

GLORIA ESPIRITU, Complainant, vs. JUDGE ERLINDA PESTAÑO- BUTED, RTC, Branch 40, Palayan City, Respondent.

A.M. No. 00-10-496-RTC. April 30, 2008

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

INVESTIGATING Court of Appeals Justice Mario Guariña found that none of the charges against Judge Erlinda Pestaño-Buted was duly substantiated by evidence. His full Report and Recommendation,[1] which We have verified to be duly-supported by the record, follows:

I. Adm. Matter 00-10-496-RTC

- The first of the two unsworn letter-complaints of Espiritu was dated October 31, 1999 and received by the Office of the Chief Justice on November 12, 1999. The accusations contained in this complaint may be summarized as follows:

(a)

Judge Buted treats her personnel like servants, scolding them and calling them names in front of lawyers and litigants like tanga, bobo, gago.

(b)

She sends her employees on personal errands and requires them to accompany her to Manila and back to Palayan or Cabanatuan City until past midnight.

(c)

She arrives at her office every Monday at 3 p.m. and with 17-20 cases set for the day, she hears the cases up to 6 p.m., resetting most of them. She returns home to Manila on Thursday noon. Upon reporting, she immediately closes the logbook to the prejudice of the employees who have not yet signed the logbook being out on errands for her.

(d)

She is fond of asking favors from lawyers and litigants. She borrows the cars of Mayor Arquillo and Ex-mayor Ganila of Bongabon who have a pending reelection case before her. She seeks living accommodations from anybody she pleases, borrows money from her employees and their relatives and requires her employees to provide snacks for her guests.

(e)

At hearings, she makes side comments as if she is a counsel of a party and not the judge.

(f)

She does not read her cases and depends on her clerk of court and legal researcher.

(g)

She flaunts her influence with the Chief Justice whom she says was her classmate at UP.

(h)

Despite representations by the complainant and accused that they would dismiss the case, she would still have the accused arrested (Records, pp. 62-63).

- On March 28, 2000, the complainant wrote to the Chief Justice another letter-complaint which was received on April 7, 2000, making additional charges against Judge Buted, as follows:

(a)

Judge Buted asks for orchids from litigants. One Philip Rivera of Laur, Nueva Ecija had sent her orchids through her aide one Mang Erning de Guzman of Laur.

(b)

Although he has no case in her sala, Erning de Guzman brings litson to social occasions hosted by her.

(c)

She requires the court's security guard Harold Rufac to drive her to Manila and there do some housecleaning. Rufac last accompanied her from February 18 to 22.

(d)

She assigned a maintenance man of the court Jun Jimenez to build the perimeter wall of her house at Bless ng Palayan City.

(e)

She has been told to leave her boarding house at Bongabong, but up to now, she has not yet removed belongings and continues to have free meals there.

(f)

Although she went on forfeitable leave for one month, she did not reset her cases so that the litigants and lawyers had to report to court everyday much to their inconvenience.

(g)

She asks applicants to positions in her court to work as her apprentices and eventually do not accept them. Examples were a utility worker named Romero who used to drive for her before his appointment came, and Michelle Supnet, whom she made to work from November 1999 to February 2000 as a legal researcher before she was scolded and told not to report anymore.

(h)

.She makes her personnel write the court orders, having them retyped 5 times before finalizing them.

(i)

She utilizes one stenographer Rachelle Lugtu as a nursemaid for her granddaughter.

(j)

She orders food from the GSP canteen at Cabanatuan without paying, thus, her employees who order the food

for her have to pay. She got food from a small canteen operating at the side of the Hall of Justice at Palayan City, and when the canteen tried to collect, she had it closed. The previous month, she ordered food from a rolling store which she did not pay.

(k)

She borrows money from her employees and holds parties at their expense.

(l)

Her attire is not appropriate. She wears blouses with slits at the sides and blouses with plunging necklines.

(m)

On February 22, a Palayan City MTCC employee Milagros Supnet brought to her attention the complaints of her staff, but instead of changing for the better, she hurled invectives at her employees saying *punyeta kayong lahat*.

- On October 12, 2000, Ma. Carina Matammu-Cunanan, Judicial Supervisor, made a report and recommendation on the discreet investigation conducted by her with respect to the complaints of Gloria Espiritu in the letters of October 31, 1999 and March 28, 2000. She reported that she was able to conduct an interview of several persons, namely, Henri Cajucum, Harold Rufac, Rachele Lugtu, Milagros Supnet and Ardentor Ramos. (Records, pp. 1-18, 47-60) On the basis of their unsworn statements, Cunanan made the following findings:

- that Judge Buted collects allowances from at least four local government units.

