that she was, however, unprofessionally driven away by Judge Buenaventura as he was busy with the election cases; that in tears, she asked Judge Buenaventura if he felt fulfillment, having ruined her career, dignity and life.

Mabalot also claimed that on the same day, she went to Soller for the approval and signature of the MeTC Executive Judge on her leave application; that she was so desperate and hopeless because her salary had been withheld since March 2008 and she was surviving with only P500.00 allowance a week from her sister; that in addition, she was being required to refund the excess of the Sheriff's Trust Fund in the amount of P59,000.00; that she was heavily indebted due to her sister's operation and incurred relocation expenses when she transferred to Quezon City; and that with all these problems, she thought of dying and eliminating the source of all her miseries which, according to her, was just a normal human reaction, but remote to happen as she had always been a practicing Catholic.

Mabalot also admitted that she texted Judge Buenaventura as he arrogantly refused to talk to her.

On July 16, 2008,^[13] Judge Laron referred to the OCA the Resolution,^[14] dated July 8, 2008, of the Employee Grievance Committee, MeTC, Makati City, finding that the said complaint was not an appropriate subject of the grievance body and that the case should be resolved in accordance with the Revised Uniform Rules on Administrative Cases in the Civil Service (Civil Service Rules) as the actuations described by Judge Buenaventura amounted to grave misconduct, gross insubordination and conduct prejudicial to the best interest of the service.

Mabalot, in her Comment,^[15] dated September 19, 2008, insisted that the Employee Grievance Committee was the proper body to handle the complaint as the issue pertained to matters about employee dissatisfaction and discontentment. She denied and refuted the accusations and charges against her.

In his Reply to Comment,^[16] Judge Buenaventura insisted that Mabalot's disclosure of her intention to kill and exact revenge against him was not merely an employee dissatisfaction which should be taken lightly. He asserted that Mabalot's actuations were directly related to his previous complaint against her involving a bribery charge which was the subject of a pending administrative case, OCA IPI No. 08-2750-P.

Considering that the issues in the two cases were intertwined, and that Mabalot had adopted the pleadings she filed in that case as her comment in this case, the OCA, in its Report,^[17] dated October 26, 2009, recommended the consolidation of the two cases.

On December 7, 2009, the Court re-docketed this administrative complaint as a regular administrative matter, A.M. No. P-09-2726 and consolidated it with OCA IPI No. 08-2750-P, which had not been re-docketed yet as an administrative matter.^[18]

According to the OCA, prior to the issuance of the resolution ordering the consolidation of the two cases, the Investigating Judge had concluded the investigation and had submitted his Report and Recommendation in OCA IPI No. 08-2750-P on November 20, 2009. Notwithstanding the termination of the investigation

and the submission of the report and recommendation, the OCA, however, reiterated its view that the issues therein were intertwined with those of A.M. No. P-09-2726, inasmuch as Mabalot adopted the pleadings she had filed in the earlier case as her comment in the latter case.

On December 15, 2010, the Court resolved to re-docket A.M. OCA IPI No. 08-2750-P, as a regular administrative matter, (now A.M. No. P-10-2884) and to forward the records of both cases to Judge Pozon for the investigation of the issues raised in A.M. No. P-09-2726 and the submission of an integrated report and recommendation on the two (2) consolidated cases within sixty (60) days from receipt of the records.

On March 7, 2011, the pre-hearing conference was held and attended by Judge Buenaventura and Mabalot without the assistance of counsel. Both parties agreed not to present any testimonial evidence and adopted all the relevant pleadings filed in connection with A.M. No. P-10-2884. Thus, Judge Pozon dispensed with the formal hearing and presentation of witnesses, and considered the matter closed and submitted for resolution. He limited the issue on whether Mabalot was guilty of gross misconduct, gross insubordination, and conduct prejudicial to the best interest of the service.

On March 25, 2011, Mabalot filed her Judicial Memorandum.^[19] Judge Buenaventura then submitted his Position Paper on March 31, 2011. Mabalot's Comment to Judge Buenaventura's position paper was thereafter filed on April 19, 2011.

In its Memorandum,^[20] dated June 26, 2012, the OCA submitted for the Court's consideration the Integrated Report and Recommendation of Judge Pozon, dated June 15, 2012.

Judge Pozon, in the said report, adopted the statement of proceedings, findings of fact and conclusions of law of the Report and Recommendation he submitted in A.M. No. P-10-2884.

As regards A.M. No. P-09-2726, Judge Pozon found that Mabalot indeed made threats to kill Judge Buenaventura, but opined that the said act did not constitute "misconduct" as it was not directly related to, or connected with, the performance of her official duties as Branch CoC, citing *Manuel v. Calimag, Jr.*^[21] It was, thus, concluded that Mabalot, having acted in her private capacity, could not be liable for misconduct. Neither could she be held liable for gross insubordination as there was no order issued by Judge Buenaventura which she willfully or intentionally disregarded or disobeyed. Judge Pozon, however, found that the acts complained of constituted conduct prejudicial to the best interest of the service. He cited, as basis for her liability, the Code of Conduct and Ethical Standards for Public Officials and Employees, which enunciates, *inter alia*, the State policy of promoting high standard of ethics and utmost responsibility in the public service. He quoted Section 4(c) of the Code which commands, that "[public officials and employees] shall at all times respect the rights of others and shall refrain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety and public interest." By uttering threatening remarks towards Judge Buenaventura, Mabalot failed to live up to such standard.