

AMADEL C. ABOS, COMPLAINANT, VS. SALVADOR A. BORROMEIO IV, CLERK III, REGIONAL TRIAL COURT, BR. 45, SAN JOSE, OCCIDENTAL MINDORO, RESPONDENT.

A.M. No. P-15-3347 [Formerly OCA IPI No. 13-4067-P]. July 29, 2015

Ponente: LEONEN, J.

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LEONEN, J.:

Conduct unbecoming a public officer and conduct prejudicial to the best interest of service, while similar in nature, are defined and penalized as two distinct offenses under law and Civil Service regulations.

This is an administrative complaint for grave misconduct and "conduct unbecoming a public employee" against Salvador A. Borrromeio IV, Clerk III, Branch 45, Regional Trial Court of San Jose, Occidental Mindoro.

Amadel C. Abos (Abos), a resident of Barangay Rumbang, Rizal, Occidental Mindoro, filed a Sinumpaang Salaysay ng Pagdedemanda (Complaint-Affidavit)[1] dated January 29, 2013 before the Office of the Court Administrator. The Complaint-Affidavit, written in the vernacular, alleged that Abos was the daughter of Letecia Cadut Abos, the shared tenant of an eight-hectare agricultural land in Barangay Rumbang, Rizal, Occidental Mindoro. The property was previously owned by Rafael Mondofiedo and was allegedly entrusted to Abos' grandfather, Vicente Cadut, Sr., and was under the tenancy of her mother, Letecia Cadut Abos, and sister, Jocelyn.[2]

When the ownership of the property was transferred to Rafael Mondofiedo's stepdaughter, Elsa Aguirre, she allegedly refused to recognize Abos or the members of her family as tenants of the land.[3]

Abos alleged that on January 19, 2013 at around 1:30 p.m., Salvador A. Borrromeio IV (Borrromeio), Clerk III, Branch 45, Regional Trial Court of San Jose, Occidental Mindoro, together with a member of the Philippine Army known only as "July," and one Elvie Magbanua, arrived in the property and uprooted 150 coconut seedlings.[4] She also alleged that July threatened to kill her and her family if they did not leave the property.[5]

In his Comment dated June 6, 2014, Borrromeio alleged that his mother, Elsa Aguirre, was the absolute owner of the property and that he was only exercising his mother's legal right over it. He insisted that Rafael Mondofiedo only had paid laborers, not tenants, before he transferred ownership of the land to Elsa Aguirre.[6]

Borrromeio alleged that on June 6, 2012, Abos' sister, Jocelyn, and her husband, Ryan Dazo, illegally entered the property and constructed a house. He alleged that Elsa Aguirre brought the matter to the barangay where the parties mutually agreed to settle the case. The Dazo spouses allegedly asked for additional time to vacate the premises. He alleged that the Dazo spouses reneged on their promise and refused to vacate the property.[7]

Borrromeio alleged that when his family visited the farm on November 30, 2012, they saw the Dazo spouses illegally hauling two truckloads of coconuts from the property. As a consequence, he filed a criminal complaint for theft before the Office of the Prosecutor in San Jose, Occidental Mindoro.[8]

Borromeo also alleged that the Dazo spouses planted coconut trees in the middle of the private road to prevent vehicles from entering the property, with Borromeo admitting that these were the coconut trees he uprooted. He argues that if he used force or spoke bad words, he only did so to assert his family's ownership over the property.[9]

The Office of the Court Administrator submitted its Report[10]dated May 4, 2015 recommending that the case be re-docketed as a regular administrative matter and that Borromeo be found guilty only of conduct unbecoming a public official.

The Office of the Court Administrator found that Borromeo should not have acted in a scandalous manner but instead should have sought judicial remedies to assert his right over the property. It also found that while Borromeo admitted to uprooting the coconut seedlings, there was no evidence presented to prove that he threatened to kill Abos or her family.[11]

According to the Office of the Court Administrator, where the misconduct committed was not in connection to the performance of duty, the proper offense is conduct prejudicial to the best interest of service, not grave misconduct. It further recommended that the proper penalty should only be one (1) month and one (1) day since Borromeo has not been previously charged with an offense of this nature.[12]

While the findings of fact by the Office of the Court Administrator are adopted, the recommended penalty must be modified.

In its Report, the Office of the Court Administrator refers interchangeably to conduct unbecoming a public officer and conduct prejudicial to the best interest of service. While these offenses are similar, law and jurisprudence, however, impose a different penalty for each.

"Public service is a public trust."[13] In line with the constitutional mandate for accountability in public servants, Republic Act No. 6713, or the Code of Conduct and Ethical Standards for Public Officials and Employees, was enacted "to promote a high standard of ethics in public service." [14]Section 4(A)[15] of the law outlines the norm of conduct expected of public officials and employees, namely, commitment to public interest, professionalism, justness and sincerity, political neutrality, responsiveness to the public, nationalism and patriotism, commitment to democracy, and simple living.