- that she uses the security guard as her personal driver. In the same breath, she mentions that the Supreme Court has been paying 3 guards to secure the premises of the Hall of Justice of Palayan City - the service of one only to be utilized for the personal benefit of Judge Buted.

- that she demanded a service vehicle from a litigant who had previously won his case before her.

She recommended that the Legal Office of the Court Administrator be authorized to file an administrative complaint against Judge Buted. (Records, pp. 4-5)

- In a Resolution issued on January 15, 2001, the Second Division of the Supreme Court acted on the recommendation of Judicial Supervisor Cunanan and authorized the Legal Office of the Office of the Court Administration to file an administrative complaint against Judge Buted. (Records, p. 98)

- On March 19, 2001, in a motion for reconsideration of the January 15, 2001 Resolution, Judge Buted asked the Supreme Court that, in the interest of fair play, she be allowed to present controverting evidence for evaluation to determine whether there are sufficient grounds to file formal charges against her. (Records, pp. 119-123)

II. Adm. Matter RTJ-02-1681

(Formerly OCA IPI No. 02-1401-RTJ)

- On April 25, 2001, another unsworn letter-complaint from Gloria Espiritu was sent to the Chief Justice through DCA Zenaida Elepaño and received by the Office of the Court Administrator on May 4, 2001. The allegations are:

(a)

A memorandum from the Supreme Court was issued to Judge Buted in the first week of March 2001 to report to RTC of Guimba, Nueva Ecija, but up to the present, she is still holding office at her regular station in

Branch 40, Palayan City.

(b)

She approached Atty. Ildefonso Cruz, President of the IBP-Cabanatuan, who has cases in her court to ask for her retention in Branch 40.

(c)

On April 25, Wednesday, she heard cases past 10 o'clock a.m. until 12 noon. She then told the parties to return in the afternoon, but she resumed only at 3 p.m. after sleeping until 2:40. This is her practice every day.

(d)

The ones who make her orders are the stenographers. She does not dictate orders. What the stenographers can only do is to pattern the orders after past orders.

(e)

She forbade Gerry Mongaya, an aide provided by the MAMS Agency to the Halls of Justice, to continue working after he refused to drive her home to Fairview, Quezon City.

(f)

She asked Judge Lauro Sandoval of Baloc, Nueva Ecija to obtain the signatures of the RTC Judges to a petition not to transfer her from her original station.

(g)

The court employees who reported her to the Supreme Court are being harassed by her. (Records, pp. 7-8)

- Told to comment by DCA Jose Perez, Judge Buted made a comment on June 5, 2001:

(a)

Gloria Espiritu appears to be the same complainant in AM-00-01-496-RTC.

(b)

There is no employee in Branch 40 by the name of Gloria Espiritu.

(c)

She did not solicit the support of Atty. Cruz or Judge Sandoval. She was surprised that the Philippine Judges Association made the resolution of April 26 emphasizing her right to due process.

(d)

She did not conduct an afternoon session on April 25. The calendar shows that the hearings were all in the morning.

(e)

Some of her orders are only pro forma so that the stenographers are directed to draft them subject to her final review. She does not make the stenographer draft orders in general. She submitted a written statement of the stenographers attesting to this.

(f)

Jerry Mongaya did not submit any application paper for employment to MAMS Agency so that there was no

employment to speak of that was terminated by her.

(g)

She does not harass her staff. (Records, pp. 10-22)

- In a Resolution on March 4, 2002, the Supreme Court ordered the complaint to be redocketed as a regular administrative matter and consolidated with Adm. Matter 00-10-496-RTC. (Records, p. 25)

III. Proceedings after the consolidation of

Adm. Matters RTJ-02-1681 and 00-10-496-RTC

- In a memorandum to the Chief Justice on March 13, 2003, DCA Perez narrated the action taken so far on the October 31, 1999/March 28, 2000 letter-complaints as well on the April 25, 2001 letter-complaint, mentioning in particular that a discreet investigation was conducted by Judicial Supervisor Cunanan on the October 31, 1999/March 28, 2000 letter-complaints. It is recommended:

(a)

That Judge Buted be required to submit her comment on the discreet investigation to afford her the right to refute the allegations.

