

ELMA T. FERRER, COMPLAINANT, VS. JUDGE GENOVEVA C. MARAMBA, MILAGROS SONGCUAN, BRANCH CLERK OF COURT, JUANITA ABROGAR, PROCESS SERVER, RESPONDENTS.

A.M. No. MTJ-93-795. May 14, 1998

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an administrative complaint against Judge Genoveva C. Maramba, Branch Clerk of Court Milagros Songcuan, and Process Server Juanita Abrogar, all of the Municipal Trial Court of Mangaldan, Pangasinan. The complaint charges respondents with violation of the Anti-Graft and Corrupt Practices Act and conduct unbecoming officers of the court.

It appears that complainant Elma T. Ferrer filed a complaint for grave oral defamation against PO3 Domingo Eden of the PNP of Mangaldan, Pangasinan for having allegedly uttered the following words against her in public:

Punieta ka, puta ka ya bii, maniac ka. (Bullshit, you are a prostitute, you are fund (sic) of sexual intercourse).[1]

The case was assigned to the court of respondent judge.

In her letter-complaint dated October 29, 1992,[2] complainant Ferrer alleged that, on August 27, 1992, respondent Judge Maramba forced her to sign an affidavit of desistance, as basis for the dismissal of the criminal complaint against PO3 Eden, and instructed respondent Branch Clerk of Court to deduct the amount of P5,000.00, as cost of the suit and donation to the court, from the amount to be paid by PO3 Eden to the complainant for the settlement of the case; that on September 17, 1992, respondent judge dragged her from the Regional Office of the Department of Agriculture to the judge's chambers in an effort to make her meet PO3 Eden and finally settle their differences. Complainant claimed that as a result of the force used by the judge, complainant's right sleeve was torn and her gold necklace was damaged.

In another affidavit-complaint dated February 24, 1993,[3] complainant averred that respondent Process Server Abrogar threatened to report her to the municipal mayor with a view to have her dismissed from the service if she did not settle her case with PO3 Eden. She claimed that respondent process server tried to pressure her family by misrepresenting to them that a warrant for her arrest had been issued when in fact it was only a subpoena that Judge Lilia Español had issued because of a case for slight physical injuries filed by the respondent Branch Clerk of Court against her.

In her comment on the complaint,[4] respondent judge denied the charges against her. She claimed that on August 27, 1992, complainant came to her court to file an affidavit of desistance but as it did not have the conformity of the public prosecutor, she advised complainant to come back on August 31, 1992 when the prosecutor was scheduled to appear in her court; that complainant came back on August 31, 1992, and Assistant Public

Prosecutor Restituto Dumlao gave his conformity to her affidavit; and that on the basis of the affidavit, she (respondent judge) dismissed the case for grave oral defamation against PO3 Eden.

With respect to the incident of September 17, 1992, respondent judge alleged that when she arrived at her office in the afternoon of that day, complainant was already there. She, therefore, denied that she dragged the complainant from the latter's office to her sala. She admitted slapping the complainant, but she claimed she acted in self-defense in order to prevent complainant from physically harming her and her staff. Anent the charge of violation of the Anti-Graft and Corrupt Practices Act, respondent judge denied having instructed respondent Branch Clerk of Court Songcuan to deduct P5,000.00 from the amount which PO3 Eden paid to the complainant in settlement of the criminal case. Respondent judge claimed that this administrative case against her was filed to dissuade her from pursuing the criminal complaint for direct assault upon a person in authority which she had filed against the complainant arising from the same incident of September 17, 1992.

Respondent Branch Clerk of Court Songcuan filed a separate comment on the complaint. She denied complainant's allegation that upon the instruction of the respondent judge she deducted P5,000.00 from the amount of P20,000.00 deposited with her by PO3 Eden. She claimed that she filed charges of physical injuries against complainant as a result of an incident on September 17, 1992, during which she was hit by a mirror which complainant had hurled at PO3 Eden.

For her part, respondent Process Server Abrogar, in her comment dated July 9, 1992,[5] denied complainant's allegation that she invited complainant and PO3 Eden to discuss the settlement of the criminal case for grave oral defamation and that she threatened to report the complainant to the municipal mayor of Mangaldan, Pangasinan if she refused to settle the criminal case. Abrogar denied that she harassed the relatives of the complainant and that she tried to scare them by telling them that Judge Lilia Español had ordered the arrest of complainant in connection with the slight physical injuries case filed by respondent Branch Clerk of Court Songcuan.

