SHERWIN M. BALOLOY, COMPLAINANT, VS. JOSE B. FLORES, RESPONDENT.

A.M. No. P-99-1357. September 04, 2001

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On April 28, 1998, Sherwin M. Baloloy, process server of the Regional Trial Court of Caloocan City, Branch 130, charged with misconduct Jose B. Flores, legal researcher at Branch 120 of the same court.

In his complaint-affidavit filed in the Office of the Court Administrator (OCA), complainant alleged that as he was going back to his office after delivering court documents, he noticed respondent sitting on a bench, staring menacingly at him. Without any warning, respondent stood up and boxed him several times in the face. To avoid further harm, complainant ran towards room 315 and once he was inside, the secretary therein locked the door. Respondent pursued him and started kicking and banging at the door, all the while shouting invectives at him. Respondent left after apparently sensing the alarm he was causing.[1]

A few minutes after respondent left, complainant left room 315 accompanied by a friend named Demet. They went to respondent's office to report the incident to respondent's superior. When they got there, however, they saw respondent holding a screwdriver, provoking them to fight. The branch clerk of court intervened and requested Demet to take complainant to the hospital.[2]

Attached to complainant's affidavit was a medical certificate issued on April 13, 1998, showing that he suffered a "lacerated wound 1 cm glabella; infraorbital (R);" and a "contusion (at the) bridge of (his) nose; supraorbital (R)."[3] Also attached to the affidavit was a photocopy of three pictures taken of complainant's face after the incident.[4]

In his answer, respondent gave a different account of the incident. He denied initiating the fracas and instead pointed at complainant as the one who started it. Respondent claims that on that day, he met complainant at the corridor. He asked complainant, "Bakit mo ba ako laging pinagtritripan?" (Why are you always picking on me?) To this complainant replied, "Tangina mo! Anong pinagtritripan?" (Son of a bitch! What do you mean picking on you?) According to respondent, complainant raised a clenched fist as if to strike respondent "but he was beaten to the punch." Respondent stated that complainant kicked him on the thigh, barely missing his genitals. Respondent retaliated with a punch, then went back to his office. He left complainant in the corridor, standing with his back against the wall.[5]

Respondent denied that he was brandishing a screwdriver when complainant went to respondent's office with a male companion. According to respondent, complainant's companion rushed to him and confronted him. Respondent explained to him that complainant had been touching his private part. When asked by his companion, complainant replied, "Nababangga ko lang naman minsan eh." (I accidentally hit it sometimes.) Complainant and his companion then left for the hospital. Complainant's parents also talked to respondent and asked him to settle the matter.[6]

Respondent claimed that complainant began harassing him in 1996 by touching his private part whenever the two of them passed each other. He stated that he tried to stop complainant by telling him that he resented what complainant was doing, but to no avail. The more respondent tried to avoid him, the more he harassed respondent. Respondent narrated that several days before the incident complained of in this case, while respondent was talking to a man asking for directions, complainant once again grabbed respondent's private part, squeezed it, and left. Respondent was unable to react because of shock; he could not even remember if he was able to give the other man directions.[7]

Respondent thought of asking for advice from several persons regarding this matter, but ultimately decided against it for fear that he might be ridiculed.

Respondent prayed that the complaint be dismissed and that complainant's actions be "condemned".[8]

On February 1, 1999, the Court referred this matter to Executive Judge Bayani S. Rivera, RTC, Caloocan City, for investigation, report, and recommendation.

Judge Rivera's report and recommendation were received on April 26, 1999. Judge Rivera found respondent to be the aggressor in this case, having been the one who first confronted complainant by asking him why he was picking on respondent. According to Judge Rivera, respondent's question was a threat against complainant. Respondent appeared determined to assault complainant. Judge Rivera stated that respondent's act was unjustified and ran counter to the norms of conduct set forth in Section 4 (c) of R.A. No. 6713, the Code of Conduct and Ethical Standards for Public Officials and Employees,[9] and Section 46(b)(4) of Book V of the Administrative Code.[10] Accordingly, Judge Rivera recommended that respondent be declared guilty of gross misconduct and suspended from the service for six months without pay.

On June 16, 1999, we referred this matter further to the OCA for evaluation, report, and recommendation. In a memorandum dated October 27, 1999, the OCA opined that the interest of the service would best be served if both complainant and respondent were administratively punished. The OCA noted that the root cause of the problem was complainant's touching respondent's private part on several occasions, a fact which complainant did not deny during the investigation conducted by Judge Rivera. Such act of complainant was unbecoming a court employee and fell short of the professionalism required of the personnel of the judiciary. On the other hand, respondent's punching the complainant, during office hours and in the court premises, constituted misconduct that should not go unpunished. The OCA recommended that both complainant and respondent be fined P5,000.00 each for gross misconduct, with a warning that a repetition of the same or similar acts will be dealt with more severely.

We agree with both Judge Rivera and the OCA that respondent should be penalized for hitting complainant. We further agree with the OCA that complainant must also be disciplined.

While respondent admits having hit complainant, the latter is not without fault. It appears that respondent's counter-charge that complainant had harassed and pushed respondent's patience to the limit has substantial basis. By repeatedly touching respondent's private part, complainant committed an act of harassment, if not perversion, that goes against the norm of conduct expected of an employee of the judiciary.

We have time and again emphasized that the conduct and behavior of everyone connected with an office charged with the administration of justice must at all times be characterized by propriety and decorum. The Court will not tolerate misconduct committed by court personnel, particularly during office hours and within court premises. Such misconduct shows a total lack of respect for the court, and erodes the good image of the judiciary in the eyes of the public.

Both complainant and respondent have fallen short of the standard of conduct required of court employees.

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Fighting with each other during working hours shows disrespect not only of co-workers but also of the court.[11]

> x x x
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> Fighting between court employees during office hours is a disgraceful behavior reflecting adversely on the good image of the judiciary. It displays a cavalier attitude towards the seriousness and dignity with which court business should be treated.[12]
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> x x x

The OCA recommended that both complainant and respondent be fined P5,000.00. However, under the circumstances, we believe that a fine of P1,000.00 each will be sufficient.[13]

WHEREFORE, we find both Sherwin M. Baloloy, process server, RTC, Branch 130, Caloocan City, and Jose B. Flores, legal researcher, RTC, Branch 120, Caloocan City, both GUILTY of misconduct. Each of them is FINED P1,000.00, with a warning that a repetition of the same or similar act shall be dealt with more severely.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, and De Leon, Jr., JJ., concur.
Buena, J., no part.

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[1] Rollo, p. 1.

[2] Ibid.

[3] Id. at 3.

[4] Id. at 4.

[5] Id. at 7.

[6] Id. at 8.

[7] Id. at 9.

[8] Ibid.

[9] SEC. 4. Norms of Conduct of Public Officials and Employees. -- xxx

(c) Justness and sincerity. -- ...They shall at all times respect the rights of others, and shall refrain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety, and public interest....

[10] SEC. 46. Discipline: General Provisions. -- (a) No Officer or employee in the Civil Service shall be suspended or dismissed except for cause as provided by law and after due process.

(b) The following shall be grounds for disciplinary action:

x x x

(4) Misconduct

x x x

[11] Quiroz v. Orfila, 272 SCRA 324, 330 (1997).

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[12] Id. at 331.

[13] Id. at 332.

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