

EMILY G. CRUZ, COMPLAINANT, VS. PABLO F. FERNANDO, UTILITY WORKER, MTC, SANTA RITA, PAMPANGA, RESPONDENT.

A.M. No. P-06-2152 (Formerly OCA IPI No. 04-1944-P). December 10, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

The instant administrative complaint[1] was filed before this Court by Emily G. Cruz (complainant) against Pablo F. Fernando (respondent), Utility Worker of the Municipal Trial Court (MTC), Santa Rita, Pampanga, charging the latter with Grave Misconduct, and Conduct Unbecoming of a Public Officer.

Complainant alleged that she is the owner of a carinderia near the MTC catering to the employees of said court. On 6 March 2004, sometime between 10:00 and 11:00 o'clock in the morning, she went to the restroom located within the MTC premises. While complainant was answering the call of nature, respondent forcibly entered the restroom and sexually abused her despite her protestation. After complainant's rape, her own husband was about to enter the same restroom to urinate, and he heard her crying. Upon entering the restroom, complainant's husband saw her in the act of putting on her underwear and respondent washing his private parts.

The Court required respondent to comment on the administrative complaint against him.[2]

In his Counter-Affidavit,[3] respondent vehemently denied that he sexually abused complainant. He claimed that on 6 March 2004, a Saturday, he and co-employee Armando Salonga (Salonga) were on duty at the MTC. At around 10:00 a.m., Salonga went out to look for a rubber bushing for the lavatory faucet of the court. When respondent was alone, he went to the restroom to urinate. While he was answering the call of nature, complainant suddenly entered the restroom and started embracing him. But before he could extricate himself from the complainant's embrace, her husband arrived. It was then that complainant told lies to her husband that she had been sexually abused by respondent. Complainant and her husband left at 11:00 o'clock but went back to talk to him, and they parted ways peacefully.

Respondent pointed out that if it were true that he forcibly had sex with complainant, the latter should have reported the same to the police station, which is very near the MTC building. She also did not submit a medical certificate on the physical signs resulting from the supposed sexual assault. Respondent also contended that the alleged rape could not have taken place inside the restroom considering its size (being small and cramped) and location (it is near the entrance to the MTC and accessible to the public). At the time of the alleged rape, there were even several carpenters working in a building immediately adjacent to the MTC who could have easily come to complainant's rescue as the entrance door to the MTC was open. Thus, assuming for the sake of argument that he had sexual intercourse with the complainant, respondent averred that it could not have been consummated without the full cooperation of the complainant.

To support his defense, respondent submitted his Counter-Affidavit in I.S. No. 04-C-658[4] (the criminal complaint for rape instituted by complainant against him before the Office of the Provincial Prosecutor, City of San Fernando, Pampanga); sketches of the restroom; and a Certification dated 22 March 2004 issued by the PNP

attesting that per Police Blotter, no case of rape had been reported from 1 March 2004 up to the time the said certification was issued.

It was then complainant's turn to submit her Reply-Affidavit,[5] where she argued that she could not have consented to a sexual intercourse with respondent knowing fully well that at the time of the incident, her husband was just nearby at their carinderia. Although she admitted that she did not immediately report the rape to the police, she explained that being a woman, she initially preferred to keep what happened to her within the family circle. Complainant specifically denied that she and her husband conversed with respondent on 6 March 2004 after the incident.

On 27 March 2006, the Court referred[6] the complaint to Presiding Judge Gemma Theresa B. Hilario-Logronio (Judge Logronio) of MTC, Sta. Rita, Pampanga, for investigation, report, and recommendation.

After the hearing, Judge Logronio submitted her "Recommendation" dated 14 June 2007. According to Judge Logronio, there were inconsistencies in the allegations of both complainant and respondent, and it was difficult to determine who was telling the truth. Scrutinizing the claims of both parties, Judge Logronio summarized her factual findings as follows:

Complainant claimed that she was sexually abused by the respondent while respondent alleged that it was the complainant who followed him in the comfort room and embraced him. However, from the testimony of Nestor Cruz, the investigating judge found it unbelievable that after he found his wife inside the comfort room crying while being embraced by the respondent, he did not rescue his wife and instead left her alone. The natural reaction in this situation is to remove his wife from the place and away from the abuses of the respondent.

It was also established that when Nestor Cruz decided to come back, he found respondent washing his organ. This is also unreal for the respondent to have the nerve to wash his organ knowing that he was caught by the victim's husband sexually abusing his wife. On the other hand, the denial of the respondent that it was complainant who embraced him cannot also be given credence because of his obvious inconsistencies in his testimonies.

The accusation that respondent sexually abused the complainant was not proven. However, respondent is not innocent of any misconduct as he was not able to present evidence to disprove that complainant and respondent were found engaging in sexual conduct inside the comfort room of the MTC Sta. Rita Pampanga while respondent was on a Saturday duty. [7] (Emphasis ours.)

In the end, Judge Logronio recommended respondent's suspension for six months:

Considering that the respondent's misconduct has no direct relation to and connected with the performance of official duties as utility worker and that there is no element of corruption and willful intent to violate the law and taking into account his twenty four years in government service, the herein investigating judge recommends that respondent Pablo Fernando be adjudged guilty of SIMPLE MISCONDUCT. As this is his first offense, it is further recommended that he be suspended for a period of six months.[8]

The Court, in its 23 July 2007 Resolution, referred[9] the report and recommendation of Judge Logronio to the Office of the Court Administrator (OCA) for its evaluation, report, and recommendation.