(b)

A formal investigation be conducted on the complaint. (Records in RTJ-02-1681, pp. 26-33)

- In a resolution on July 7, 2003, the Supreme Court referred the two administrative cases to the undersigned Justice Mario L. Guariña III of the Court of Appeals for investigation, report and recommendation. (Records, p. 35)

IV. Proceedings before the Undersigned Investigating Justice

- In response to a query by the undersigned as to whether there was a formal complaint filed by the OCAD as required by the Supreme Court's resolution of January 15, 2001, CA Velasco transmitted a memorandum to Senior Associate Justice Josue Bellosillo opining that the report of his Office on the discreet investigation be considered the formal complaint and Judge Buted be directed to file her comment with the Investigating Justice. In a resolution on December 8, 2003, the Supreme Court directed the undersigned to proceed even without the formal complaint. Thus, the undersigned considered the OCAD's report on the discreet investigation as the charging instrument and ordered Judge Buted to file a comment. Initial hearings were scheduled for March 2004 with notices sent to the potential witnesses Gloria Espiritu, Henri Cajucom, Harold Rufac, and Rachelle Lugtu. (Records, pp. 37-38)

- On April 12, 2004, the respondent, through her lawyer Atty. Juan Orendain, Buted filed a comment stating as follows:

- There is no record of a report of the OCAD on the discreet investigation report. The only documents enumerating her alleged misdeed were the Gloria Espiritu letters filed with the Supreme Court.

- The respondent has not seen or received the Cunanan memorandum and, hence, was not apprised of the allegations therein.

- The letter-complaints of Gloria Espiritu, being anonymous complaints, are not supported by public records of indubitable integrity.

- The letter-complaints should have been summarily dismissed. Instead, the OCAD had kept the respondent in anguish for three years with these cases hanging over her. This only gives impetus to a multitude of Gloria

Espiritu to harass and pressure members of the bench on the basis of unsubstantiated anonymous complaints.

- At the hearing on April 21, 2004, there being no record of an OCAD report on the Cunanan discreet investigation report, this Investigating Justice furnished the respondent copy of the Cunanan report itself and directed her to submit a comment to it. The comment already filed by her to the unsworn April 2001 letter of Espiritu was to stand as the answer to the second administrative charge. The hearings were reset to May 2004. (Records, pp. 120-124)

- On May 4, 2004, the OCAD entered its appearance in the cases. (Records, p. 125) Henceforth, they were to handle the prosecution of the cases against Judge Buted.

- On May 12, 2004, the respondent, through counsel, filed the comment to the Cunanan report. Stating that there were three particular acts of the respondent which Cunanan found to be improper, the comment made the following remarks:

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Judge are entitled to allowance from LGUs. The respondent is the executive judge of the lone RTC of Palayan City. The right of judges to receive allowances from LGUs within the jurisdiction was the subject of a circular from the Philippine Judge Association on August 27, 1996. As acknowledged by complainant's witness Henri Cajucom, the allowances were disbursed pursuant to resolutions of the LGUs concerned.

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The respondents' act of utilizing Harold Rufac, a security guard, as her driver is not misconduct. As Cunanan herself stated in her report: The Supreme Court has been paying 3 security guards to secure the premises of the Hall of Justice at Palayan City, the service of one only to be utilized for the personal benefit of Judge Buted. The respondent's advanced age and failing health have prevented her from doing the driving herself. There is no indication that she coerced Rufac to assist her.

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She has no availed of any service vehicle from the town of Bongabon whose mayor won an election case in her sala. (Records, pp. 127-136)

- The OCAD presented Atty. Ma. Carina Cunanan as its first witness on May 13, 2004. She took the witness stand to identify her memorandum as well as the transcripts of the unsworn statements of several witnesses. With this disclosure, the OCAD asked for subpoena for four witnesses, Henri Cajucom, Harold Rufac, Milagros Supnet, Ardentor Ramos. (Records, pp. 144-145)

- At the next hearing on June 16, OCAD completed the presentation of three more witnesses - Henri Cajucom, Harold Rufac and Milagros Supnet. Ardentor Ramos was told to report at the next hearing for completion of his testimony. (Records, pp. 153-154)

- The next hearings were postponed when the OCAD could not immediately secure additional witnesses. (Records, pp. 156, 164)

- The OCAD presented its last two witnesses Victorino Samin and Alejandro Fabian on September 29. (Records, p. 168) Thereafter, the OCAD submitted a formal offer to which the respondent made a comment. The admitted exhibits were:

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Exh. A - Memorandum of October 12, 2000 of Cunanan to the Chief Justice, with the transcripts A-1, A-2, A-3.

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Exh. B - transcript of interview of Milagros Supnet.

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Exh. C - transcript of interview of Ardentor Ramos.

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Exh. D - memorandum of Justice Benipayo to Rachele Lugtu, with D-1 and D-2, the memorandum to Harold Rufac and Henri Cajucom.

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Exh. E - 1st Indorsement dated July 31, 2000 from Atty. Danilo Mendoza.

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Exh. F - 1st Indorsement dated July 20, 2000 from the Chief Justice.

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Exh. G - Oct. 31, 1991 letter of Gloria Espiritu.

