

## **CLERK OF COURT ARTURO Q. BAUTISTA, COMPLAINANT, VS. DEPUTY SHERIFF MARGARITO C. COSTELO, JR., RESPONDENT.**

*A.M. No. P-94-1043. February 28, 1996*

Ponente: MENDOZA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/dfbfb7d99ff9/>

---

### **MENDOZA, J.:**

This concerns an administrative complaint filed by Arturo Bautista, Clerk of Court of Branch 11 of the Regional Trial Court of Calubian, Leyte, charging Margarito Costelo, Jr., deputy sheriff, with malversation, insubordination, grave misconduct and violation of Supreme Court Circular 3-92, which prohibits the use of Halls of Justice for residential or commercial purposes.

It appears that in 1991, upon the request of then Judge Octavio Astilla of Branch 11 of the RTC, the court was allowed by the Philippine National Police at Calubian, Leyte the use of two vacant buildings belonging to the PNP. The buildings were the former enlisted personnel's barracks and the Bachelor Officers' Quarters (BOQ) of the 354th PC Company. The enlisted personnel's barracks was renovated and converted into a courtroom, chambers and office of the clerk of court, while the BOQ was used as living quarters of Judge Astilla. Respondent Margarito Costelo, Jr., who is deputy sheriff, was invited by Judge Astilla to stay at the BOQ. After the transfer of Judge Astilla to Manila, the respondent continued to live at the BOQ, allegedly with the permission of the new judge, Judge Bonifacio Sanz Maceda.

In a letter dated April 6, 1994, the complainant Arturo Bautista charged that respondent Costelo, Jr. built a house and a chicken coop and made a bed using materials taken from the renovated barracks; that the respondent gathered fruits from the growing trees in the court grounds and appropriated them for his use; that he raised turkeys and goats just outside the backdoor of the Bachelor Officers' Quarters which is now a courthouse; that he occupied a room of the courthouse which he used for his living quarters; that he was required by complainant to remove the chicken coop, but respondent did not comply and merely transferred the chicken coop to the nearby septic vault.

Respondent denied that he ever built the house referred to by complainant; that the house, which was made of bamboo, straw and coco leaves, actually belonged to a certain Leonilo Plaza. He claimed that this fact was reported to the complainant by Miguel Torlao, legal researcher of RTC, Branch 11.[1] On the other hand, the coop, according to the respondent, was built by enlisted personnel of the 354th PC Company when they were still in the place. With regard to the bed, respondent claimed that he purchased it from Manuel Naagas, a carpenter in Calubian, in August of 1990, and denied that the materials used in making it were taken from the barracks when it was renovated, which was done in January 1992. With respect to the allegations that he had been staying in a room of the courthouse in violation of Circular No. 3-92 of this Court, respondent says that he had been residing in the Bachelor Officers' Quarters (BOQ) since middle of 1991 and not in the courthouse, which is a different building.

Respondent also denied that he appropriated the fruits of the trees in the court grounds, particularly the coconut

trees. He claimed that in fact other court personnel, including the complainant himself, had been gathering the coconuts.

On the charge of grave misconduct and irresponsible behavior constituting violation of Circular 3-92, the respondent admitted that the turkeys in the chicken coop were his, but he claimed that he raised the birds for consumption and not for business.

Finally, answering the charge that he made only a half-hearted compliance with the complainant's directive for him to remove the coop, the respondent contended that there was no basis for the charge because he complied with the clerk's order by submitting his explanation and removing the chicken coop.

Upon recommendation of the Office of the Court Administrator, the case was referred to Judge Bonifacio Sanz Maceda, acting executive judge of the RTC of Calubian, Leyte, for investigation, report and recommendation. Judge Maceda set the case for hearing for two days but complainant failed to appear despite due notice given to him. Nonetheless, respondent presented three witnesses and, in addition, testified in his behalf.