The Court referred the case to Judge Antonio M. Belen of Branch 38 of the Regional Trial Court of Pangasinan for investigation, report, and recommendation. In his report submitted on May 19, 1994, Judge Belen finds respondent judge guilty of acts unbecoming a judge and recommends that she be fined P5,000.00 and admonished. The Investigating Judge recommends that respondent judge, along with respondent Branch Clerk of Court Milagros Songcuan, be exonerated of the charge of violating the Anti-Graft and Corrupt Practices Act and that respondent Process Server Juanita Abrogar be exonerated of the charge that she committed acts unbecoming an officer of the court.

As found by Judge Belen, the facts are as follows:

On August 27, 1992, complainant presented an affidavit of desistance to the respondent judge. However, she was told by respondent judge to come back on August 31, 1992, when the public prosecutor was scheduled to appear before her, so that the prosecutor could give his conformity to the affidavit.[6] The affidavit was intended for use as basis for the dismissal of the complaint which complainant had filed against PO3 Domingo Eden. In consideration of the dismissal of the case, PO3 Eden paid P20,000.00 which he deposited with respondent Branch Clerk of Court Songcuan.

On August 31, 1992, complainant came back as instructed. She signed again the affidavit of desistance in the presence of Assistant Provincial Prosecutor Restituto Dumlao, who interposed no objection to the dismissal of the case. Accordingly, respondent judge issued an order dismissing the complaint for grave oral defamation against PO3 Domingo Eden.[7]

On September 17, 1992, complainant confronted PO3 Eden about the rumor that upon the advice of the

respondent judge, PO3 Eden had decided not to pay her additional money as settlement of the cases she had filed against him. Later that day, complainant was told by respondent Abrogar that respondent judge wanted to talk to her in the judge's chambers. But complainant refused to see respondent judge considering that she had already spoken with PO3 Eden, so the respondent judge went to complainant's office in the same building, grabbed the right sleeve of complainant's uniform, and forced the complainant to go with her to her (respondent judge's) chambers. As a result, the right sleeve of complainant's uniform was torn and her gold necklace was damaged. The spectacle drew the attention of several persons. Two (2) of those who witnessed the incident gave their testimonies at the investigation. They were Federico de Guzman[8] and Pastor Cayabyab.[9]

Apparently frustrated at the failure of the parties to settle their case, respondent judge shouted at the complainant, PO3 Eden, and respondent Branch Clerk of Court Songcuan: "Dahil sa kaputahan ninyong tatlo, dinadamay ninyo ang opisina." ("Because of the perfidy of the three of you, you have caused embarrassment to the court.") Then, she slapped the complainant on the left cheek and struck her right ear with a logbook. Respondent judge ordered complainant to slap PO3 Eden and, as she refused to do so, respondent judge threatened to undress her in the presence of the court employees. Complainant therefore hurled a mirror at PO3 Eden but the latter was able to avoid the flying object which instead hit respondent Branch Clerk of Court Songcuan,[10] causing abrasions and contusions on her arm.[11]

Respondent judge filed a criminal complaint for direct assault upon a person in authority against the complainant, while respondent Branch Clerk of Court Songcuan charged her with slight physical injuries.[12] Complainant, on the other hand, filed this administrative case against the respondent judge and respondent Branch Clerk of Court.

In December 1992, when complainant was in Quezon City, respondent Process Server Abrogar, accompanied by two policemen, went to complainant's residence in Barangay Linoc in Binmaley, to serve a subpoena issued by Judge Lilia Español. The subpoena was issued in connection with the complaint for slight physical injuries filed by respondent Songcuan.[13] Complainant immediately returned home to Pangasinan after she was informed by her relatives that respondent Process Server Abrogar was allegedly harassing them. She subsequently filed this administrative case for conduct unbecoming an employee of the court against respondent Abrogar.[14]

Judge Belen found no basis for the allegation that respondent judge forced complainant to sign the affidavit of desistance. In his report, Judge Belen states:[15]