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Exh. H - March 28, 2000 letter of Gloria Espiritu.

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Exh. I - April 25, 2001 letter of Gloria Espiritu. (Records, pp. 196-174)

- On November 4, 2004, Judge Buted testified in her defense. She had no more witness and made a formal offer of the following exhibits:

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Exh. 1 - the July 22, 1996 memorandum of the Secretary of DBM to the Presidential Legal Counsel.

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Exh. 2 - August 14, 1996 letter of Presidential Legal Counsel Cayetano to Chief Justice Narvasa.

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Exh. 3 - August 27, 1996 letter of DCA Abesamis to the PJA.

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Exh. 4 - August 27, 1996 letter of the Secretary General of PJA to all member judges.

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Exh. 5 - Resolution of the Sangguniang Bayan of Bongabong.

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Exh. 6 - April 26, 2001 letter of PJA Nueva Ecija Chapter to Chief Justice Davide.

- These exhibits were admitted on November 25, 2004 after the OCAD filed its comment. The parties were,

pursuant to their request, given 30 days from receipt of the Resolution on the offer to submit memoranda. (Records, p. 218)

- Both the OCAD and the respondent Buted filed their respective memoranda in January 2005. (Records, pp. 219-239, 240-275)

V. The Charges

- The proceedings emanate from three letter-complaints of one Gloria Espiritu, namely, the letter-complaints of October 31, 1999, March 28, 2000 and April 25, 2001. The first two letters became the subject of a discreet investigation by Judicial Supervisor Cunanan who issued her report on October 12, 2000.

- It is to the April 25, 2001 letter-complaint that Judge Buted made a comment before the Supreme Court referred the case to the undersigned for formal investigation.

- After the endorsement of the cases to the undersigned, CA Velasco opined in a memorandum that the report of his Office on the Cunanan discreet investigation report be considered the formal complaint vis-à-vis the Espiritu letters of October 31, 1999 and November 28, 2000. But as counsel of Judge Buted noted, there is no record of an OCAD report on the discreet investigation report.

- Consequently, it is the position of the undersigned Investigating Justice that the charging instruments in this case should consist of:

a)

The Cunanan discreet investigation report itself with respect to the October 31, 1999 and March 28, 2000 Espiritu letters.

b)

The April 25, 2001 Espiritu letter to which Judge Buted has commented.

VI. The Evidence of OCAD

- The testimonies of the witnesses of OCAD are as follows:

- Atty. Ma. Carina M. Cunanan

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She identified her October 12, 2000 memorandum, Exh. A, and A-1, testimony of Cajucom, A-2, Rufac, A-3, Lugtu.

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There is no person by the name of Gloria Espiritu.

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Milagros Supnet, one of the persons she interviewed, refused to identify Gloria Espiritu.

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She did not make any findings with respect to the statements of Supnet, having concentrated on three employees Rufac, Lugtu and Cajucom as per instruction from the DCA. Hence, they were the persons primarily mentioned in the letter-complaint.

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The Investigating Justice caused the Supnet statement to be marked Exhibit B and Ramos, Exhibit C.

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The witnesses were not sworn. Their statements are not sworn statements.

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The memoranda of Justice Benipayo were marked Exhibit D, D-1, D-2, the First Indorsement dated July 31, 2000 to Atty. Cunanan, Exhibit E, the First Indorsement dated July 20, 2000, as Exh. F, the Espiritu October 31, 1999, March 25, 2000 and April 25, 2001 letters as G, H, I.

- Henri Cajucom (June 16, 2004)

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He is the cash clerk of the MTCC Palayan City since 1997.

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Judge Buted is then Executive Judge. There is only one sala in the RTC of Palayan City.

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He does not know Gloria Espiritu.

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He made a statement to Atty. Cunanan regarding the complaint of Espiritu against Judge Buted. This exhibit is the one marked Exh. A-1.

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He affirms the veracity of his answers in his statement Exh. A-1 but makes the following modifications:

- On page 7 regarding the collection of her allowances, there is a resolution from the Sangguniang Bayan authorizing the release of the allowances.

- On page 8, regarding the question that Judge Buted never paid a single centavo for her stay in the house of his cousin, he later learned from the person concerned named Ruth, that Judge Buted paid for her stay in Ruth's house and repaired the bathroom.

- On page 9, regarding his answer that after the case of Mayor Luisito of Bongabong was resolved by Judge Buted, she was able to obtain a service vehicle from the municipality, he has ascertained that there was only one occasion when Judge Buted used the municipal vehicle. That was when her car broke down and she asked to be brought to the court. There is no regular service vehicle provided to Judge Buted.

- Harold Rufac (June 16, 2004)

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He is a utility worker of RTC Palayan City, Branch 40.

