

**ANACLITO CARANDANG, COMPLAINANT, VS. REMEDIOS BASE,
CLERK OF COURT, MUNICIPAL TRIAL COURT, BROOKE'S
POINT, PALAWAN, RESPONDENT.**

A.M. No. P-08-2440 [formerly A.M. OCA IPI No. 03-1730-P]. March 28, 2008

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

In a Complaint dated July 23, 2003,[1] Anaclito Carandang (complainant) charged Remedios Base (respondent), Clerk of Court, Municipal Trial Court (MTC) of Brooke's Point, Palawan with "gross and grave misconduct in office" and violation of Republic Act (R.A.) No. 3019, "The Anti-graft and Corrupt Practices Act," vis a vis Criminal Case No. 17087, "People of the Philippines v. Monique Carandang, et al.," for illegal possession of drug paraphernalia.

In his Malayang Salaysay[2] dated July 17, 2003 which was subscribed and sworn to on July 23, 2003, complainant claimed that on April 12, 2003, his wife went to the office of respondent, who summoned her, during which respondent demanded from her the amount of P3,600 to facilitate the dismissal of the criminal case against complainant who was one of the accused in the above-stated criminal case; and as his wife could not afford to give the said amount, respondent reduced it to P1,600, and finally to P500 which his wife handed to respondent in the presence of Danilo Martinez, a neighbor.[3]

It turned out that the criminal case against complainant had been dismissed more than a year earlier, by Order dated December 6, 2001[4] issued by Judge Perfecto E. Pe of the Regional Trial Court, Puerto Princesa City, Palawan, Branch 48.

Complainant went on to allege that despite the dismissal on December 6, 2001 of the criminal case against him, he was arrested on November 27, 2002 and released on December 3, 2002,[5] and again arrested on March 27, 2003 at the instance of respondent and a certain Joy Cacal.[6]

In her Comment dated October 20, 2003,[7] respondent, denying the charges, alleged that April 12, 2003 being a Saturday, the MTC of Brooke's Point did not hold office or court session, and as she resides in Puerto Princesa City which is about 196 kilometers away, she would leave Brooke's Point after office hours every Friday to join her family on weekends.[8]

On her alleged instigation of complainant's arrest despite the prior dismissal of the criminal case against him, respondent proffered lack of knowledge of said prior dismissal, explaining as follows:

4.0.3 - Mr. Carandang is correct in his allegation that his case (Crim. Case No. 17087) was already dismissed by RTC Br. 48 (vide Annex "4") when he was arrested on 26 November 2002. We have then no information regarding this dismissal for otherwise we would have informed the police when he was presented to the court upon his arrest. Moreover, we were not expecting that the case was already dismissed when in fact the accused has not yet been arrested or filed a bail bond.

4.0.4 - I did not initiate or instigate the arrest of Mr. Carandang. He was arrested on the strength of a standing warrant of arrest and was merely presented to us by the arresting officers for the issuance of a commitment order. What we did in issuing the commitment order was a mere ministerial duty. x x x

4.0.5 - Neither was the MTC of Brooke's Point, Palawan, furnished a copy of the order of Judge Pe dated 6 December 2001. Proof of this is the certification issued by Br. 48 certifying to the fact that it was only the Provincial [P]rosecutor and SPO3 Jaime Villajuan of PNP Brooke's Point, Palawan, who were given a copy of the said order (vide Annex "5" hereof). This certification therefore belies the claim of Mr. Carandang in par. 13 of his "Malayang Salaysay" that we (together with Joy L. Cacal) allegedly purposely kept him unawares [sic] of the dismissal of his case. If ever, his cause of action is against the PNP of Brooke's Point, Palawan, because they were probably aware of the dismissal yet still effected his arrest on 26 November 2002.

4.0.6 - The allegation in Par. 12 of the complainant's "Malayang Salaysay" is likewise not true. He was not arrested on 27 March 2003 simply because he was still under detention as evidence [sic] by the certification issued by Police Inspector Ernesto M. Bolos, OIC of the Brooke's Point PNP (Annex "3" hereof). The complainant may be referring to the warrant of arrest issued against him on 19 February 2002 by Judge Lydia Abiog-Pe, which warrant of arrest was served to him while under detention on 16 April 2003 (vide Annex "6" hereof).[9] (*Italics in the original; emphasis and underscoring supplied*)

By Resolution of June 9, 2004,[10] this Court, acting on the recommendation of the Office of the Court Administrator (OCA), referred the complaint to Judge Lydia F. Pe-Abiog of the MTC, Narra, Palawan for investigation, report and recommendation.

