BEATRIZ B. OÑATE, COMPLAINANT, VS. SEVERINO G. IMATONG, JUNIOR PROCESS SERVER, MUNICIPAL CIRCUIT TRIAL COURT, PIAT, CAGAYAN, RESPONDENT.

A.M. No. P-11-3009 [Formerly A.M. OCA I.P.I. No. 10-3386-P]. November 16, 2011

Ponente: SERENO, J.

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SERENO, J.:

Before this Court is a Motion for Reconsideration of a Resolution, which earlier dismissed the administrative case filed against respondent Severino G. Imatong.

Respondent Imatong is a junior process server at the Municipal Circuit Trial Court, Piat, Cagayan. On the other hand, complainant Beatriz Oñate is a widow and professor at the Cagayan State University in Tuguegarao City. The wife of respondent and the deceased husband of complainant Oñate are siblings.

On 28 January 2010, respondent Imatong attended a wedding celebration near the house of complainant and stayed until about seven in the evening. Since it was already late and there was no available means of transportation going back to his home in Piat, Cagayan, respondent went to complainant's house to ask permission if he could spend the night. Complainant Oñate acceded and allowed him to sleep in the living room.

Around six-thirty the next morning on 29 January 2010, while complainant was preparing herself for work, respondent Imatong allegedly barged into her room. He then proceeded to embrace and kiss her, while pushing her towards the bed. After the initial shock, complainant fought back and pushed him away.

When complainant was able to finally free herself, she pushed respondent out of the room while shouting at him at the top of her voice. He backed off and asked that she keep to herself what transpired between them. Complainant continued shouting at him, until he finally left the premises.

According to complainant Oñate, after respondent left, she sent a text message to his wife asking her to come over so that complainant could relate to her the acts committed by respondent. When the text message was ignored, complainant reported the incident to the police on 31 January 2010.[1]

On the other hand, according to respondent, on the night he went to the home of complainant Oñate, she requested him to attend to the replacement of broken windows inside one of the bedrooms and he promised to do so. Hence, he woke up early the next morning and went inside the bedroom of complainant to examine the broken window glasses. Several minutes later, complainant allegedly entered, upon which he greeted her good morning with a beso-beso and "tapped" her on the shoulder with his right hand. Thereafter, she and her son supposedly dressed themselves up for school, gave respondent a ride, and dropped him off along the highway around seven in the morning.

On 09 February 2010, complainant Oñate executed against respondent an Affidavit-Complaint, which became the basis of a criminal proceeding below, as well as of the instant administrative case.

In his defense, respondent argued that air kisses or beso-beso were commonplace between him and complainant, even in the presence of her husband when he was still alive. In addition, he questioned why she would still give him a lift on his way back home.

On 03 November 2010, the Prosecutor's Office of Tuguegarao City dismissed for lack of probable cause the criminal complaint for the crime of attempted rape filed against respondent.[2]

On 12 April 2011, the Office of the Court Administrator (OCA) submitted its recommendation to dismiss the Complaint as follows:

> Respondent Imatong is charged with Misconduct for alleged attempted rape against complainant Oñate. However, it is worthy to note that complainant Oñate also filed a criminal complaint against respondent Imatong arising from the same incident complained of in the instant administrative case, which was already dismissed for lack of probable cause by the City Prosecutor's Office of Tuguegarao City.
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> While the dismissal of the criminal complaint does not necessarily mean the dismissal of an administrative case as the quantum of proof in the latter only requires substantial evidence, the Office of the Court Administrator (OCA) finds the instant administrative case against respondent Imatong dismissible. Complainant failed to substantiate the charge against respondent Imatong. In administrative proceedings, the complainant bears the burden of proving, by substantial evidence, the allegations in the complaint. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. In the instant case, it was not established that respondent Imatong attempted to rape complainant Oñate. Although respondent Imatong admitted making "beso-beso" to complainant Oñate, the OCA opines that there is nothing wrong with the said act as the former merely intends to greet the latter. Hence, in absence of any substantial evidence, the complaint should be dismissed.[3]

On 15 June 2011, the Court adopted the findings of the OCA and dismissed the Complaint for lack of merit.[4]

In the meantime, the Prosecutor's Office issued another Resolution recalling its earlier Order and declared that there was probable cause against respondent, this time for the crime of acts of lasciviousness.[5] Acting on his Motion for Reconsideration, the Regional Prosecutor's Office affirmed the new Resolution and also found probable cause against him for acts of lasciviousness.