On 16 November 2007, the OCA submitted its Report,[10] recommending that respondent be fined in an amount equivalent to his two months salary:

Premises considered, it is respectfully recommended that respondent Pablo F. Fernando, Utility Worker, MTC, Sta. Rita, Pampanga be found guilty of simple misconduct and be fined an amount equivalent to his two (2) months basic salary to be deducted from his separation benefits.[11]

Both complainant[12] and respondent[13] manifested that they were submitting the case for resolution based on the pleadings filed. Resultantly, the case was submitted for decision based on the pleadings on record.

After a thorough study of the present administrative case, the Court agrees in the findings of the OCA.

In his defense, respondent merely denied that he sexually abused complainant, and alleged that it was complainant who followed him to the restroom and embraced him.

It is settled that denial is inherently a weak defense. To be believed, it must be buttressed by strong evidence of non-culpability; otherwise, such denial is purely self-serving and is with nil evidentiary value. Like the defense of alibi, a denial crumbles in the light of positive declarations.[14] In this case, there was positive testimony by complainant's husband that he came upon both complainant and respondent in the restroom together in the morning of 6 March 2004 under atypical circumstances, which respondent was unable to explain to the satisfaction of this Court.

While there is no direct evidence to suggest that respondent raped or sexually abused the complainant, the Court, however, cannot entirely rule that nothing inappropriate occurred between complainant and respondent on 6 March 2004, considering the circumstances under which they were found together inside the MTC restroom, as well as their inconsistent or, at times, even illogical assertions.

It cannot be denied that respondent, a court utility worker on duty on a Saturday, was found in the MTC restroom with a woman, not his wife, who is, herself, also married. These circumstances give rise to a reasonable suspicion that something indecent took place inside the restroom between two consenting individuals, for which reason the Court cannot completely absolve respondent from any administrative culpability.

Engaging in shady and unsavory acts within court premises, even if conducted only in the restroom, diminishes the sanctity and dignity of the court. As courts are temples of justice, their dignity and sanctity must at all times be preserved and enhanced.[15] Moreover, courts are looked upon by the people with high respect and are regarded as sacred places, where litigants are heard, rights and conflicts settled and justice solemnly dispensed. Misbehavior within and around their vicinity diminishes their sanctity and dignity.[16]

Although every office in the government service is a public trust, no position exacts a greater demand for moral righteousness and uprightness from an individual than in the judiciary.[17] That is why this Court has firmly laid down exacting standards of morality and decency expected of those in the service of the judiciary. Their conduct or behavior is circumscribed with the heavy burden of responsibility, characterized by, among other things, propriety and decorum so as to earn and keep the public's respect and confidence in the judicial service. It must be free from any whiff of impropriety, not only with respect to their duties in the judicial branch but also to their behavior outside the court as private individuals. There is no dichotomy of morality; court employees are also judged by their private morals.[18]

Court personnel, from the lowliest employee to the clerk of court or any position lower than that of a judge or justice, are involved in the dispensation of justice, and parties seeking redress from the courts for grievances look upon them as part of the judiciary. They serve as sentinels of justice, and any act of impropriety on their part immeasurably affects the honor and dignity of the judiciary and the people's confidence in it. Thus, any conduct which tends to diminish the image of the judiciary cannot be countenanced.[19]

It is without any doubt that respondent's actuations fell short of the general standards for a public servant, more so, of the exacting standards for an employee of the court. For his inappropriate behavior on 6 March 2004, respondent is guilty of simple misconduct.

Pursuant to Rule IV, Section 52 of the Uniform Rules on Administrative Cases in the Civil Service Commission, simple misconduct is considered as a less grave offense and punishable by suspension from one month and one day to six months for the first offense, and dismissal for the second offense.

In determining the fitting penalty for respondent, the Court considers that this is respondent's first administrative charge after 24 years of government service. It also notes that I.S. No. 04-C-658, the criminal complaint for rape filed by complainant against respondent, was dismissed for lack of probable cause by the Pampanga Provincial Prosecutor in its Resolution dated 4 July 2005. Finally, records show that respondent already filed his application for separation benefits under Republic Act No. 8291 effective 1 March 2006, but the same has not been acted upon because of the instant case. As recommended by the OCA, the Court shall impose a fine in an amount equivalent to his salary for two months, to be deducted from his separation benefits.

WHEREFORE, the Court finds respondent Pablo F. Fernando liable for SIMPLE MISCONDUCT, and imposes upon him a FINE equivalent to his two (2) months salary to be deducted from his separation benefits.

SO ORDERED.

Ynares-Santiago, Austria-Martinez, Nachura, and Reyes, JJ., concur.

[1] Rollo, pp. 1-2.

[2] Id. at 7.

[3] Id. at 9-10.

[4] Id. at 53.

[5] Id. at 15-16.

[6] Id. at 31.

[7] Id. at 88.

[8] Id.

[9] Id. at 370.

[10] Id. at 371-374.

[11] Id. at 374.

[12] Id. at 391-393.

[13] Id. at 385-386.

[14] *Jugueta v. Estacio*, 486 Phil. 206, 213 (2004).

[15] *Re: Habitual Tardiness of Mario J. Tamang, Sheriff IV*, Regional Trial Court, Branch 168, Pasig City, A.M. No. P-04-1861, 31 August 2004, 437 SCRA 229, 231.

[16] *Merilo-Bedural v. Edroso*, 396 Phil. 756, 763 (2000); *Judge Alumbres v. Judge Caoibes*, 425 Phil. 55, 64 (2002).

[17] *Rabe v. Flores*, 338 Phil. 919, 925-926 (1997).

[18] Acebedo v. Arquero, 447 Phil. 76, 85 (2003).

[19] Vidallon-Magtolis v. Salud, A.M. No. CA-05-20-P, 9 September 2005, 469 SCRA 439, 470 citing the Code of Conduct for Court Personnel, A.M. No. 03-06-13-SC, 1 June 2004.

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