On July 25, 1995 Judge Maceda rendered a report, finding the complaint without any basis and recommending instead that appropriate sanctions be imposed on the complainant. The pertinent portion of his report states:

The evidence adduced by respondent Costelo is uncontradicted. The evidence consists of the testimonies of SPO3 Levi Cosmiano, Mr. Errol Ching, OIC Miguel C. Torlao and that of the respondent himself together with Exhibits "1", "2", "3", "4", "5", "6" and "7" inclusive of their submarkings. The evidence for the respondent belies any malversation, insubordination, grave misconduct or irresponsible behavior.

The cockhouse complained of is an old issue. This has already been investigated by the Office of the Governor of Leyte thru Atty. Leo Giron upon an anonymous complaint sent to the Governor, which was found to [be] concocted.

The cockhouse was shown to be the cockhouse of Sgt. Roberto Gomez of the 354th PC Company. It was constructed for Sgt. Gomez by Alejandro Bastida, a CAFGU member who knew carpentry. Sgt. Gomez bought the materials for the cockhouse and caged therein three (3) fighting cocks. This cockhouse was then placed at the back of the comfort room of the barracks. The subject cockhouse was left behind in July, 1991 when the unit of Sgt. Gomez transferred to San Jose, Tacloban City.

In March, 1994 respondent bought five (5) baby turkeys for his own consumption. He made use of the abandoned and dilapidated cockhouse and caged his five (5) baby turkeys therein for one day meantime that he was constructing a new chicken coop for his five baby turkeys. Whichever way the undersigned investigator looks at the situation he finds nothing wrong with this. For one thing respondent used his own money to buy the baby turkeys. And, even if respondent kept them for a while beside the BOQ, respondent was permitted to do so. Besides, raising turkey in one's backyard to augment income is in line with the government's policy to encourage backyard farming.

Complainant's claim that respondent Costelo harvested coconut products within the court premises and appropriated them for the benefit of respondent is not true. It was complainant Bautista who required the harvesting of young coconuts or "buko" for his own consumption and also for the consumption of the court personnel.

The claim by complainant Bautista that respondent constructed a house on the hill behind the court building with materials from the renovated building was found earlier by OIC Miguel Torlao to be untrue. The house referred to by complainant Bautista was constructed by a certain Leonilo Plaza with permission from Sgt. Aniano Lecera. Mr. Plaza was made the overseer of the banana plantation, including the coconut trees in the area.

As early as March 23, 1993 Mr. Torlao had written (Exh. "1") a narrative report thereon. The house referred to by complainant was a small hut with bamboo slots for flooring, straw for roofing and coconut leaves for its walls. There was no lumber used in the construction of this hut. And, the fruits from the farm and banana plants were shared by Mr. Plaza and Sgt. Lecera.

It is noted that Branch 11 occupies only a part of the camp of the defunct 354th PC Company. It was Judge Octavio Astilla who negotiated in July, 1991 with the PC Regional Director Vicente Garcia, Jr. for the use of the Bachelor Officers' Quarters (BOQ) and the barracks of the 354th by RTC Branch 11. The vacated BOQ was [to] accommodate Judge Astilla while the barracks was to house the courtroom, Judge's chambers and the Office of the Clerk of Court. Judge Astilla assigned the outer room of the BOQ to respondent.

When undersigned assumed Branch 11 in December, 1992, respondent Costelo was allowed to continue using the outer room of the BOQ with the obligation to maintain the premises. He complied with his obligation.

The turkeys and the goats raised by respondent Costelo were transferred later to another area because respondent did not want to exacerbate the conflict with his Clerk of Court. In fact respondent transferred elsewhere when he got married sometime ago. These turkeys and goats are no longer found in the area.

When undersigned assumed Branch 11 he observed that chicken, turkeys, goats, carabaos, cows and horses were a common sight in the area. They were raised by neighbors and allowed to stray. Some goats would enter the courtroom even when the court was in session. Why complainant Bautista did not make an issue out of this should confirm respondent's counterclaim that the present [sic] is simply to harass him.

The complaint for insubordination is plainly without any leg to stand on. The countercharge by respondent that complainant Bautista bullies him to satisfy complainant's favorite Stenographer, Carmelino Longakit, appears to be in cadence with logic. The complaint is supported by the lone affidavit of Mr. Longakit who is said to be itching no end to harass and embarrass the respondent. The affidavit is even subscribed and sworn to before complainant himself.

