

SECOND DIVISION

[A.M. NO. P-04-1771 (FORMERLY OCA I.P.I. NO. 03-1618-P), September 05, 2011]

**ATTY. PACIFICO CAPUCHINO, COMPLAINANT, VS.
STENOGRAPHER MARIPI A. APOLONIO, LEGAL RESEARCHER
CARINA C. BRETANIA, COURT STENOGRAPHER ANDREALYN M.
ANDRES, COURT STENOGRAPHER ANA GRACIA E. SANTIAGO,
INTERPRETER MA. ANITA G. GATCHECO, BRANCH CLERK OF
COURT ROMEO B. ASPIRAS, CLERK IV FE L. ALVAREZ AND
PROCESS SERVER EUGENIO P. TAGUBA, MUNICIPAL TRIAL
COURT IN CITIES, BRANCH 2, SANTIAGO CITY, ISABELA,
RESPONDENTS.**

DECISION

BRION, J.:

This administrative case involves eight (8) personnel of the Municipal Trial Court in Cities (MTCC), Santiago City, Isabela, Branch 2, namely: Branch Clerk of Court Romeo B. Aspiras; Stenographers Maripi A. Apolonio, Andrealyn M. Andres and Ana Gracia E. Santiago; Legal Researcher Carina C. Bretania; Interpreter Ma. Anita G. Gatcheco; Clerk IV Fe L. Alvarez; and Process Server Eugenio P. Taguba (*respondents*). They were charged with Grave Misconduct and Violation of the Anti-Wire Tapping Act (Republic Act No. 4200) in two identical complaints, both dated January 20, 2003, filed by Atty. Pacifico Capuchino with the Office of the Ombudsman^[1] (*Ombudsman*) and this Court.^[2] The Ombudsman, in an Order^[3] dated July 31, 2003, referred the complaint to the Office of the Court Administrator (OCA) for appropriate action, "considering that the respondents are court personnel"^[4] who are under the administrative supervision of this Court.^[5] It dismissed the criminal aspect of the complaint without prejudice to the outcome of the present administrative case against the respondents.

THE COMPLAINT

Atty. Capuchino alleged that he was the counsel of the accused in Criminal Case No. II-4066, entitled "*People of the Philippines v. Marirose Valencia*," for violation of *Batas Pambansa Blg. 22*, filed with the MTCC of Santiago City, Isabela, Branch 2. The accused, Marirose Valencia, was convicted of the offense charged and was ordered to pay private complainant Reynaldo Valmonte the amount of P120,000.00, plus interest at the rate of 12% per annum computed from the time of the filing of the criminal case. Atty. Capuchino filed a motion for reconsideration of Valencia's conviction. Pending resolution of the motion for reconsideration, he tried to settle the case amicably with Valmonte.

On May 9, 2001, Atty. Capuchino and Valencia met with Valmonte at the MTCC. They offered Valmonte the amount of P120,000.00, asking him to withdraw the

criminal case he filed against Valencia. Valmonte refused and demanded a higher amount. As they failed to come to a settlement by lunchtime, they agreed to schedule another meeting. Apprehensive of carrying a big amount, Valencia requested Tessie Duque (who was the only personnel left in the court at that time) to hold the money for safekeeping until their next meeting with Valmonte. Duque initially refused to receive the money, but relented when Valencia insisted; she agreed to hold the money temporarily, and issued a provisional receipt for the amount.

Meanwhile, the court denied Atty. Capuchino's motion for reconsideration and issued a Writ of Execution. To show her readiness to settle her obligation, Valencia presented the provisional receipt issued by Duque for the P120,000.00.

The respondents, claiming that Duque was not authorized to receive money from litigants even for safekeeping purposes, brought the matter to the attention of Judge Maxwell Rosete. Judge Rosete required Duque to comment on the respondents' report. Instead of filing the required comment, Duque filed a motion to set the case for hearing.

On September 24, 2002, Atty. Capuchino and Valencia went to the MTCC to attend the hearing on their motion for the withdrawal of the money deposited with Duque. The hearing did not materialize because Judge Rosete was absent. Atty. Capuchino went to see Aspiras to inquire about the next scheduled hearing. Instead of attending to their request, respondents Aspiras, Apolonio and Taguba casually led them to the court sala and asked them questions about the money they entrusted to Duque. Atty. Capuchino later learned that their conversations had been *tape recorded by Apolonio* with the aid of the other court personnel. The tapes were then used by the respondents to report the illegal deposit to then Chief Justice Hilario G. Davide, Jr., in a letter-complaint dated October 3, 2002.^[6] They asked for an immediate investigation "before it is blown out of proportion."^[7] The respondents' letter-complaint was later docketed as A.M. No. P-05-1958, entitled "*Office of the Court Administrator v. Duque*."^[8]

Atty. Capuchino claimed that his and his client's conversations with Aspiras, Apolonio and Taguba were recorded by Apolonio, with the assistance of the other court personnel, without his and his client's knowledge, in violation of the Anti-Wire Tapping Act. He further claimed that all the respondents conspired with each other to illegally record their conversations.

In separate 1st Indorsements,^[9] all dated May 7, 2003, the OCA required the respondents to comment on the charges against them.

