

SECOND DIVISION

[A.M. No. RTJ-08-2124 [Formerly A.M. OCA IPI No. 07-2631-RTJ], August 27, 2009]

**JUDGE RIZALINA T. CAPCO-UMALI, RTC, BR. 212,
MANDALUYONG CITY, COMPLAINANT, VS. JUDGE PAULITA B.
ACOSTA-VILLARANTE, RTC, BR. 211, MANDALUYONG CITY,
RESPONDENT.**

[A.M. NO. RTJ-08-2125 [FORMERLY A.M. OCA IPI NO. 07-2632-RTJ]]

**JUDGE PAULITA B. ACOSTA-VILLARANTE, RTC, BR. 211,
MANDALUYONG CITY, COMPLAINANT, VS. JUDGE RIZALINA T.
CAPCO-UMALI, RTC, BR. 212, MANDALUYONG CITY,
RESPONDENT.**

DECISION

CARPIO MORALES, J.:

By Complaint-Affidavit of April 25, 2007^[1] filed with the Office of the Court Administrator (OCA), Judge Rizalina Capco-Umali (Judge Capco-Umali) charged Judge Paulita Acosta-Villarante^[2] (Judge Acosta-Villarante) with violation of the New Code of Judicial Conduct for the Philippine Judiciary^[3] (New Code of Judicial Conduct), Canon 2, Section 2^[4] and Canon 4, Sections 1 and 2.^[5]

The facts which spawned the filing of Judge Capco-Umali's complaint are not disputed.

Judge Acosta-Villarante wrote a Memorandum of March 27, 2007^[6] addressed to Executive Judge Maria Cancino-Erum of the Regional Trial Court (RTC) of Mandaluyong City. The Memorandum, copies of which were furnished the Offices of the Chief Justice and the Associate Justices of the Supreme Court, the Judicial and Bar Council, Representative Benhur Abalos, Mayor Neptali Gonzales II, the City Prosecutor of Mandaluyong, the Clerk of Court of Mandaluyong RTCs, and the other judges of Mandaluyong City, reads:

This refers to that unfortunate incident which occurred during the first meeting of RTC Judges ever [*sic*] held on March 23, 2007 (Friday) under your executive judgeship where the newly appointed vice executive Judge Rizalina Capco-Umali marred the event by conduct very unbecoming of a judge by uttering unsavory remarks and epithets or words of the same import designed to humiliate the undersigned in the presence of fellow judges and assistant clerk of court Atty. Leynard Dumlao, coupled with her attempt to inflict physical harm to the

undersigned which you, as the newly appointed executive Judge, miserably failed to control and dominate and opted to take a passive stance.

The conduct of the newly appointed vice executive judge does not speak well of her being a judge who is expected to conduct herself in a way that is consistent with the dignity of the judicial office.

While the meeting of the judges is an ideal forum for the exchange of ideals and information, and to promote camaraderie among judges in the interest of public service, there is no assurance that the uncalled for incident on March 23, 2007 will not be repeated.

It is therefore moved that the holding of monthly meeting of judges be suspended. (Underscoring supplied)

On account of the underlined statements of Judge Acosta-Villarante in her above-quoted Memorandum, Judge Capco-Umali filed a complaint for libel docketed as I.S. No. 07-7732-D,^[7] before the Office of the City Prosecutor of Mandaluyong City.

Judge Acosta-Villarante countered by also filing an Administrative Complaint of April 26, 2007 charging Judge Capco-Umali with violation of Canon 4, Sections 1 and 2^[8] of the New Code of Judicial Conduct, and a complaint for Grave Oral Defamation and Grave Threats, docketed as I.S. No. 07-71846-E,^[9] before the Office of the City Prosecutor, Mandaluyong City.

By 1st Indorsement of August 1, 2007,^[10] the administrative complaints were referred to the OCA.