Any violation of these norms of conduct holds the offender liable for conduct unbecoming a public officer and is punishable by the penalties provided for under Section 11 (a) of the law.[16]Section 11 (a) states:

Section 11. Penalties. - (a) Any public official or employee, regardless of whether or not he holds office or employment in a casual, temporary, holdover, permanent or regular capacity, committing any violation of this Act shall be punished with a fine not exceeding the equivalent of six (6) months' salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense after due notice and hearing by the appropriate body or agency. If the violation is punishable by a heavier penalty under another law, he shall be prosecuted under the latter statute. ...

Conduct prejudicial to the best interest of service, on the other hand, is defined by *Largo v. Court of Appeals*[17] as any misconduct "which need not be related or connected to the public officers['] official functions [but tends to tarnish] the image and integrity of his/her public office." [18]

The penalty for conduct prejudicial to the best interest of service is provided for under Rule 10, Section 46(B)(8) of the Revised Rules on Administrative Cases in the Civil Service. As a grave offense, it is punishable by a suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal from service for the second offense.

While there is no specific list of acts that may constitute the offense, this court has previously characterized certain acts as conduct prejudicial to the best interest of service: seeking the assistance of an elite police force for a purely personal matter;^[19] changing the internet protocol (IP) address on a work computer to gain access to restricted websites;^[20] and fencing in a litigated property in order to assert ownership.^[21]

Here, Borromeo admitted to uprooting Abos' coconut seedlings. He argues that even assuming that he did utter threats to Abos, he only did so in order to assert his family's rights over the disputed property.

Borromeo carried with him the title and status of his office as he supported and defended one of the parties in a dispute that had not yet even been resolved in the proper manner. There was no advice given to avail themselves of the provisions of the Local Government Code on Katarungang Pambarangay. As a court employee, he should have been aware that there was a judicial remedy. Least of all, he should have accorded each of the parties a modicum of fairness. He works for an institution that is founded on due process, the opportunity to be heard in a civil and dispassionate manner. Even Abos, an ordinary coconut farmer, was aware that judicial and quasi-judicial remedies were available, which was why she filed a Petition for Injunction with a Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction^[22] before the Regional Trial Court and a Complaint for Execution of Leasehold Contract^[23] before the Office of the Provincial Adjudicator against Borromeo and his mother.

The public's impression of its government is sketched by its experiences with the behavior of their acquaintances who are public officers when these officers are part of one's social circles and communities. Between them and the public officers they read about in the newspaper and encounter in other media, the former's presence is more immediate and more concrete, and this impression is more salient in their daily lives. Delegated governmental power, no matter how miniscule, is not to be abused. Rather, it is to be used with the expectation that it be wielded justly in the interest of society in general and not for the personal disposition of the public officer who wields it. Titles of public officer are burdens on their holders as much as they are privileges. While they enjoy tenure, these titles accompany them. It is thus a stewardship that they should carry responsibly. It is, while they sit as public officers, a public trust.

Borromeo as Clerk III of Branch 45, Regional Trial Court of San Jose, Occidental Mindoro violated this public stewardship. He violated the public's trust. He must thus be penalized not merely to remind him of his duties, but also to repair the embarrassment he caused in the community he disturbed.

While Borromeo's acts are not connected to his official functions as a Clerk III of the Regional Trial Court of San Jose, he is, first and foremost, a public servant. As a public servant, he is bound by the Constitution and Republic Act No. 6713 to exhibit the highest degree of professionalism not only in his official duties but also in his personal endeavors. As a court employee, he is expected to uphold the image of the judiciary not only within the confines of the Hall of Justice but also in his personal dealings with the public. In *Marquez v. Clores-Ramos*:^[24]

It cannot be overemphasized that every employee of the judiciary should be an example of integrity, uprightness and honesty. Like any public servant, he must exhibit the highest sense of honesty and integrity not only in the performance of his official duties but in his personal and private dealings with other people, to preserve the Court's good name and standing. This is because the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel. Thus, it becomes the imperative sacred duty of each and every one in the court to maintain its good name and standing as a true temple of justice.^[25]

Thus, Borromeo is guilty of both conduct unbecoming a public officer and conduct prejudicial to the best interest of service, the first being punishable by a fine of six (6) months worth of salary or a suspension of not more than

one (1) year, while the latter is punishable by suspension of six (6) months and one (1) day to one (1) year for a first offense. The recommended penalty, therefore, of the Office of the Court Administrator of one-month suspension is insufficient.

Under the circumstances, and this being Borromeo's first offense, the proper penalty to be imposed should be a suspension of one (1) year.

WHEREFORE, Salvador A. Borromeo IV, Clerk III, Branch 45, Regional Trial Court of San Jose, Occidental Mindoro, is found guilty of conduct unbecoming a public officer and conduct prejudicial to the best interest of service, and is hereby **SUSPENDED** from service for one (1) year without pay.