In a Joint Comment^[10] dated June 16, 2003, respondents Bretania, Gatcheco, Santiago and Andres denied having instigated or influenced Judge Rosete to issue an Order directing Duque to comment on the allegation that she has no authority to receive money from court litigants, even for safekeeping purposes. They also denied involvement in the taping incident. Gatcheco and Andres further claimed that they did not report for work on the date the incident complained of transpired, as they were on leave. They submitted photocopies of their Daily Time Record in support of their contentions.

Respondent Alvarez, in her Comment^[11] dated June 16, 2003, denied involvement in the incident. Although she intended to keep silent about the incident, she signed the administrative complaint prepared by Taguba because "she is interested to know the truth, no more, no less."^[12]

For his part, Taguba claimed that he filed a complaint against Duque because he believed that Duque's act "was improper as it is unauthorized and unlawful;" and that he was not motivated by malice in filing the complaint. Further, he argued that Atty. Capuchino has no cause to file the present complaint as the criminal case of his client had already been terminated.^[13]

Aspiras and Apolonio, in their joint Comment^[14] dated June 16, 2003, asserted that "the contention that the alleged tape record[ing] is inadmissible in evidence by virtue of R. A. No. 4200 cannot hold water because[:] the matters covered are clothed with public interest - the interest of the Judiciary itself to stand with unblemished integrity."^[15]

Atty. Capuchino filed a Reply^[16] dated July 18, 2003 to the respondents' comments, contending that violation of a law cannot be condoned, no matter how good and noble the intention of the perpetrators is. He averred that as a lawyer, it is his duty to call attention to violations of the law. He cannot see any reason why the respondents made a big fuss over the provisional receipt issued by Duque, but he can discern their sinister motives. On the respondents' allegation that he has nothing at stake or interest to file the present case, he counter-argued that the respondents were the ones who have no stake or interest in the money privately entrusted to Duque and who merely pretended that they were doing a "messianic act." He referred to respondent Taguba as a "false messiah" who has a string of cases for extortion filed with this Court. He also said that seven of the respondents came to see him at this house several times to apologize, to plead for mercy, and to ask for the withdrawal of the case against them.

On the recommendation of the OCA, the Court issued a Resolution,^[17] dated January 14, 2004, ordering the redocketing of Atty. Capuchino's complaint as a regular administrative matter; and referring the case to the Executive Judge of the MTCC, Santiago City, Isabela, for investigation, report and recommendation. Hence, the present administrative case.

Judge Ruben R. Plata, (then the Executive Judge of the MTCC of Santiago City, Isabela) inhibited himself from the case on the ground that all the respondents have filed an administrative complaint against him, docketed as A.M. OCA I.P.I. No. 03-1483-MTJ, and that he filed against all the respondents a criminal case for perjury and libel with the Office of the Prosecutor of Manila.^[18]

In a Resolution dated March 31, 2004, the case was instead referred to Judge Fe Albano Madrid, Executive Judge, Regional Trial Court, Santiago City, Isabela, for investigation, report and recommendation.^[19]

During the scheduled hearings of the case, Atty. Capuchino could not appear as he had suffered a stroke and was under medication. All the eight (8) respondents moved to dismiss the complaint for lack of basis, and for Atty. Capuchino's failure to

appear and to present evidence against them. They manifested that they have nothing more to add to their comments filed with the Court.

In her undated Report,^[20] Judge Madrid found that the respondents were not guilty of misconduct, reporting that:

The investigating judge believes that Atty. Capuchino would not care to appear and substantiate his complaint. He was not a party to the taped conversation. He was not prejudiced by the letter-complaint of Eugenio Taguba against Tessie Duque nor about the taped conversation. I suppose that the complaint against the respondents is just a means to get back at them because of the expose they made regarding the P120,000.00. At any rate, the Investigating Judge believes that the outrage of the court employees which prompted them to bring to the attention of the Supreme Court what they believe was an illegal transaction of another court employee is definitely not a misconduct.

As the matters raised in the present administrative case were related to the letter-complaint filed by Taguba and the other respondents against Duque, the OCA recommended the consolidation of the present administrative case with A.M. No. P-05-1958 (formerly A.M. OCA I.P.I. No. 03-1718-P).^[21] However, no consolidation was effected because A.M. No. P-05-1958 had already been decided on February 7, 2005.

THE OCA'S REPORT & RECOMMENDATION

In an Evaluation Report dated October 12, 2005,^[22] the OCA disagreed with the findings of Judge Madrid. It found that the act of respondents Taguba, Aspiras, Apolonio and Santiago of surreptitiously taping their conversations with Atty. Capuchino and Valencia, without the latter's knowledge and consent, constitutes misconduct and/or conduct unbecoming of a court employee.

The OCA also confirmed Atty. Capuchino's allegation that respondent Taguba had been charged with several administrative cases before this Court. Taguba, together with respondents Apolonio and Andres, was found guilty of gambling during office hours in A.M. No. P-01-1517, and was suspended for one (1) month and one (1) day. Taguba was also found guilty of violation of Republic Act No. 3019 and conduct unbecoming a court employee in A.M. No. P-05-1942, and was suspended for six (6) months.

The OCA recommended that:

1. the criminal aspect of the case be referred back to the Ombudsman for proper disposition;
2. respondents Taguba, Apolonio and Santiago be suspended for one (1) month for misconduct;