Recently, the Supreme Court En Banc resolved: "(1) in A.M. No. 94-6-203-RTC: to SUSPEND Clerk of Court Bautista from the service for six (6) months for usurpation of the power of the Supreme Court with WARNING that a repetition of similar offense will be dealt with more severely; (2) In A.M. No. P-95-1 125: to FINE respondent Bautista in the sum equivalent to two (2) MONTHS SALARY, payable to this Court within thirty (30) days from notice, for his absence without official leave for the period June 13 - July 29, 1994; and to DISMISS all other charges for lack of merit; and (3) in A.M. No. 94-8-248-RTC; to DISMISS respondent Carmelino Longakit from the service with forfeiture of benefits, for absence without official leave, insubordination, and violation of Civil Service Rules and Regulations, and to DISMISS the counter-charge against Judge Maceda for lack of merit."

WHEREFORE, in view of all the foregoing, it is respectfully recommended that the complaint dated April 6, 1994 be DISMISSED for lack of merit. And, appropriate sanction be imposed upon complainant Arturo Q. Bautista for harassing the respondent with this case.

Earlier, on June 19, 1995, complainant moved for a reconsideration of the resolution referring the case to Judge Maceda. Complainant alleged that Judge Maceda and respondent were close friends and that the latter had filed a complaint against him (herein complainant). Hence, upon recommendation of the OCA, the Court recalled the case on August 16, 1995 from Judge Maceda and asked the OCA to make a reevaluation and submit a report.

On September 29, 1995, the OCA submitted its report and recommendation, the pertinent portions of which read:

In sum, the charges against respondent revolve around the alleged (a) malversation or illegal use of scrap government construction materials to make a cockhouse, a bed and a house, and unauthorized appropriation of young coconut or "buko" growing from trees within court grounds; (b) raising livestock within court premises;

(c) using the courthouse or a portion thereof as residence; and (d) insubordination or insincere compliance to an order to remove the cockhouse and the livestock from court premises.

Respondent appears to have sufficiently overcome the first charge considering the following: (a) that complainant has failed to rebut respondent's claim that the bed was acquired by purchase in 1990 while the court construction commenced in 1992; (b) that assuming the house on the hill was partially constructed from government materials there is no clear showing that respondent owns it or resides therein; and (c) that the cockhouse is only partially made from few "scrap" of building materials as complainant averred, non refuse or worthless [sic] materials.

As to the alleged eating of young coconuts the charge appears unfounded as other court personnel, including complainant himself, do it. Considering that coconut trees grow on the loaned premises where the barracks (now the courthouse) and the BOQ are found, it is common practice to eat the young coconuts found thereon unless expressly prohibited by the owner government agency.

The second and third charges are admitted by respondent with qualifications. He claims that the livestock is for personal consumption only, while his stay at the court premises was upon the prompting of then Judge Astilla. We do not find the excuses exculpatory; Administrative Circular No. 3-92 (re: Prohibition Against Use of Halls of Justice for Residential or Commercial Purposes) is clear and without exceptions. Moreover, it is noted that respondent was invited to stay at the BOQ but it is not known who authorized his stay at the courthouse itself. This issue, which complainant raised in his reply, was not explained in respondent's rejoinder. Accordingly, we find him liable for violation of Adm. Circular No. 3-92.

As to the last charge, we take cognizance of the uncontested allegation that respondent complied albeit "half-heartedly and defiantly." Since there was compliance, we fail to see the ground to hold respondent liable for insubordination.

WHEREFORE, in view of all the foregoing we respectfully submit for the consideration of the Honorable Court, the recommendation that respondent be REPRIMANDED for violation of Administrative Circular No. 3-92 and the charges for malversation and insubordination be DISMISSED for lack of merit.

As the OCA report states, there is no evidence to show that respondent used scrap materials taken from the former PC barracks. Nor is there any showing that he appropriated fruits taken from coconut trees found in the court grounds.