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Before that, he was a security guard of the Court from January 2, 2000 to July 2000.

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Judge Buted recommended him as a security guard. His duties were to watch over the facilities of the Hall of Justice which include the RTC and the MTCC. He got his salary from the agency, the Northern Security Agency.

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He drove for Judge Buted bringing her to her house at Fairview, Quezon City and back. They usually left on a Thursday or Friday after lunchtime. Travel time was 3 hours.

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When they left on a Thursday, they would go back the following day, Friday.

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At their house in Fairview, he helped in cleaning the house and watering the plants.

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He is not paid for his services.

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The RTC then had 3 security guards on a rotation basis of 8 hours. When he drove for Judge Buted, the other guards assumed his shift.

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Since he became utility worker of the Court on August 1, 2000, he no longer drove for Judge Buted to Quezon City. But he drove for her several times within Palayan City. In order not to delay his work, he reports earlier than 8 a.m. to do the cleaning.

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He affirms the statements he has given to Cunanan.

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He drove for Judge Buted to the Supreme Court from Palayan City on weekdays.

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He did driving chores for Judge Buted voluntarily. There were instances when he declined to drive for her.

- Milagros Supnet (June 16, 2004)

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She is a court sheriff of the MTCC, Branch 40. Her office is near RTC 40 in the same building.

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Her daughter Michelle is presently Clerk III, RTC, Branch 23, Cabanatuan City.

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She had asked Judge Buted for a recommendation for her daughter to Judge Buted's Branch 40. Judge Buted had her work as a trainee without compensation or allowance.

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Judge Buted got angry at Michelle and did not recommend her as an interpreter for Branch 40. Supnet confronted Judge Buted when the latter shouted at her daughter.

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She affirms the statements she gave to Atty. Cunanan.

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She admits that her information came from the employees of Judge Buted who wanted her investigated.

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She does not know Gloria Espiritu.

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She told Judge Buted of the complaints of her employees.

- Ardentor Ramos

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He is a stenographer of the MTCC Palayan City since 2000. Before that, he was Clerk III in RTC, Palayan City, Br. 40.

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He did not affirm Exh. C, as he still had to react it. The statement is long.

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Jun Jimenez is a maintenance man of the entire premises of the Hall of Justice. He sees him often in the RTC.

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He has no personal knowledge of the statement attributed to him in the interview of Cunanan that Jimenez reports his attendance in the logbook and then goes to Judge Buted's house.

(Ramos' testimony was discontinued. He was told to come back for the continuation of his testimony, as counsel for respondent had yet to make his cross-examination. OCAD did not recall him anymore.)

- Victorino Samin (September 29, 2004)

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He is Clerk III, RTC, Palayan City, Branch 40.

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He was requested by Judge Buted to drive for her to Fairview and back to Palayan City.

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This took place many times from 1995 to 1998.

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He does not drive for her anymore.

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He fetched her at Fairview Quezon City on Monday morning and arrive at Palayan City at 9 a.m. On Tuesday to Thursday, she would drive her from the boarding house to the court between 7 and 8 a.m. In the afternoon, they left the office at 5 or 5:30 a.m. On Friday at 5 p.m., he drives her to Fairview.

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After driving for Judge Buted, he goes back to his work.

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The only time when he was not yet in court was between 8 a.m. to 9 a.m. when he was on the road with Judge Buted from Fairview to Palayan City.

- Alejandro Fabian (September 29, 2001)

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He is the process server of RTC Palayan City, Branch 40.

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It is Judge Buted's natural disposition to raise her voice when she gives instructions, scolding the stenographer if they have not transcribed correctly.

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She knows Rachelle Lugtu, formerly his officemate and stenographer.

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He saw her taking care of the granddaughter of Judge Buted, bringing her to school and giving her medicines when she is sick.

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He goes out of the office to serve court processes and whenever Judge Buted directs him to serve her orders.

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When Judge Buted held hearings, that would be the time when Lugtu would go to the judge's chambers to take care of the child.

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Lugtu was an employee in their branch for two years from 2000 to 2002.

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She would take the judge's granddaughter to school while the judge held trial.

VII. Respondent's evidence

- Judge Buted testified in her defense on November 4, 2004 as follows:

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She is the presiding judge of the RTC Palayan City, Br. 40 and the Executive Judge of her station which comprises a single sala. She oversees the performance of three first-level court judges in the MTCC of

Bongabong and Palayan City.