... The Court after carefully examining the evidence adduced during the hearing, finds no substantial proof to substantiate the claims of the complainant that she was forced to sign her affidavit of desistance that served as the basis for the dismissal of the criminal case for Grave Oral Defamation which she filed against PO3 Domingo Eden before the Municipal Court of Mangaldan. The Court is of the humble opinion that Elma Ferrer being of legal age and of sufficient discretion and a highly educated woman with two (2) degrees, one for Bachelor of Science in Agriculture (BSA) and another for Bachelor of Science in Nursing (BSN) cannot be so easily coerced, intimidated and forced to do things against her will. On the contrary, she is endowed with strong self-determination and character as shown by her temerity and courage to fight back against a Judge and policeman (PO3 Domingo Eden).... Likewise, if the complainant was really forced to sign the affidavit in the absence of her lawyer, why did she receive and accept the initial payment of P15,000.00. This act of the complainant is contrary and opposed to ordinary behavior and promotion (sic) of human nature. Furthermore, Assistant Provincial Prosecutor, Restituto Dumlaog, testified in Court that he assisted the complainant when she signed her affidavit of desistance and that nobody forced Miss Ferrer to affix her signature in the document. With the foregoing circumstances obtaining in the case at hand, the Court therefore concludes that the complainant was not forced, coerced and pressured by the respondent Judge in affixing her signature in her affidavit of desistance.

However, the Investigating Judge found the charge that respondent judge had used physical force against

complainant and laid hands on her to be true. In his report, Judge Belen states:[16]

Regarding the charge of Elma Ferrer that she was dragged from her office to the Municipal Court by Judge Maramba which resulted in the tearing of the right sleeve of her uniform, and the damage of her golden necklace, the Court after carefully studying the evidence on record, finds that the accusation of the complainant is aptly supported by substantial and convincing evidence. The pictures of Elma Ferrer and her torn uniform (Exhibits “BB” and “CC”, and series), showing that the right sleeve of her uniform was torn are mute but indubitable proof that the complainant was in fact forcibly dragged by the respondent Judge to her office. The dragging likewise resulted in the damage and in the breaking of the complainant’s golden necklace. (Exhibits “BB-2” and “CC”). The mere denial made by the respondent Judge and her witnesses of the accusation imputed against her is not sufficient to overcome the physical and convincing evidence presented by the complainant. It is a well established rule in this jurisdiction, that in weighing contradictory statements and declarations, greater weight should be accorded to the positive assertion of the complainant than the mere denials of the defendant. It should likewise be noted that the incident in question was promptly reported to the police of Mangaldan and recorded in the police blotter. (Exhibit “J” and series)....

Anent the accusation of the complainant, that Judge Maramba slapped her on the left face and hit her right lower ear, the Court finds sufficient and convincing evidence that the respondent Judge committed the acts complained of. In her comment (Exhibit “EE”) to the accusation imputed against her, Judge Maramba admitted having slapped the complainant. Likewise during her testimony in Court from her very own lips springs forth the admission that she slapped Miss Ferrer on the left face because the latter threw a mirror at her which she was able to parry and when Miss Ferrer again picked something from a nearby table, she slapped her on the face. The respondent Judge tried to justify the act complained of, by claiming that she had to slap Miss Ferrer in order to prevent her from committing further harm and injury on her. In fine, the respondent invokes self-defense to justify her act of slapping Miss Ferrer and relies on the finding of the Provincial Prosecutor’s Office which holds and finds her act of slapping the complainant justified being an act of self-defense.

To the mind of the Court, the acts of respondent Judge in forcibly dragging Elma Ferrer from her office to the Court which resulted in the tearing of the right sleeve of her uniform and the damage of her golden necklace as well as the slapping of the complainant’s left face, are (sic) all unwarranted and unjustified. The respondent was not suppose to take the law in her hands as there are (sic) other persons present notably her staff and PO3 Eden who could help her prevent the complainant from further inflicting harm and injury on her. On the basis of the aforesaid acts imputed against her, the respondent Judge exhibited shortness of temper and patience, which is squarely repugnant to responsibilities, duties and restrictions imposed upon her by reason of her office. . . . The respondent Judge’s acts constitutes (sic) grave misconduct and amount to serious violation of the canons of Judicial Ethics that require that a Judge’s acts while in office should be free from the appearance of impropriety and her personal behavior while in office and also in her everyday life, should be beyond reproach.

