

EN BANC

[A.M. No. 2007-25-SC, September 18, 2008]

RONNIE C. DELA CRUZ, COMPLAINANT, VS. REDENTOR A. ZAPICO, QUIRINO V. ITLIONG II, AND ODON C. BALANI, RESPONDENTS.

DECISION

LEONARDO-DE CASTRO, J.:

This administrative case stemmed from a complaint-affidavit dated November 29, 2007 filed with the Office of Administrative Services (OAS) of this Court by Ronnie C. Dela Cruz,^[1] against Redentor A. Zapico,^[2] Quirino V. Itliong II,^[3] and Odon C. Balani^[4] for grave misconduct, conduct unbecoming a Court employee, and conduct prejudicial to the best interest of the service.

The complaint recounts an altercation involving the parties which happened on the evening of November 14, 2007 at the *Peking Wok* Restaurant, along Arkansas Street, between Orosa and Bocobo Streets, Ermita, Manila. Complainant allegedly went there at around 11:30 p.m. to fetch his girlfriend, Rubylyn C. Badinas (Rubylyn), who worked as a cashier in the said restaurant. When complainant arrived at the restaurant, respondents were having a drinking session at a table in front of the cashier's counter. Rubylyn purportedly heard respondents Itliong and Balani talking about complainant and saying: "*Ang sama makatingin, o!*" "*Kabago-bago pa lang sa Court, ang yabang na.*"^[5] Rubylyn told complainant to just ignore the respondents' remarks. To avoid any untoward incident, complainant just moved to a table in the corner of the restaurant, behind the cashier's counter to wait for Rubylyn whom he invited to go to the Caliente Bar on Orosa Street. After a while, complainant decided to go ahead to Caliente Bar and suggested to Rubylyn that she just follow him there.

Complainant further alleged that when he passed by respondents' table upon leaving the restaurant, both respondents Itliong and Balani suddenly uttered invectives at him: "*Putang Ina mo!*" "*Ano, hanggang tingin ka lang pala eh!*" "*Ano, papalag ka ba?*" Complainant just ignored their utterances and continued walking towards the door. Respondent Zapico allegedly followed complainant outside, then shouted invectives and attacked the latter. Complainant fell to the ground and while lying down, all three respondents allegedly mauled him. Complainant claims that he tried to defend himself by using his arms and kicking his legs. The mauling allegedly ended when people restrained the parties and stopped the fight.

Thereafter, complainant proceeded to the Philippine General Hospital (PGH) Emergency Room for treatment and medico-legal examination. In the Medico-Legal Certificate issued by PGH, complainant was found to have suffered physical injuries which, "will require medical attendance for a period of less than nine (9) days."^[6] When complainant reached home, he requested his friend and officemate Samuel

Galope to take photos of his injuries.^[7] The following day, he went to the Manila Police District Station 2 and had the incident entered into the police blotter.^[8] Due to the injuries he suffered, complainant was not able to report for work for two (2) days.

On December 5, 2007, the OAS issued a Memorandum to respondents, directing them to submit their Comment/Explanation within five (5) days from receipt of the complaint-affidavit. Upon written request of respondents, the OAS granted them an extension of fifteen (15) days, or until December 27, 2007, within which to submit their comments.

In his Comment/Explanation dated December 21, 2007, respondent Zapico disputed complainant's version of the incident. Although he admitted that he was with his co-respondents Itliong and Balani at the *Peking Wok* Restaurant on the evening of November 14, 2007, he insisted that complainant was the one who initiated the altercation when the latter passed by their table. When complainant was barely out of the glass door with the door still open, he allegedly raised both his hands and made two dirty-finger signs and shouted "*fuck you*" to respondents. Thus, Zapico called complainant back to clarify what he meant. When complainant returned towards Zapico's direction, the former was already enraged and continuously shouting invectives, with his finger pointed at the latter [Zapico].

Respondent Zapico further maintained that it was complainant who first started throwing punches but he [Zapico] was able to parry them. He added that because complainant was under the influence of liquor, he missed hitting him [Zapico] which enraged complainant even more. Zapico claimed that he and complainant exchanged blows, with both sides being able to hit or land punches on the other. Zapico alleged that the fighting stopped when his co-respondents restrained him and Rubylyn pulled complainant away from Zapico. Even after they were already parted, complainant allegedly tried to follow Zapico inside and uttered, "*Kilala kita Reden, may Admin tayo, ipapaadmin kita, kay Justice Carpio ako.*" Respondent Zapico further averred that both respondents Itliong and Balani merely helped stop the fight and did not join him in fighting the complainant.

In their separate Comment/Explanation dated December 21, 2007, co-respondents Itliong and Balani corroborated respondent Zapico's narration, reiterating that it was only respondent Zapico and complainant who engaged in a fistfight.

Moreover, all three respondents argued that the incident, which took place after office hours, was purely personal in character and in no way related to office work. Thus, they prayed for the dismissal of the instant administrative complaint not only for lack of merit, but also for want of jurisdiction of the OAS to entertain and take cognizance of the same.

In his Reply dated January 7, 2008, complainant maintained his previous statements in his complaint-affidavit. He insisted that he did not give any provocation and even avoided the three respondents, but they still hurled invectives at him and attacked him. He additionally argued that the OAS has jurisdiction over the complaint, citing *Pablejan v. Calleja*^[9] wherein the Court held that "*[e]mployees of the judiciary should be living examples of uprightness not only in the performance of their official duties, but also in their personal and private dealings with other people, so as to*

preserve at all times the good name and standing of courts in the community."

In their separate Rejoinders, respondents reiterated that the fight occurred after office hours, outside the court premises and was not work-related. Thus, they insisted and prayed that the case be dismissed. Moreover, respondents Itliong and Balani maintained that they did not actually participate in the fistfight but they only stopped respondent Zapico and complainant from hitting each other.

In its Memorandum dated April 17, 2008, the OAS found only respondent Zapico guilty of conduct unbecoming a court employee, thus:

In the present case, this Office submits that the Court can take cognizance of the same, pursuant to its mandate in the exercise of its over-all supervision as administrator of Court personnel, including the responsibility of imposing discipline upon erring officials and employees.

The allegation of the respondents that it was the complainant who made the provocation and immediately delivered the attack deserves scant consideration. Regrettably, respondents have not presented any evidence and witnesses to rebut the complainant's claim and sufficiently establish any defense relating to the incident so as to tilt the scale of justice in their favor. Neither does this Office see any reason that would show that complainant and his witnesses have any motive whatsoever to concoct a false statement against them except to seek for justice.

Anent the complaint against respondents Itliong and Balani, herein complainant, however, has failed to substantiate his allegations thereto. This Office submits the dismissal of the administrative case against Messrs. Itliong and Balani for lack of merit.

This Office expresses its inability to pin down respondents for the physical injuries sustained by the complainant since they can be the subject of a separate criminal case which requires proof beyond reasonable doubt. Be that as it may, the wrong committed against all the parties to the incident and who may be liable therefore will be determined at the proper time and forum.

We remind the respondents that their employment in this Court is not a status symbol or a badge to be brandished around for all to see, but a sacred duty and, as ordained by the Constitution, a public trust. They should be more circumspect in how they conduct themselves in and outside the office. After all, they do not stop becoming judiciary employees once they step outside the gates of the Supreme Court.

Under Rule XIV, Section 22 of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Services laws, simple misconduct is classified as less grave offense that carries the penalty of suspension ranging from one (1) month and one (1) day to six (6) months for the first offense and the penalty of dismissal for the second offense.

This Office noted, however, the presence of mitigating circumstances