On 26 August 2011, complainant moved for the reconsideration of the Court's earlier Resolution dismissing the administrative Complaint against respondent and cited the two new Resolutions of the Prosecutor's Office finding probable cause against him for the crime of acts of lasciviousness.

The Court finds merit in the Motion for Reconsideration.

The exacting standards of ethics and morality for court employees are required to maintain the people's faith in the courts as dispensers of justice whose image is mirrored by their actuations.[6]

In this case involving no less than his widowed sister-in-law, respondent Imatong fell short of these exacting standards of morality demanded from court employees.

Respondent does not deny that on the early morning of 29 January 2010, he kissed complainant in the bedroom. Although he characterizes his act as a simple greeting, the recipient of his "affections," complainant herein, thought otherwise and was bold and determined enough to pursue both criminal and administrative charges against him. In fact, despite her having just recently been widowed, she was courageous enough to confront her husband's sister – respondent's wife – about the transgression. No ill motive has been attributed to complainant that would push her to make such grave accusations against respondent, except for the veracity of her claims. Her claims ring true, especially in the light of her own narration of how respondent has been supportive and helpful to

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her husband when he became sickly until he died on 01 January 2010. The Court takes note of the effects of a complaint for sexual advances – against a brother-in-law, no less – on complainant's reputation as an educator and widow who would not take such shocking assertions so casually or lightly.

Respondent Imatong's defense that his beso-beso or air kisses were ordinary greetings is unconvincing. If indeed his actions were harmless displays of affection toward a family member, then complainant would not have taken too much offense at them and would have simply brushed them aside. That she would take pains to brave the humiliation of exposing his "advances" gives this Court reason to pause and consider that what happened contravened the normal behavior between the two of them.

Moreover, there are apparent inconsistencies in the account of the incident given by respondent. First, he did not greet or kiss complainant when they met the night before, on 28 January 2010, and he asked permission to sleep in her house. If air kissing had been an ordinary practice between the two of them even when her husband was alive, then it seems strange that respondent did not resort to his "usual" greeting when the latter proceeded to the house of complainant after the wedding he had attended. Second, respondent offered no reason why he would fix the broken window glass inside her bedroom so early in the morning. It was never established that he had any experience or skill in mending window glass, so as to convince her to ask for his assistance. In any case, she had other household help who could have done the task just as well.

In recommending the dismissal of the administrative Complaint, the OCA relied on the city prosecutor's Resolution, which dismissed the criminal Complaint for attempted rape for lack of merit. However, as pointed out by complainant, the Prosecutor's Office subsequently reconsidered its earlier Resolution and instead found probable cause for acts of lasciviousness.

The dismissal of the criminal Complaint in this case for the crime of attempted rape did not necessarily foreclose the continuation of the administrative action or carry with it relief from administrative liability.[7] Yet, as the Prosecutor's Office has reconsidered its earlier findings with respect to acts of lasciviousness, the Court cannot help but be convinced that there was a breach in ethical standards committed by respondent when he kissed complainant. To be sure, this Court makes no finding whatsoever with respect to his criminal liability for acts of lasciviousness, which is properly lodged in the trial court proceedings. The Court's pronouncements in this administrative case are simply limited to evaluating the conduct of respondent as a court personnel.