With respect to the charges of corrupt acts and acts unbecoming employees of the court filed against respondents Songcuan and Abrogar, the Investigating Judge found no evidence to sustain the charges and accordingly, recommends that respondents be exonerated of the charges. He states in his report:[17]

Regarding the accusation of Elma Ferrer that respondent Clerk of Court, Milagros Songcuan, deducted the sum of P1,000.00 as donation to the Court and P4,000.00 as cost of suit from the amount of P20,000.00, which PO3 Domingo Eden had deposited with the said respondent, the Court finds no substantial evidence which tends to support the charge. The acknowledgment receipt marked Exhibit “K” for the complainant which is Exhibit “12” and series for the respondents, clearly shows that Elma Ferrer received the sum of P20,000.00 from PO3 Domingo Eden, representing the consideration for the amicable settlement of the cases which the complainant had filed against him. The evidence adduced by the complainant which tends to support this accusation, is her testimony, the declaration of her witness, Federico de Guzman and the acknowledgment receipt written on the lower portion

of her Exhibit “K” which has been marked Exhibit “K-2” for complainant and “12-A” for respondent. Based on the testimony of the complainant, she prepared four (4) copies of Exhibit “K” (Acknowledgment Receipt), however, it is quite surprising why her copy only contained the handwriting acknowledgment receipt (Exhibit “K-2”) whereas the copy in the possession of the respondent (Exhibit “13”) does not contain any acknowledgment receipt (Exhibit “12”)....[I]t is therefore not hard to conclude that the complainant manufactured Exhibit “12-A” to achieve her purpose of holding the respondents administratively liable for graft and corruption. The complainant did not even bother to make any explanation why only her copy of Exhibit “K” (acknowledgment receipt) contained the handwritten receipt (Exhibit “K-2”) despite the fact that both receipts (Exhibits “12” and “13”) were supposedly executed on the same date (August 27, 1992) and same place (Mangaldan, Pangasinan).

Furthermore, it will be very unnatural for Milagros Songcuan to be making the alleged deduction in the presence of other persons notably Federico de Guzman and Virginia Manaois, especially so that the complainant did not freely agree to the supposed deduction of P5,000.00. Mrs. Songcuan and Judge Maramba will not be so reckless and imprudent to commit the acts imputed to them, in the presence of other persons who could be presented as witnesses against them.. . .

Likewise, based on the evidence adduced during the trial and the facts obtaining in the case, the Court finds that the accusation of the complainant that respondent, Juanita Abrogar, threatened to report her to the Mayor of Mangaldan and be recommended for dismissal from office, if she will not settle the cases which she filed against PO3 Domingo Eden is devoid of merit. The Court cannot conceive of any compelling motive or reason why Mrs. Abrogar is so interested in the settlement of the cases which were filed against PO3 Domingo Eden. She is not related to him either by blood or affinity, nor is there any showing that she has moral or pecuniary interest in having the cases settled. By and large, the complainant has not presented substantial and convincing evidence to support her charge.

Likewise, the accusation of Elma Ferrer that Juanita Abrogar threatened and molested her (complainant) relatives and friends by making it appear and known to them that the Court process which the respondent was serving upon Miss Ferrer is a warrant of arrest with a recommended bailbond of P50,000.00, has not been established by substantial and sufficient evidence. SPO1 Ernesto Esquerra, a member of the PNP of Binmaley and townmate of the complainant, declared during the hearing that he accompanied Mrs. Juanita Abrogar and SPO3 Tomas Moulic a member of the PNP of Mangaldan to Barangay Linoc, Binmaley because Mrs. Abrogar was going to serve a court process on Ferrer. SPO1 Esquerra, further testified that while they were in Barangay Linoc, Mrs. Abrogar never threatened or harassed the mother and relatives of Miss Ferrer. Indeed, their conversations was friendly and cordial, and that Mrs. Abrogar did not make it appear to the people of Linoc that she was serving a warrant of arrest upon the complainant with a recommended bailbond of P50,000.00. The court finds no improper motive on the part of SPO1 Esquerra who is the townmate of Elma Ferrer to testify in favor of respondent Juanita Abrogar. SPO1 Esquerra came to Court and declared in the manner he testified [that he was] impelled by the prompting of clear conscience and of his desire to tell the truth.

The above findings of the Investigating Judge are in accordance with the evidence. Indeed, the evidence does not show that, upon instructions of respondent judge, the amount of P5,000.00 was deducted by Songcuan from the amount of P20,000.00 which PO3 Eden paid to settle the criminal cases against him. For one, the acknowledgment receipt (Exhibit K) clearly states that the complainant received the sum of P20,000.00 from PO3 Eden. Only her testimony and the handwritten notation (Exhibit K-2) on the said acknowledgment receipt indicate otherwise. Complainant should not have signed the acknowledgment receipt if she received P15,000.00 only.

