

**JOHN A. MENDEZ, ANGELITO, CABALLERO AND IVY CABALLERO,
COMPLAINANTS, VS. NERISSA A. BALBUENA, COURT INTERPRETER,
MUNICIPAL TRIAL COURT IN CITIES, BRANCH 7, CEBU CITY,
RESPONDENT.**

A.M. No. P-11-2931 (formerly A.M. OCA IPI No. 08-2852-P). June 01, 2011

Ponente: BRION, J.

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BRION, J.:

We resolve the present administrative case against Nerissa A. Balbuena (respondent), Court Interpreter, Municipal Trial Court in Cities (MTCC), Branch 7, Cebu City, filed by John A. Mendez, Angelito Caballero and the latter's daughter Ivy Caballero, for Oppression and Conduct Unbecoming a Public Officer.

In a Verified Complaint-Affidavit dated November 3, 2006, [1] Mendez narrated that in the early morning of May 4, 2006, the respondent, who lived next door to his rented room in the house of Angelito, called him up by phone, complaining that two (2) of the respondent's boarders were almost sideswiped by the motorcycle of his co-workers. The respondent demanded an apology from them. Mendez's co-workers did what the respondent demanded and apologized to one of the boarders. Not content with the apology given by Mendez's co-workers, the respondent turned her ire on Mendez and asked whether he has a license to operate his mineral water refilling station. He answered that its owner has a license to operate and sell.

To avoid any further argument with the respondent, Mendez decided to pack his clothes and other belongings, and to transfer temporarily to his mother's house. However, before he could leave his place, the respondent called by phone, hurled invectives at him and called him a "shameless" person. The respondent told him to immediately leave the premises, threatening that she would secure police assistance to bodily carry him from his rented room to the street. The respondent kept shouting while pounding hard on the wall that separates their rooms.

Mendez further claimed that in the early morning of May 5, 2006, Ivy went to see him at his mother's house to report that the respondent, accompanied by three (3) police officers, barged into his place, ransacked his room, and threw all his clothes out into the street. The respondent also cut-off his telephone line.

Mendez's allegations were corroborated by Angelito, who was Mendez's landlord, and the latter's daughter, Ivy. In a sworn Joint Affidavit dated November 3, 2006, [2] Angelito and Ivy confirmed that the respondent, who lives in one part of their house, pounded very hard on the wall that separates their respective dwellings and hurled invectives against Mendez. They claimed that in the morning of May 5, 2006, the respondent barged into their dwelling, with three (3) policemen in tow, and without any search warrant, ransacked their belongings and threw them into the canal. The respondent also threw out the clothes of Mendez.

The complainants went to the Office of the Barangay Captain in Barangay Sambag 2, Cebu City, and filed a case for "Malicious Mischief, Dirtying and Throwing the Clothes to the Canal, and Conduct Unbecoming" against the respondent, docketed as Barangay Case No. 2006-089. [3] No settlement/conciliation was reached between the

parties and the case was certified for filing in court.

In a 1st Indorsement dated January 2, 2007, the Office of the Court Administrator (OCA), referred the complaint to the respondent for her comment within ten (10) days from receipt. On February 10, 2007, she asked that she be given an extension ending on February 14, 2007. The request was granted.

The respondent failed to comment within the extended period. The OCA, in a tracer-letter dated May 30, 2007 [4] reiterated its directive for the filing of comment within five (5) days from notice; otherwise it “[would] submit [the] matter to the Court without [the] comment.” The respondent received a copy of the tracer-letter on June 15, 2007 through one “A. Cometa.” Verification with the MTC Personnel Division of the OCA showed that the MTCC of Cebu, Branch 7 has an employee named Annabelle Cometa.

After waiting for two months without any compliance from the respondent, the Court issued a Resolution dated August 4, 2008 directing her to “[show cause] why she should not be administratively charged with refusing to submit her comment despite the two (2) directives from the OCA, and to [submit] the required comment within five (5) days from receipt of notice, with notice that should she fail to comply, the Court shall take the necessary action against her and decide the administrative complaint on the basis of the record at hand.” Still, nothing was heard from her.

Because of the respondent’s failure to comment despite warning that the case shall be submitted to the Court even without her comment, we deemed the case submitted for resolution [5] after considering the respondent’s right to submit controverting evidence waived. This case now therefore submitted for decision based solely on the evidence submitted under the complaint.

We find the respondent’s acts deplorable. It is clear from her actions that she harassed and threatened her neighbors and even used the police to perpetrate these acts.