In her Report and Recommendation,[11] Judge Pe-Abiog recommended the dismissal of the case in light of her evaluation that:

... (1) The extortion of P500.00 was never proven by the complainants. Their affidavits are self-serving. They were given two opportunities in court to ventilate their grievance but they did not pursue the same; (2) The complainants' [sic] affidavits alleged that the incident happened on April 12, 2003 a Saturday and the other affidavit ("Sagot sa Counter-Affidavit ni Remedios Base page 003 dated October 17, 2003) said that it happened on a Friday; and during the hearing on October 12, 2004 TSN page 2, Dioscora said that the incident happened on a Wednesday. The inconsistencies in the day alleged cast doubts on the veracity of their statements. (3) The complainant and his witnesses never mentioned in their statements filed with the Office of the Court Administrator and the Ombudsman that they went to court or to respondent to ask help for the preparation of the property bond. It was only mentioned on October 12, 2004 when the court asked Dioscora Carandang, "And what did Mrs. Base tell you?" she answered "when I approached her to seek her help to have the papers for posting property bond of my husband processed she said she needed P3,600.00 for the transaction" (TSN[,] page 2[,] October 12, 2004).[12] (*Emphasis supplied*)

The Report cum Recommendation of Judge Abiog-Pe was referred by this Court to the OCA for evaluation, report and recommendation.[13]

In its Memorandum dated July 4, 2006, the OCA gave the following evaluation and recommendation:

We agree with the findings and recommendation of the investigating judge. Aside from the bare allegations of complainant and his witnesses, there was no evidence presented to prove that respondent clerk of court indeed received money as consideration for her to facilitate the dismissal of the criminal case against complainant.

On the other hand, respondent Base, through her witnesses, proved that Mrs. Dioscora Carandang went to court sometime in April 2003 to request assistance for her to post a property bond in favor of her husband Anacleto Carandang. It was thereafter that she found out that Criminal case No. 17087 had already been dismissed by Judge Perfecto E. Pe as early as December 6, 2001.

We agree with the contention of respondent that she should not be blamed for the failure of the court to inform complainant that the case against the latter has already been dismissed. As certified by RTC, Branch 48, Puerto Princesa City, only the Office of the Provincial Prosecutor and SPO3 Jaime Villajuan, PNP, Brooke's Point, Palawan, were given copies of the order. It was not expected that respondent would be aware of the dismissal since they were not furnished a copy of the order by the issuing court. If at all, the blame should be directed at the arresting officers since the PNP was furnished a copy of the Order.

As regards the allegation of complainant and his witnesses that in order to further extort money from them, respondent Base caused his re-arrest on March 27, 2003, records reveal that on November 26, 2002, Anacleto Carandang was arrested by virtue of a warrant of arrest issued by MCTC, Brooke's Point-Española, Palawan. While in detention for Criminal Case No. 8846, accused was served another warrant for illegal possession of deadly weapon docketed as Criminal Case No. 8491. Accused was therefore further committed from April 16 to June 30, 2003. He was released from custody only after filing a cash bail on June 30, 2003. Thus, it was highly improbable that respondent would extort money in consideration for the non-arrest of complainant since the latter was already in detention at that time.

The act of respondent which may have led to the filing of the instant administrative complaint was her issuance of the order committing accused Lito Carandang to the chief of police, PNP Station, Brooke's Point (Detention During the Pendency of the Case, p. 007). Complainant attributes his arrest to respondent because of such issuance.

Section 9, Rule 112, Revised Rules on Criminal Procedure, provides that:

x x x xb. x x x If the judge still finds no probable cause despite the additional evidence, he shall, within ten (10) days from its submission or expiration of said period, dismiss the case. When he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused had already been arrested, and hold him for trial. x x x."