SO ORDERED.

Carpio, (Chairperson), Brion, Mendoza, and Perlas-Bernabe,[*] JJ., concur.

[*] Designated acting member per S.O. No. 2115 dated July 22, 2015.

[1] Rollo, pp. 3-4.

[2]Id. at 3.

[3] Id.

[4] Id.

[5] Id. at 4.

[6]Id. at 39.

[7]Id. at 40.

[8] Id. at 40-41.

[9] Id. at 41.

[10] Id. at 54-56. The Report was signed by Raul Bautista Villanueva, Deputy Court Administrator and Officer-in-Charge of the Office of the Court Administrator, and Wilhelmina D. Geronga, Chief of Office, Office of the Court Administrator Legal Office.

[11] Id. at 55-56.

[12] Id.

[13] CONST., art. XI, sec. 1.

[14] Rep. Act No. 6713, sec. 2.

[15]Section 4. Norms of Conduct of Public Officials and Employees. - (A) Every public official and employee shall observe the following as standards of personal conduct in the discharge and execution of official duties:

(a)

Commitment to public interest. - Public officials and employees shall always uphold the public interest over and above personal interest. All government resources and powers of their respective offices must be employed and used efficiently, effectively, honestly and economically, particularly to avoid wastage in public funds and

revenues.

(b)

Professionalism. - Public officials and employees shall perform and discharge their duties with the highest degree of excellence, professionalism, intelligence and skill. They shall enter public service with utmost devotion and dedication to duty. They shall endeavor to discourage wrong perceptions of their roles as dispensers or peddlers of undue patronage.

(c)

Justness and sincerity. - Public officials and employees shall remain true to the people at all times. They must act with justness and sincerity and shall not discriminate against anyone, especially the poor and the underprivileged. They shall at all times respect the rights of others, and shall refrain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety and public interest. They shall not dispense or extend undue favors on account of their office to their relatives whether by consanguinity or affinity except with respect to appointments of such relatives to positions considered strictly confidential or as members of their personal staff whose terms are coterminous with theirs.

(d)

Political neutrality. - Public officials and employees shall provide service to everyone without unfair discrimination and regardless of party affiliation or preference.

(e)

Responsiveness to the public. - Public officials and employees shall extend prompt, courteous, and adequate service to the public. Unless otherwise provided by law or when required by the public interest, public officials and employees shall provide information of their policies and procedures in clear and understandable language, ensure openness of information, public consultations and hearings whenever appropriate, encourage suggestions, simplify and systematize policy, rules and procedures, avoid red tape and develop an understanding and appreciation of the socio-economic conditions prevailing in the country, especially in the depressed rural and urban areas.

(f)

Nationalism and patriotism. - Public officials and employees shall at all times be loyal to the Republic and to the Filipino people, promote the use of locally produced goods, resources and technology and encourage appreciation and pride of country and people. They shall endeavor to maintain and defend Philippine sovereignty against foreign intrusion.

(g)

Commitment to democracy. - Public officials and employees shall commit themselves to the democratic way of life and values, maintain the principle of public accountability, and manifest by deeds the supremacy of civilian authority over the military. They shall at all times uphold the Constitution and put loyalty to country above loyalty to persons or party.

(h)

Simple living. - Public officials and employees and their families shall lead modest lives appropriate to their positions and income. They shall not indulge in extravagant or ostentatious display of wealth in any form.

[16] See *Romero v. Villarosa*, A.M. No. P-11-2913 (Formerly OCA IPI No. 08-2810-P), 663 Phil. 196 (2011) [Per Curiam, En Banc].

[17] 563 Phil. 293 (2007) [Per J. Ynares-Santiago, En Banc].

[18] *Id.* at 305.

[19] *Office of the Ombudsman-Visayas v. Castro*, G.R. No. 172637, April 22, 2015 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/april2015/172637.pdf>> [Per J. Brion, Second Division].

[20] *Government Services Insurance System v. Mayordomo*, G.R. No. 191218, May 31, 2011, 649 SCRA 667 [Per J. Mendoza, En Banc].

[21] *Heirs of Teves v. Felicidadario*, A.M. No. P-12-3089 (Formerly OCA IPI No. 11-3591-P), November 13, 2013, 709 SCRA 315 [Per J. Leonardo-De Castro, First Division].

[22] *Rollo*, pp. 5-9.

[23] *Id.* at 10-16.

[24] 391 Phil. 1 (2000) [Per J. Kapunan, First Division].

[25] *Id.* at 11, citing *Estreller v. Manalad*, 335 Phil. 1077 (1997) [Per J. Kapunan, First Division] and *Sy v. Cruz*, 321 Phil. 236 (1995) [Per J. Regalado, Second Division].

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