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She identified the following communications, to wit: the July 22, 1996 memoranda to the Presidential Legal Counsel from the Secretary of the Department of Budget and Management, the subject of which is the grant of honoraria to judges assigned in local government units, marked Exhibit 1, the August 14, 1996 letter of the Presidential Legal Counsel to Chief Justice Narvasa, Exh. 2, the August 27, 1996 letter from DCA Abesamis to the president and board of directors of the PJA regarding increased local allowances for judges, Exh. 3, the August 22, 1996 memoranda of the Secretary General of the PJA to all member-judges on increased local allowances, Exh. 4.

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That, as an executive judge, she had received allowances from LGUs in her jurisdiction which were willing to give, such as the Municipality of Bongabong, as reflected in a duly-approved resolution of its Sangguniang Bayan, Exh. 5.

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She does her driving herself. On selected occasions when she is called to the Supreme Court, she leaves her station on Thursday or Friday to catch up with office hours, and then goes back Monday very early in the morning. Eventually, she has become weak, and her eyesight deteriorated because of complications brought about by her diabetes.

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Rufac came into the picture when an urgent occasions she would request his help. She preferred being accompanied by a member of her staff rather than a stranger because of her delicate position.

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She goes home on weekends to Fairview only when there are matters that she has to report to the Supreme Court. She will leave by Friday to catch up with the afternoon office hours and then be in the house at Fairview during the weekend. She returns early morning on Mondays.

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With Rufac, they would start on a Friday. Otherwise, she remained on duty on Saturdays being the executive judge.

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When Rufac drove for her, which was not often, the other security guards took over his shift willingly, as it augmented their income. Rufac also was more than happy to drive for her because she gave him extra money.

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She never approached Mayor Ronquillo of Bongabong for a service vehicle. She has never borrowed a car from the municipality of Bongabong.

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She has not borrowed money from the staff, nor shouted at them, nor got orchids. These accusations of Supnet are all hearsay.

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Michelle has not formally applied for the position of interpreter in her court, as she never gave her papers. But she did some apprentice work for her because she wanted to be tested. Judge Buted was approached in 1999 by DCA Suarez to endorse Michelle, but she told him that she had endorsed another one. No one for a while was appointed. It was only recently when the position was filled. Supnet got mad and entered her court shouting.

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Lugtu did not act as a nanny to their granddaughter. She did not pick up the child at school, as she, Judge Buted, drove the child to school and fetched her personally. There were times when, after picking the child from school, she brought her to the court, because she still had functions to perform. On a particular occasion, she saw Lugtu who was a nurse giving medicine to the child. This must have been the occasion when Lugtu was misinterpreted as being a nanny to the child.

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In connection with this administrative case, the PJA of Cabanatuan City passed a resolution in her favor claiming that they might themselves be victims of undocumented anonymous letters. The resolution of the Nueva Ecija PJA was marked Exhibit 6.

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Rufac was not a government employee when he served as a security guard. He belonged to an agency that had a contract with the Supreme Court.

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She has no employee by the name of Gloria Espiritu. Neither did the municipal courts under her supervision have any employee by that name.

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The election case of Mayor Ronquillo was terminated before the anonymous letter against her was sent.

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She sent a formal request to Mayor Ronquillo of Bongabong in November 1996 requesting endorsement of the matter of allowances of those concerned to the municipal council. This was marked Exhibit J.

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She would bring her granddaughter to school early in the morning before office hours. She would fetch the child after she got out of the courtroom. Her school hours were almost the whole day.

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When DCA Suarez told her to endorse Supnet, she made it clear that she had already endorsed another one. Her policy was to determine the qualifications of all who applied, even if she had already endorsed someone, provided there was no action taken yet on the endorsement.

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Actually, she wanted Cajucom, a first-guide eligible, to apply for the position. But he did not apply. So she allowed Michelle to work as an apprentice when she volunteered.

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Aside from Bongabong, she also received allowances from Palayan City because that was her station, and this LGU outrightly gives to all the judges assigned there, including the prosecutors. She remembers having written

also to the municipality of Laur.

VIII. Findings and Recommendations

- My findings and recommendations on the charges are:

- On the charge in the Cunanan report that Judge Buted collects allowances from at least 4 LGUs in her jurisdiction.

We find nothing irregular in these acts.

i)

Pursuant to Section 447 of RA 7160, otherwise known as the Local Government Code of 1991, the LGUs are empowered to provide additional allowances and other benefits to the judges, prosecutors, public elementary and high school teachers and other national government officials stationed in or assigned to them.

ii)

The allowances granted to Judge Buted were covered by duly-passed resolutions of the legislative bodies of the LGUs concerned. See Exhibit 5.

iii)

The matter of the grant of additional allowance by the LGU pursuant to RA 7160 was approved by the Department of Budget and Management as per the communications of the Secretary of the DBM to Chief Presidential Legal Counsel, and by the latter to Chief Justice Narvasa (Exh. 2).

iv)

Since Judge Buted is an Executive Judge whose sphere of administrative jurisdiction covers several municipalities, she may be considered assigned to them under RA 7160 and entitled to such allowances as the LGUs may grant subject to the limitations of the law and its implementing rules and regulations.