Clearly, the issuance of a commitment order is not among the functions of respondent clerk of court. It is a judicial function and not an administrative one. She had no power to order the commitment of a person charged with penal offenses. In so doing, she arrogated unto herself the authority to exercise judicial discretion and overstepped the boundaries of her functions.

In the resolution of the Court in the case of Atty. Jose R. Ortiz, Jr., Clerk of Court VI, Metropolitan Trial Court, Quezon City vs. Larry de Guzman, Branch Clerk of Court, Metropolitan Trial Court, Branch 33, Quezon City (A.M. No. P-03-1708, February 16, 2005), respondent Larry de Guzman was dismissed from the service for committing, among several others, the act of issuing orders for the release or commitment of persons charged with penal offenses.[14] (Underscoring in the original; emphasis and italics supplied)

In fine, the OCA recommended that the complaint against respondent for grave misconduct and violation of R.A. No. 3019 be DISMISSED but that she be REPRIMANDED for arrogating unto herself "the authority to exercise judicial direction and overstep[ping] the boundaries of her functions."

By Resolution of August 9, 2006,[15] this Court required the parties to manifest whether they were willing to submit the case for decision on the basis of the pleadings/records already filed and submitted. While respondent complied with the Resolution, nothing was heard from complainant. The Court, by Resolution of January 15, 2007,[16] resolved to await the manifestation of complainant. Respondent in the meantime requested, by letter dated June 13, 2007,[17] for the early resolution of her case.

The Court finds that by issuing a commitment order,[18] respondent arrogated upon herself a judicial function.

...The Clerk of Court, unlike a judicial authority, has no power to order either the commitment or the release on

bail of person charged with penal offenses. The Clerk of Court may release an order "upon the order of the Judge" or "by authority of the Judge," but under no circumstance should the clerk make it appear that the judge signed the order when in fact, the judge did not.[19] (Underscoring supplied)

Such act of respondent amounts to simple misconduct, an unlawful behavior, "an unacceptable behavior that transgresses the established rules of conduct for public officers." [20]

Respondent was previously fined in *Angeles v. Base* [21] in an amount equivalent to her one-month salary for simple neglect of duty, a less grave offense punishable by suspension for one month and one day to six months for the first offense, or dismissal for the second.

Under the Uniform Rules on Administrative Cases in the Civil Service, [22] simple misconduct is also a less grave offense. [23]

In order to prevent any undue adverse effect on the public service, however, in lieu of suspension, respondent is FINED in an amount equivalent to her two months salary, with stern warning.

WHEREFORE, this Court finds Remedios Base, Clerk of Court, Municipal Trial Court of Brooke's Point, Palawan, GUILTY of Simple Misconduct. She is FINED in an amount equivalent to her two months salary, with WARNING that a repetition of the same or similar act shall be dealt with more severely.

SO ORDERED.

Quisumbing, (Chairperson), Azcuna, Tinga, and Chico-Nazario, JJ., concur.
Velasco, Jr., J., no part.

* Also spelled as Anacleto in some parts of the records.

** Additional member per Administrative Circular No. 84-2007.

*** No part.

[1] Rollo, pp. 1-2. A complaint was also filed before the Office of the Ombudsman but was referred to then Court Administrator Presbitero J. Velasco, Jr. (now an Associate Justice of this Court) by the Office of the Ombudsman.

[2] Id. at 3-4.

[3] Id. at 3.

[4] Id. at 29.

[5] Id. at 3-4.

[6] Id. at 4.

[7] Id. at 22-24.

[8] Id. at 22-23.

[9] Id. at 23-24.

[10] Id. at 67.

[11] Id. at 74-81.

[12] Id. at 80-81.

[13] Id. at 139.

[14] Id. at 143-144.

[15] Id. at 145-146.

[16] Id. at 153.

[17] Ibid.

[18] Id. at 7.

[19] Judge Vallarta v. Vda. De Batoon, 405 Phil. 454, 460 (2001).

[20] Bautista v. Sula, A.M. No. P-04-1920, August 17, 2007, 530 SCRA 406, 418.

[21] 443 Phil. 723 (2003).

[22] Civil Service Commission Resolution No. 991936, August 31, 1999.

[23] Section 52 B (2).

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