Moreover, the handwritten notation (Exhibit K-2) that complainant received the amount of P15,000.00 only appears solely in the complainant’s copy of the acknowledgment receipt. No similar notation appears in the copies of the acknowledgment receipt in the possession of the respondents. The notation may have been added by the

complainant to provide a basis for holding respondents liable for graft and corrupt practices. Indeed, the handwritten notation is self-serving. It is more likely that complainant received P20,000.00 but complainant wanted more so she pestered PO3 Eden for additional sum. PO3 Eden may have informed the respondent judge about the demand of the complainant and this angered the respondent judge who thought that she had already settled the case for grave oral defamation involving the parties. Furthermore, as the investigating judge observed, it is unbelievable that respondents would be so reckless to make the alleged deduction in the presence of many witnesses.

We think, however, that respondent judge took undue interest in the settlement of the criminal case for grave oral defamation and in so doing, severely compromised the integrity and impartiality of her office. It may be that the initiative for the settlement of the case came from the complainant, but once taken, it would appear that respondent judge went out of her way to see to it that the initiative bore fruit. At one point, when efforts at settlement were in danger of collapsing, respondent judge went to the extent of literally dragging complainant to her chambers to make her meet PO3 Eden who was waiting there for them. Respondent judge failed to observe prudence so necessary if judges are to be perceived to be impartial. Indeed, as exemplars of law and justice, judges must avoid not only impropriety but even the appearance of impropriety in all their actions.[18]

Worse, she showed a predisposition to use physical violence and intemperate language in public which reveals a marked lack of judicial temperament and self-restraint, traits which, besides the basic equipment of learning in the law, are indispensable qualities of every judge.

Respondent judge claims that she acted in self-defense because complainant allegedly threw a mirror at her which she was able to evade and was about to pick up something else to throw at her. But slapping someone on the face is hardly a defensive action. Had respondent judge acted in self-defense, she should have wrestled with the complainant. For her to slap her alleged antagonist on the face suggests rather that it was more to show contempt for the person she slapped and possibly to embarrass her than to protect herself from any act of aggression that complainant was about to commit.

Indeed, it was unlikely that complainant would commit aggression, surrounded as she was by court employees. It is more likely that respondent judge acted out of frustration at the failure of the parties to settle their case that she slapped complainant and then struck her in the ear after scolding her, PO3 Eden and Branch Clerk of Court Songcuan. Then in a show of petulance, she ordered complainant to hit PO3 Eden and, as she initially refused to do so, threatened to undress her in public.

For having acted in an oppressive, improper, and violent manner, respondent judge should be suspended for six (6) months and one (1) day in accordance with Rule XIV, §23(n) of the Civil Service Rules.

WHEREFORE, Judge Genoveva C. Maramba is hereby SUSPENDED for six (6) months and one (1) day without pay, with WARNING that repetition of the same misconduct will be dealt with more severely. The charges against respondents Branch Clerk of Court Milagros Songcuan and Process Server Juanita Abrogar are hereby DISMISSED for insufficiency of evidence.

SO ORDERED.

Regalado, (Chairman), Melo, Puno, and Martinez, JJ., concur.

[1] Rollo, p. 74.

[2] Id., pp. 1-2.

- [3] Records, pp. 30-32.
- [4] Rollo, pp. 51-58.
- [5] Id., pp. 157-164.
- [6] TSN, March 11, 1994, pp. 14-16.
- [7] Rollo, pp. 52-53.
- [8] TSN, February 23, 1994, pp. 12-45.
- [9] TSN, March 10, 1994, pp. 3-34.
- [10] TSN, March 8, 1994, pp. 47-51; TSN, March 9, 1994, pp. 14-26.
- [11] TSN, March 15, 1994, pp. 15-16; Annex B, Comment of Respondent Judge; Rollo, p. 63.
- [12] TSN, March 11, 1994, p. 19; Id., pp. 67 & 69-70.
- [13] Rollo, pp. 434-435.
- [14] Id., pp. 4-5.
- [15] Id., pp. 430-432, Report of the Investigating Judge, pp. 11-13.
- [16] Rollo, pp. 431-432.
- [17] Id., pp. 433-435.
- [18] Rule 1.01, Canon 1, and Rule 2.01, Canon 2, Code of Judicial Conduct.

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