RECOMMENDATION: That Judge Buted be absolved from this charge.

- On the charge that she used Harold Rufac, the security guard of the court, as her personal driver:

i)

As per Atty. Cunanan's own admission in her report to the Chief Justice dated October 12, 2000, the Supreme Court has given 3 guards to secure the premises of the Hall of Justice of Palayan City - the service of one to be utilized for the personal benefit of Judge Buted.

ii)

Judge Buted had been utilizing the services of only one security guard, Harold Rufac, to drive for her when she had to leave her station to attend to official business at the Supreme Court in Manila.

iii)

There was no prejudice to the service when Rufac drove for her on these occasions because the other security guards extended their duties to cover his shift. This arrangement was being done on a purely voluntary basis on the part of Rufac and other security guards.

iv)

Be that as it may, on the occasions when Rufac drove for her to the Supreme Court, she was on official business to report on her administrative duties as an executive judge. In this sense, the driving chores of Rufac were within the scope of his duties to serve the Executive Judge.

v)

Rufac reveals that when they left for Manila in Thursday, they would come back the next day. Only when they leave on a Friday do they stay at Judge Buted's residence in Fairview for the weekend.

RECOMMENDATION: There being no irregularity in Judge Buted's use of the services of the security guard in connection with the performance of her duties as executive judge, she should be absolved from the charge.

- On the charge that she demanded a service vehicle from Mayor Ronquillo of Bongabong, Nueva Ecija after deciding an election case in his favor.

i)

There is no evidence to prove this allegation. The OCA appears to have relied solely on the unsworn statement of Henri Cajucom during Atty. Cunanan's discreet investigation. On the witness stand, Cajucom modified his previous statements. He said that since then, he has ascertained that there was only one occasion when Judge Buted was able to use a service vehicle of the municipality, and that was during an emergency. Her car broke down compelling her to ask for assistance.

ii)

Judge Buted denied having any regular service vehicle from the municipality.

RECOMMENDATION: That Judge Buted be absolved from this charge.

- On the charges contained in Gloria Espiritu's letter of April 25, 2001.

i)

That she still holds office at Palayan City despite a Supreme Court memorandum to her to report to Guimba, Nueva Ecija:

-

The record shows that Judge Buted had a pending motion for reconsideration of the resolution of the High Court on this matter citing her advanced age and poor health. The High Court then directed the OCAD to submit a report on the respondent's motion. The OCAD has not apprised us of the results of this pending incident.

ii)

On the charge that she approached Atty. Ildefonso Cruz, President of the IBP, Cabanatuan City and Judge Lauro Sandoval to ask for her retention in Branch 40.

-

This accusation is found only in the unsworn letter of Gloria Espiritu to the Chief. Espiritu never appeared to confirm the facts in her letter. Nor was there any witness presented by OCAD to prove these allegations.

-

Be that as it may, Judge Buted in her comment denied having solicited their help.

RECOMMENDATION: There is no evidence to prove these allegations. Judge Buted should be absolved.

iii)

On the charge that on April 25, 2001, she resumed her afternoon session only by 3 p.m.

-

Judge Buted denies that she conducted an afternoon session on April 25. The calendar of the Court would show that the hearing on that date was in the morning.

RECOMMENDATION: This charge is not corroborated or substantiated. Judge Buted should be exonerated.

iv)

On the charge that the stenographers were the ones making her orders.

-

Judge Buted explained that some of her orders were pro forma so that all that the stenographers had to do was to follow a form or pattern subject to her final review. She dictates the rest of the other orders.

-

A written statement of the stenographer corroborates Judge Buted's explanation.

RECOMMENDATION: We find the explanation satisfactory. This is what most trial judges do.

v)

On the charge that she forbade Gerry Mongaya, an aide from the MAMS Agency, to continue working after he refused to drive her home to Fairview, Quezon City.

-

Gerry Mongaya did not execute any affidavit to affirm this charge. Nor was he presented on the witness stand.

RECOMMENDATION: The charge is unproved.

vi)

The court employees who reported her to the Supreme Court were being harassed by her.

-

There is no written statement or testimony to this effect, and Judge Buted denies the accusation.

RECOMMENDATION: The charge is unproved.

- The OCAD tried to prove additional charges not mentioned in the Cunanan report and in the third Espiritu letter of April 25, 2001 to which Judge Buted had commented.