The details of Judge Capco-Umali's complaint are contained in her Complaint-Affidavit for Libel as follows:

After having been designated by the Supreme Court a[s] the new Executive Judge and Vice-Executive Judge, Regional Trial Court, Mandaluyong City, Judge Maria A. Cancino-Erum and the Vice Executive Judge (*complainant*) together with Executive Judge Ofelia Colo of the Metropolitan [*sic*] Trial Court Br. 59 agreed to pay a courtesy call/visit to May[o]r Neptali "Boyot" Gonzales II, City Mayor of Mandaluyong City. The visit took place at noontime of March 15, 2007 (Thursday). After briefing the Mayor [about] the purpose of our visit, he warmly and graciously entertained us. Until the conversation was shifted to the topic of local allowance. Such being the topic, Judge Maria A. Cancino-Erum showed to the Mayor the payroll for the month of April 2007 for early approval considering that most judges would take their vacation. Perusing intently the payroll Mayor Gonzales noticed the disparity in figures (amount) as to the allowance received by each Judges. He noticed that respondent Villarante was receiving additional three thousand pesos (P3,000) on top of her regular allowance as Executive Judge; and additional five thousand pesos (Php5,000) on top of her allowance as Acting Judge of Br. 209. He also noticed that I [Judge Capco-Umali] and Executive Judge Maria A.

Cancino-Erum received additional two thousand pesos (P2,000) each on top of our regular allowances. Asking us as to why and as to where those additional allowances come from, complainant told the mayor that TERRE, the one preparing the payroll told us (I and Executive Judge Erum)[about the P2,000 allowance.]

x x x x

Executive Judge Maria A. Cancino-Erum for her part informed the Mayor, thus: "Sabi po ni Judge Villarante nirequest daw niya po iyon sa inyo approved n'yo, at pinirmahan niya ang payroll. Tinanggap naman po naming [*sic*] nitong February."

But as regards the additional P3,000 (as Executive Judge) and P5,000 (as Acting Judge) of Judge Villarante, we told the Mayor that we have no knowledge as to how they come about...

"Wala akong alam na request, wala akong inaprove, at lalong wala akong pangdagdag. Walang pondo. Iyon ngang mga tao ko, hindi ko maincreasan. E, kayo mga judges kayo, syempre pirma na lang ako pag prisinta sa akin an[g] payroll."

The Mayor summoned LOIDA, her staff and directed the latter to retrieve the previous payrolls including the 2006 payrolls. He also said that "ang laki naman ng increase ng Executive Judge, lalo na ang sa Acting, hindi naman ganyan yan ah. Pero in case na naaprove ko yan, ibibigay na natin yan sa bagong Executive Judge at iyong dating Executive Judge, balik sa dati niyang tinatanggap."

x x x x

Come, March 23, 2007 (Friday) Monthly Judges Meeting hosted by the newly designated Executive Judge Maria A. Cancino-Erum. The meeting was going smoothly until the topic of local allowance had been touched. Reporting to the body what transpired during the courtesy call at the Mayor's Office on March 15, 2007, when the matter of giving to the new executive judge the increased allowances of Executive Judge Paulita B. Acosta-Villarante and that the latter would revert back [*sic*] to the authorized amount for Executive Judges was discussed, respondent Villarante was angered and blurted out addressing the new Executive Judge, thus:

"Kayo, simula ng maupo sa pwesto, wala ng ginawa kundi kutkutin at maghanap ng evidencia para ako masira, nagsusumbong, nagmamanman. Wala naman pakialaman sa allowance kanya kanya yan dapat.["]

Having personal knowledge of the conversation that transpired at the Mayor's Office on March 15, 2007, and much aware that respondent's accusations were baseless, complainant felt obliged to come to the rescue of the embattled Judge Maria A. Cancino-Erum and to refute respondent's misplaced tirade by stating matter of fact the truth and what I saw and heard.

For his part, Judge Carlos A. Valenzuela who admitted his presence during the courtesy call confirmed the truthfulness of complainant's report and also confirmed the transfer of Executive Judge's allowance to the new Executive Judge thus: "Totoo ang sinabi ni Judge Umali nandoon ako, ililipat nga allowance sa bagong Executive Judge at ang dating Executive Judge will receive former amount."