Employees of the judiciary should be very circumspect in how they conduct themselves inside and outside the office, [6] particularly when they use agents of the law in their actions. By her actions, she directly implied that she was using her court position to unilaterally enforce what she wanted — i.e., to harass complainant Mendez. By so doing, she brought the image of the judiciary to disrepute, as this is not the way of the law and of those who enforce the law. It matters not that her acts were not work-related. [7] Employees of the judiciary should be living examples of uprightness, not only in the performance of 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 the courts in the community. [8] Any scandalous behavior or any act that may erode the people’s esteem for the judiciary is unbecoming of an employee. [9] Professionalism, respect for the rights of others, good manners and right conduct are expected of all judicial officers and employees. [10] At all times, court employees should avoid situations which tend to arouse suspicions that they are utilizing their official position for personal gain or advantage, to the prejudice of the public. [11]

The Code of Judicial Ethics mandates that court personnel must not only be, but also be perceived to be, free from any impropriety with respect to both their official duties and their behavior anywhere else. The image of the judiciary is mirrored in the conduct of its personnel whether inside or outside the court. Thus, court personnel must exhibit a high sense of integrity not only in the performance of their official duties but also in their personal affairs. [12] The respondent’s ugly display of an oppressive and overbearing character failed to meet the exacting standards required of employees of the judiciary and deserves administrative sanctions from the Court. The respondent’s continued harassment of complainants to force them to leave the premises so she could occupy the whole place cannot and should not be countenanced. Clearly, respondent is guilty of oppression and of conduct unbecoming a court employee — acts that amount to simple misconduct. [13]

The Court abhors as well the respondent's utter disregard of the Court's Resolution requiring her to comment on the verified complaints. It should be borne in mind that a Court resolution requiring comment on an administrative complaint against officials and employees of the judiciary should not be construed as a mere request from the Court, nor should it be complied with partially, inadequately or selectively. [14] The Court shall not and will not tolerate the indifference of a respondent to an administrative complaint and to resolutions requiring action on these complaints. The respondent's deliberate refusal to comply with the Resolutions of the Court constitutes gross insubordination, [15] even outright disrespect for the Court. [16]

Under Section 52, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service, the following penalties are prescribed for the offenses committed by the respondent:

- Oppression
 - 1st offense - Suspension (6 mos 1 day to 1 year)
 - 2nd offense - Dismissal
- Simple Misconduct
 - 1st Offense - Suspension (1 mo 1 day to 6 mos)
 - 2nd offense - Dismissal
- Gross Insubordination
 - 1st offense - Suspension 6 mos 1 day to 1 year
 - 2nd offense - Dismissal

The same Rule provides that if the respondent is found guilty of two or more charges or counts, the penalty to be imposed shall be that corresponding to the most serious charge or count and the rest shall be aggravating circumstances. [17] Where aggravating and no mitigating circumstances are present, the penalty that shall be imposed at the maximum. [18]

WHEREFORE, respondent Nerissa A. Balbuena, Court Interpreter, Municipal Trial Court in Cities, Branch 7, Cebu City, is found GUILTY of Oppression and Conduct Unbecoming a Public Officer, Misconduct and Gross Insubordination. She is hereby suspended without pay for a period of one (1) year, effective upon receipt of the Court's decision.

The respondent is further WARNED that a commission of the same or similar acts in the future shall be dealt with more severely.

Let a copy of this Resolution be attached to the respondent's 201 file.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, Villarama, Jr., and Sereno, JJ., concur.

[1] Rollo, pp. 4-6.

[2] Id. at 7-8.

[3] Id. at 10.

[4] Id. at 14.

[5] *Bisnar v. Nicandro*, A.M. No. P-00-1427, February 14, 2007, 515 SCRA 608.

[6] *Lorenzo v. Lopez*, A.M. No. 2006-02-SC, October 15, 2007, 536 SCRA 11.

[7] Ibid.

[8] Santelices v. Samar, A.M. No. 00-1394, January 15, 2002, 373 SCRA 78; and Pablejan v. Calleja, A.M. No. P-06-2102, January 24, 2006, 479 SCRA 562.

[9] Ibid.; Quedan & Rural Credit Guarantee Corporation v. Caubalejo, A.M. No. P-05-2066, September 12, 2005, 469 SCRA 524.

[10] Opeña v. Luna, A.M. No. P-02-1549, December 16, 2005, 478 SCRA 153.

[11] Villaseñor v. De Leon, A.M. No. P-03-1685, March 20, 2003, 399 SCRA 342.

[12] Toledo v. Perez, A.M. Nos. P-03-1677 & P-07-2317, July 15, 2009, 593 SCRA 5.

[13] Re: Fighting Incident Between Two (2) Shuttle Bus Drivers, Messrs. Edilberto L. Idulsa & Ross C. Romero, A.M. No. 2008-24-SC, July 14, 2009, 592 SCRA 582.

[14] Florendo v. Cadano, A.M. No. P-05-1983, October 20, 2005, 473 SCRA 448.

[15] Bisnar v. Nicandro, *supra* note 5.

[16] Tabao v. Espina, A.M. Nos. RTJ-96-1347 & RTJ-96-1348, June 14, 1996, 257 SCRA 298.

[17] Section 55.

[18] Section 54.

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