

**SPOUSES EDWIN AND GRETA CHUA, COMPLAINANTS, VS. SACP
TERESA BELINDA G. TAN-SOLLANO, DCP MARIA GENE Z.
JULIANDA-SARMIENTO, SDCP EUFROSINO A. SULLA, SACP SUWERTE
L. OFRECIO-GONZAL...**

A.C. No. 11533. June 06, 2017

Ponente: REYES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-11533/>

REYES, J.:

For resolution is the administrative complaint[1] for disbarment filed by complainants Greta A. Chua (Greta) and Edwin S. Chua (Spouses Chua) against Senior Assistant City Prosecutor Teresa Belinda G. Tan-Sollano (SACP Tan-Sollano), Deputy City Prosecutor Maria Gene Z. Julianda-Sarmiento (DCP Julianda-Sarmiento), Senior Deputy City Prosecutor Eufrosino A. Sulla (SDCP Sulla), SACP Suverte L. Ofrecio-Gonzales (SACP Ofrecio-Gonzales), and DCP Joselito D.R. Obejas (DCP Obejas) (collectively, the respondents) for grave abuse of discretion, ignorance of the law, abuse of power or authority, and gross misconduct.

Antecedent Facts

On October 12, 2015, Spouses Chua filed a Complaint[2] for Perjury and False Testimony against Atty. Rudy T. Tasarra (Atty. Tasarra), Luz O. Talusan (Talusan), Po Yi Yeung Go, Jessica W. Ang, Ricky Ang, Eden C. Uy, and Ana Tiu, before the Office of the City Prosecutor (OCP) of Manila docketed as XV-07-INV-15J-05513.

Spouses Chua alleged before the OCP of Manila that Talusan deliberately and wilfully committed perjury when she narrated in her Complaint-Affidavits that on July 11, 2009, Spouses Chua issued 11 post-dated checks in favor of Chain Glass Enterprises, Inc. (CGEI), with an amount of P112,521.00 each, as payment for assorted glass and aluminum products. According to Spouses Chua, however, the said statement is not true because the said 11 post-dated checks were actually issued on February 23, 2009 by Greta in replacement of their previous bounced checks. Likewise, Atty. Tasarra and the members of the Board of Directors of CGEI were likewise impleaded therein for offering Talusan's testimony.[3]

In a Resolution[4] dated December 28, 2015, SACP Tan-Sollano recommended the dismissal of the charges against therein respondents for lack of probable cause. The same was recommended for approval by DCP Julianda-Sarmiento and SDCP Sulla.

A Motion for Reconsideration[5] was filed by Spouses Chua but the same was denied in a Resolution[6] dated August 9, 2016 issued by SACP Ofrecio-Gonzales and approved by DCP Obejas after finding no cogent reason to reverse the Resolution dated December 28, 2015 of SACP Tan-Sollano.

Aggrieved with such findings, Spouses Chua instituted the instant case and averred that the dismissal of XV-07-INV-15J-05513 was inappropriate and highly irregular considering that the prosecution offered an "airtight case/evidence." [7]

Ruling of the Court

After a careful review of the records of the present case, the Court finds that Spouses Chua failed to attribute clear and preponderant proof to show that the respondents committed infractions in contravention with the standards provided for by the Code of Professional Responsibility which would have warranted the imposition of administrative sanctions against them.

"In administrative proceedings, the complainant has the burden of proving with substantial evidence the allegations in the complaint. Mere allegation is not evidence and is not equivalent to proof." [8]

Here, considering that Spouses Chua failed to present substantial proof to show the prosecutors' culpability, the Court cannot rule out the possibility that the instant administrative case was ill motivated being retaliatory in nature and aimed at striking back at them for having participated in the dismissal of XV-07-INV-15J-05513, either as investigating prosecutor or approving officer. In the absence of contrary evidence, what will prevail is the presumption that the prosecutors involved herein have regularly performed their official duties.

Moreover, in *Maquiran v. Judge Grageda*, [9] the Court held that alleged error committed by judges in the exercise of their adjudicative functions cannot be corrected through administrative proceedings but should instead be assailed through judicial remedies. [10] Here, the same principle applies to prosecutors who exercise adjudicative functions in the determination of the existence of probable cause to hold the accused for trial in court.

Verily, an administrative complaint is not an appropriate remedy where judicial recourse is still available, such as a motion for reconsideration, an appeal, or a petition for certiorari. [11] In the present case, as narrated by Spouses Chua, XV-07-INV-151-05513 is still pending and active. As such, Spouses Chua still has remedies to contest said ruling.

WHEREFORE, the instant administrative complaint against respondents Senior Assistant City Prosecutor Teresa Belinda G. Tan-Sollano, Deputy City Prosecutor Maria Gene Z. Julianda-Sarmiento, Senior Deputy City Prosecutor Eufrosino A. Sulla, Senior Assistant City Prosecutor Suwerte L. Ofrecio-Gonzales, and Deputy City Prosecutor Joselito D.R. Obejas is DISMISSED and this case is considered CLOSED and TERMINATED.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-De Castro, Peralta, Bersamin, Del Castillo, Perlas-Bernabe, Leonen, Jardeleza, Caguioa, and Tijam, JJ., concur.

Mendoza, J., on official leave.

Martires, J., on leave.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on June 6, 2017 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled administrative matters, the original of which was received by this Office on July 12, 2017 at 1:35 p.m.

Very truly yours,

(SGD.) FELIPA G. BORLONGAN-ANAMA
Clerk of Court

[1] Rollo, pp. 2-34.

[2] Id. at 35-40.

[3] Id. at 41-42.

[4] Id. at 41-45.

[5] Id. at 46-66.

[6] Id. at 69-70.

[7] Id. at 5.

[8] Cruz-Villanueva v. Atty. Rivera, 537 Phil. 409, 414-415 (2006).

[9] 491 Phil. 205 (2005).

[10] Id. at 230.

[11] Atty. Amante-Descallar v. Judge Ramas, 601 Phil. 21, 37 (2009).

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