While complainant is still enlightening her fellow Judges of the real facts that transpired at the Mayor's Office, the respondent kept talking too and even shouting at the top [of] her voice towards complainant visibly irked by complainant's revelation on the matter. Respondent even called complainant a liar (*sinungaling*) repeatedly[;] when complainant demanded from respondent her basis for saying that complainant is a liar, respondent was not able to answer it but continued calling her "***sinungaling***". Even telling her to stop talking because her (*complainant*) voice is so sharp to her ear ("nakakahiwa boses mo"). Respondent continued verbally attacking complainant with words connoting malicious imputations of being an incorrigible liar and of being in cahoots with Judge Maria A. Cancino-Erum in peddling lies [that] the complainant got upset by the verbal aggression made by Judge Villarante that she told the latter, thus: "Matanda ka na, halos malapit ka na sa kamatayan gumagawa ka pa ng ganyan, madadamay pa kami." Judge Villarante fought back: "Bog, sana mangyari sa iyo, bog!".

Complainant welcomed the challenge, thus: "handa akong mamatay kahit anong oras dahil wala akong ginagawang masama".

At said instance complainant once more prompted Judge Villarante as to her authority or basis in the increase in the payroll, and Judge Villarante answered: "May nag-oofer nga!".

More heated exchanges ensued because Judge Villarante kept o[n] saying *sinungaling* to the complainant.

Thereafter, cooler heads intervened. Judge Edwin Sorongon... brought respondent out of the room while Atty. Leynard Dumlao [was] pacifying the complainant.^[11] (Emphasis partly in the original and partly supplied; underscoring supplied; italics in the original)

By Comment of May 28, 2007,^[12] Judge Acosta-Villarante denied that she wrote the Memorandum to maliciously impute a crime, vice or defect on Judge Capco-Umali as she merely requested for the suspension of the holding of the monthly meeting of judges to avoid a repetition of the incident and to afford the parties an opportunity

to "cool off."

In causing the circulation of the Memorandum, Judge Acosta-Villarante explained that she had an "obligation to bring to the attention of concerned officials the personal demeanor of another member that would put the Judiciary in constant public scrutiny and disrespect." Her version of the incident goes:

After taking up the first agenda of the meeting x x x, the agenda on allowances of Judges was called to be taken up.

Whereupon, Complainant requested to take the floor and manifested as follows:

Judge P.A. Villarante:

"mga kapwa kong Hukom, bago natin talakayin ang agenda ng allowances, maari bang ipaabot ko sa kaalaman ng lahat na may tumawag ng aking kaalaman at pansin na mayroon di-umanong Hukom ng RTC na nagpahiwatig sa Tanggapan ng City Mayor na di-umano hindi ko hini-hearing o dinidinig ang mga asunto ng RTC, Br. 209, na sakup ng aking designasyon bilang Acting Presiding Judge, na may kaugnayan sa ating pag-uusapan na allowances. Pinatunayan ko na hindi tutoo at pawang kasinungalingan ang bintang sa pamamagitan ng "Minutes of Court Hearings" at "Certification" ng Branch Clerk of Court ng RTC, Br. 209. Mga kasama sa Judiciary, nakikiusap ako na iwasan natin ang nakakasirang bagay na hindi totoo x x x"[.]

"x x x Ugnay sa representation sa pagtaas ng allowance ng Judges sa local Government ay napagbigyan naman. Pakiusap ko, huwag naman siraan ang kapwa x x x," at iba pa.

On the matter, a Judge in the group made a comment - to wit:

"x x x upang maiwasan ang hindi pagkakaunawaan ng isa't isa sa atin, hinihiling ko sa bawa't isa sa atin na kung ano ang tinatanggap ng sino man sa atin, huwag ng questionin x x x" at iba pa.

at that juncture Judge Capco-Umali stood up and in a mode of anger pointing a finger against herein Complainant, she repeatedly said in a loud voice:

"Matanda ka na...! Mamamatay ka na!..." at iba pa na may kahalintulad.

On the impropriety of the unruly and disrespect behavior and conduct of Judge Capco-Umali in the presence of fellow-judges and others, a Judge