The additional evidence consists of the testimonies of (a) Milagros Supnet on what transpired to her daughter Michelle Supnet in Judge Buted's court, (b) Victorino Samin, a Clerk III, who said that he drove Judge Buted home to Fairview on Fridays at 5 p.m. and brought her back to Palayan City on Monday mornings, and during week days, fetched her early before office hours and drove her back to her boarding house after office hours at 5 p.m. and (c) Alejandro Fabian, process server, who saw his officemate Rachelle Lugtu bring Judge Buted's granddaughter to school and give her medicines when she was sick.

Judge Buted, through her lawyer, has objected to the presentation of these testimonies because they have no

relevance to the charges against the respondent as presented in the Cunanan report and the Espiritu April 25, 2001 letter. Technically, the respondent is correct. But as we have seen, she also had the opportunity during our formal investigation to refute the testimonies of these three witnesses. Brushing aside technicalities, we will review the evidence.

- On the charge that Samin also drove for Judge Buted.

Admittedly, the driving chores that Judge Buted assigned to him fell outside his job description as a Clerk III. But we cannot fail to notice that as Samin himself acknowledged, he drives for the respondent before and after office hours. What a court employee does on his own free time is his decision.

RECOMMENDATION. There is no irregularity. Judge Buted should be absolved.

- On the charge that Lugtu was made to act as a nanny for Judge Buted's granddaughter.

There are two things that Fabian says he saw Lugtu do for Judge Buted's granddaughter during office hours - she took the child to school and gave medicines to the child when the latter fell ill.

I think we have no quarrel with an employee's giving medicine to the child when she fell ill. Nor to any other sick human being for that matter. It is an act of mercy that precedes all other obligations, and as Shakespeare says, is never strained. What is objectionable is if the respondent requires or permits one of her employees to bring her grandchild to school during office hours. This is clearly outside the scope of the official duty of the employee concerned.

Judge Buted, however, denies that Lugtu brings or picks up the child at school. The respondent says that she does these chores herself. She brings the child to school before office hours and fetches her after office hours. The child is practically in school the whole day. When there were occasions when she had to fetch the child during the day, she would bring her with her to the office.

RECOMMENDATION. We find the explanation of the respondent to be satisfactory. Faced with a decision of whether to believe Judge Buted or Fabian, we are inclined to resolve the benefit of the doubt in favor of the respondent, considering that the testimony of Fabian is unsubstantiated or uncorroborated. The OCAD has not sufficiently discharged the burden of proof.

- On the charge that Judge Buted made Michelle Supnet work in the court as a trainee without compensation or allowance. MELO

Judge Buted admits letting Michelle Supnet work for her in court as a trainee. But she says that it was Michelle who volunteered to work, saying that she wanted to test her skills. It is not an unusual occurrence for persons, especially students or fresh graduates, to volunteer for work for the primary purpose of gaining experience. We have learned that, as part of their school curricula, graduating students are made to undergo the so-called practicum where they earn credits by actually doing volunteer work in the work place.

Whether a trainee should be allowed to work in a government office is a different matter. We are not aware if this is covered by any administrative regulation, but if there is none yet, it is suggested that rules be issued. Until the relevant circular or regulation is handed down, it would not be right to penalize the respondent. No one should be held to account for an act that is not forbidden at the time it is done. It is offensive to due process of law.

We adopt the findings and recommendations of the Investigating Justice.

The Court has always been punctilious about any conduct, act or omission that would violate the norm of public accountability or diminish the people's faith in the judiciary. Along this line, the Court will not shirk from its responsibility of imposing discipline among members of the bench.[2]

However, when an administrative charge against a judge holds no basis whatsoever in fact or in law, this Court will not hesitate to protect the innocent against any groundless accusation that trifles with judicial process. Neither will We falter in shielding them from unfounded suits that only serve to disrupt rather than promote the orderly administration of justice.[3]

Moreover, from her motion for early resolution,[4] it appears that respondent Judge had compulsorily retired in January 2005, and she is suffering from many illnesses with no ostensible source of income.[5]

ACCORDINGLY, the administrative charges are DISMISSED for lack of merit and insufficiency of evidence.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Nachura, JJ., concur.

[1] Dated March 9, 2005, consisting of twenty-two (22) pages.

[2] Ong v. Rosete, A.M. No. MTJ-04-1538, October 22, 2004, 441 SCRA 150, 160-161.

[3] De la Cruz v. Bato, A.M. No. P-05-1959, February 15, 2005, 451 SCRA 330, 337; Ong v. Rosete, supra; Sarmiento v. Salamat, 416 Phil. 684, 695 (2001).

[4] Rollo, pp. 129-136. Dated December 4, 2007.

[5] Id. at 130.

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