With respect to the charge that he made only grudging compliance with the directive of the complainant for him to remove the coop in which he kept five turkeys, the record shows that he did comply with the directive. There is, therefore, no basis for finding him guilty of insubordination.

As to the allegation that respondent used a room of the courthouse for his living quarters, the records show that it was the BOQ in which he stayed, not the courthouse which formerly served as enlisted men's barracks of the 354th PC Company in Calubian, Leyte. As stated in the beginning, it appears that Judge Astilla lived in the BOQ when he was still assigned to the RTC of Calubian, Leyte. Respondent claims that he was invited by the judge to stay with him in the building and that after Judge Astilla had been transferred to Manila, respondent was allowed to remain in the BOQ by the new judge, Judge Sanz Maceda. We find the respondent's explanation satisfactory. The BOQ was primarily designed as living quarters. Even after the transfer of the RTC to the former PC compound, the BOQ remained as living quarters and it was in fact used for that purpose by Judge Astilla. It was the former barracks for enlisted men, which was converted into a courthouse. There is nothing to show that respondent used a room of this building as living quarters. Indeed, it is improbable that he would, considering that the BOQ had amenities, while, it may be assumed, the courthouse across did not.

Complainant submitted the affidavit of Carmelino Longakit, former court stenographer, in support of his

complaint. It appears, however, that Longakit and respondent have been at loggerheads since 1993. Longakit resented the fact that respondent reported him to Judge Sanz Maceda for his frequent tardiness and habitual absences, in addition to insubordination, which led to his dismissal from service.[2]

However, the Court finds the charge that respondent raised livestock near the courthouse to be true. He admitted this in fact. Although he eventually transferred the chicken coop, he did so only after he had been required to do so by the complainant. Before that he had the cage containing five turkeys just outside the backdoor of the courthouse. The keeping of livestock within the premises is within the prohibition of Circular No. 3-92, dated August 31, 1992, of this Court which states:

SUBJECT: PROHIBITION AGAINST USE OF HALLS OF JUSTICE FOR RESIDENTIAL OR COMMERCIAL PURPOSES

All judges and court personnel are hereby reminded that the Halls of Justice may be used only for purposes directly related to the functioning and operation of the courts of justice, and may not be devoted to any other use, least of all as residential quarters of the judges or court personnel, or for carrying on therein any trade or profession.

Attention is drawn to A.M. No. RTJ-89-327 (Nellie Kelly Austria v. Judge Singuat Guerra), a case involving unauthorized and improper use of the court's premises for dwelling purposes by respondent and his family, in which the Court, by Resolution dated October 17, 1991, found respondent Judge guilty of irresponsible and improper conduct prejudicial to the efficient administration of justice and best interest of the service, and imposed on him the penalty of SEVERE CENSURE, the Court declaring that such use of the court's premises inevitably degrades the honor and dignity of the court in addition to exposing judicial records to danger of loss or damage.

The prohibition against the use of Halls of Justice for purposes other than that for which they have been built extends to their immediate vicinity including their grounds. Otherwise, if the prohibition is not thus construed, acts tending to degrade courts would go unpunished on the pretext that they are not committed "within the Halls of Justice."

The excuse given that raising livestock may even be regarded as a positive response to the government's call for self-reliance on the part of the citizenry is flimsy. It is carrying the government campaign too far, because done at the expense of the dignity of the court. Halls of Justice are temples of justice which must be kept undefiled. As the Court noted in Kelly Austria v. Judge Singuat Guerra,[3] in reprimanding a judge for using a stockroom in the courthouse for dwelling, the use of the courthouse for such purpose brings the court into public contempt and disrepute.

WHEREFORE, the respondent is ADMONISHED and WARNED that repetition of the same act or acts in the future will be dealt with more severely.

**SO ORDERED.**

Regalado (Chairman), Romero, and Puno, JJ., concur.

[1] Narrative Report on Squatting submitted by Miguel C. Torlao, Annex 2 of Comment (Rollo, p. 22).

[2] In the Matter of Habitual Absences of Carmelino O. Longakit, A. M. No. 94-8-248-RTC, June 20, 1995.

[3] A. M. No. RTJ-89-327, October 17, 1991.

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.