Simple misconduct has been defined as an unacceptable behavior that transgresses the established rules of conduct for public officers.[8] Respondent's actions transgressed the norms of civility expected of judicial officers, even in their private lives, and constitute simple misconduct that must be squarely penalized. Although beso-beso or air kissing may be considered a standard greeting between family members, what respondent did was he not merely greeted his sister-in-law, but encroached into the territory of unwarranted advances that offended acceptable standards of decency. Regardless of whether it reached the level of criminal malice or lewdness, his conduct was unbecoming a court personnel, upon whom is placed the heavy burden of moral uprightness. The Court held thus:

> This Court has consistently underscored the heavy burden and responsibility that court personnel are saddled with in view of their exalted positions as keepers of the public faith. No position demands greater moral uprightness from its occupant than a judicial office. Indeed, the responsibilities of a public officer as enshrined in the Constitution are not mere rhetoric to be taken as idealistic sentiments. These are working standards and attainable goals that should be matched with actual deeds.[9]

IN VIEW OF THE FOREGOING, complainant Beatriz B. Oñate's Motion for Reconsideration dated 22 August 2011 is GRANTED. The Court's earlier Resolution dated 15 June 2011 is hereby SET ASIDE.

Respondent Severino G. Imatong is found guilty of SIMPLE MISCONDUCT and FINED P10,000, with a WARNING that the repetition of the same or a similar offense shall be dealt with more severely.

SO ORDERED.

Carpio, Brion, Perez, and Reyes, JJ.,concur.

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[1] "Beatriz Onate y Baguen, 48 years old, widow, gov't employee and a resident of 113 B Perpetual Villate Phase 2, Ugac Norte, Tuguegarao City, came over and reported that last January 29, 2010 at around 6:30 AM insider her room of their house, brother in law MARIO IMATONG, of legal age, married, MTC Piat Cagayan employee and a resident of Piat Cagayan who happened to sleep at her house because of wedding he attended on the night of January 28. 2010, suddenly took hold of her shoulder, defamed putting her in shame prompted her to push him outside her room." (Certification dated 31 January 2010)

[2] "The charge in this case filed against respondent is for the crime of Attempted Rape. There is an attempt to commit rape when the offender commences its execution directly by overt acts but does not perform all the acts of execution which should produce the felony by reason of some cause or accident other than his own spontaneous desistance. In this particular case, the series of events which took place in the morning of January 29, 2010 inside the house of the complainant, does not establish that respondent intended to lie or have sexual intercourse with the complainant. Even assuming that respondent embraced, kissed and pushed complainant in her room, these do not constitute the first or some subsequent step in a direct movement towards eh commission of the crime of rape. Kissing or embracing a person is more of an expression of extreme affection or desire. It does not necessarily follow that a person doing it is also laden with lecherous intention to have sexual intercourse with the other party. Worthwhile to note also is the fact that the act complained of had transpired at about 6:30 o'clock in the morning. This is a time where everybody is presumed to be already up and about. To commit the crime charged at such time of the day is inconceivable considering that the chance of discovery is very high. The respondent had slept the whole night of January 28, 2010 at the house of the complainant at had been possessed with the evil plan of having sex with the complainant, he would have executed it as a better opportune time on that whole night. Evidently, the facts of the case fall short to sustain the existence of a probable cause that the crime of Attempted Rape was committed." (Resolution dated 03 November 2010)

[3] OCA Report and Recommendation dated 12 April 2011.

[4] SC Resolution dated 15 June 2011.

[5] Prosecutor's Office Resolution dated 11 April 2011.

[6] Regir v. Regir, A.M. No. P-06-2282, 07 August 2009, 595 SCRA 455.

[7] Apolinario v. Flores, G.R. No. 152780, 22 January 2007, 512 SCRA 113.

[8] Tabora v. Carbonell, A. M. No. RTJ-08-2145, 18 June 2010, 621 SCRA 196, citing Spouses Bautista v. Sula, 530 SCRA 406 (2007).

[9] Retired Employee v. Manubag, A. M. No. P-10-2833, 14 December 2010, 638 SCRA 86.

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