

FLORIDE DAWA, NORALIZ L. JORGENSEN, FEMENINA LAZARO-BARRETO, COMPLAINANTS, VS. JUDGE ARMANDO C. DE ASA, METROPOLITAN TRIAL COURT, BRANCH 51, CALOOCAN CITY, RESPONDENT.

A.M. No. MTJ-98-1144. July 22, 1998

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PER CURIAM:

Armando C. de Asa, the presiding judge of Branch 51 and acting executive judge of the Metropolitan Trial Court of Caloocan City, was charged with “sexual harassment and/or acts of lasciviousness” in a letter-complaint[1] dated August 15, 1997, filed by Floride Dawa,[2] Feminina Lazaro-Barreto[3] and Noraliz L. Jorgensen.[4] In view of the allegations in the Complaint, this Court, in a Resolution dated December 10, 1997, placed respondent judge under preventive suspension; and referred the case to retired Justice Romulo S. Quimbo, a consultant of the Office of the Court Administrator, for investigation, report and recommendation.[5]

Meanwhile, Atty. Mona Lisa A. Buencamino,[6] who assisted the aforementioned complainants, also filed, on September 5, 1997, an affidavit-complaint[7] against Judge Armando C. de Asa, for “sexual harassment under Republic Act No. 7877/acts of lasciviousness, grave or serious misconduct, and [for] violation [of] the high standard of moral[s] demanded by judicial ethics x x x.” In our Resolution dated March 18, 1998,[8] we resolved to consolidate her Complaint with the earlier one and to refer it likewise to Justice Romulo S. Quimbo for inclusion in his investigation, report and recommendation.

After conducting a thorough investigation, the investigating officer submitted his Report, dated March 16, 1998, which contained the following exhaustive and detailed summary of the testimonies of the witnesses for both the complainants and the respondent:

“1. Floride Y. Dawa is a 24 year-old single girl employed as a stenographic reporter in Branch 52 of the Metropolitan Trial Court (MeTC for brevity) of Caloocan City. She affirmed under oath the sworn statement (Exhibit A, Record, pp. 2-3 of the Record) she executed August 15, 1997. She related that on August 8, 1997, while on her way to the ladies’ toilet, she had seen respondent, Judge Armando C. de Asa, talking with a man at the backdoor of his chamber. Out of respect for respondent, being the Acting Executive Judge of the MeTC, she had nodded to him before entering the ladies comfort room. When she emerged from the same, she saw that respondent was still at the backdoor of his office although this time he was alone. Upon seeing Dawa, respondent casually asked her whether the toilet was clean. She answered that it was dirty. Respondent called her and she approached him. When she neared the respondent, the latter put his arm on her shoulder and led her into his chamber. Once inside and while she was standing near the edge of respondent’s office table, he placed his arm around her shoulder and suddenly held her jaw and kissed her on the lips.

Dawa was taken by surprise and was shocked by the act of the respondent. Before she could recover herself, respondent once again held her shoulder and chin and kissed her on lips. She forcibly pushed the respondent away. Respondent asked her where she lived and with whom but she hurriedly left respondent’s office.

Upon Dawa’s return to the staff room of Branch 52, Maria Teresa Carpio, who also works in Branch 52 asked

her what the matter was because she noticed that Dawa looked dazed ('tulala'). She first said that nothing was the matter but upon [Carpio's] insistent questioning, she haltingly related her harrowing experience in respondent's office.

That same day, she related the incident to Judge Delfina Hernandez-Santiago, the presiding judge of Branch 52 who, although [she] was then on leave, had gone to her office on the invitation of Danilo Silverio, one of her coworkers in Branch 52, who was celebrating his birthday. Judge Santiago, after listening to Dawa's story, advised her to go home and relate the incident to her parents before deciding to do anything further. Dawa went home but did not tell her parents who were sickly. Instead, she told her sister.

The next Tuesday (she had absented herself on Monday), Dawa went to see Atty. Mona Lisa Buencamino, the Clerk of Court, and related her story. She was told that she was not respondent's first victim but that Noraliz Jorgensen and the Clerk of Court herself had been objects of respondent's amorous advances.

Dawa saw Noraliz Jorgensen. The latter assured her that if Dawa would file a complaint, she would follow suit.

Dawa and Jorgensen decided to file charges against the respondent. Upon the advice of Atty. Buencamino, the two complainants saw Atty. Calalang, a city councilor. The latter advised them to go to the police and have their complaints entered in the police blotter. Calalang brought them to the office of Councilor Manlapig, a former police colonel. The latter called for a police investigator and SPO2 Rey Domingo came and interviewed them. That same afternoon, the two complainants went to the police station to have their complaints recorded in the police blotter (Exhibits 7 and 7-A; Record, pp. 16-17).

Dawa came to the Supreme Court with Atty. Buencamino, Noraliz Jorgensen and Femenina Lazaro-Barreto where they filed the letter-complaint (Exhibit "X").

Respondent personally cross-examined Dawa. She insisted on her story although she admitted that respondent had gone to Branch 52 that same day.

2. Noraliz L. Jorgensen is 28 years old and married to a policeman. She affirmed under oath her sworn statement (Exhibit C, pp. 6-7 of the Record). The following is her story:

Jorgensen was and still is a casual employee in the Office of the Mayor of Caloocan City and detailed to the Office of the Clerk of Court, (OCC for short), MeTC, Caloocan City. Among her duties was the preparation and follow up of the payrolls for RATA and gasoline allowances of the Metropolitan Trial Judges. Upon the approval of said payrolls, it was her duty to receive the cash from the cashier and deliver them to the individual judges.

Sometime on January 3, 1997, at about 10:00 o'clock in the morning, she had gone to the office of respondent Judge Armando C. de Asa, who presides Branch 51 of the Court, for the purpose of securing his signature on the payroll for the judges' allowances. Upon entering the respondent's office, the latter approached her and suddenly kissed her on the cheek. Jorgensen immediately left respondent's office after having secured his signature on the payroll.

Again, on March 31, 1997, at about 2:00 o'clock in the afternoon, Jorgensen had returned to the respondent's office to deliver the cash representing his allowances for the months of January, February and March. Upon entering the respondent's office, the latter immediately stood up, held her two arms, and suddenly kissed her and licked her left ear, saying "I love you". Jorgensen was surprised and afraid. She asked respondent, "Judge, what is this", at the same time endeavoring to free herself from his hold but she could not because his grip was strong. Respondent then said, "Don't make noise lest we be heard outside". At the same time, respondent held her jaw and kissed her on lips. He said, "Open your mouth" as he continued to hug and kiss her while she tried to free herself. He did not heed her pleas although she was then trembling with fear.

On May 26, 1997, Jorgensen again entered respondent's office to secure his signature on the payroll for June. Again he kissed her before he signed it. After he had signed the payroll, respondent invited Jorgensen to eat with him at the Max Restaurant on EDSA the next Saturday. When she asked him why he was inviting her, he answered, "You are no longer a child, you ought to know".

Jorgensen could only cry. She asked Atty. Buencamino not to send her again to the respondent and she told Buencamino of what had happened to her. Atty. Buencamino told Jorgensen that if she wanted to complain, Buencamino would support her. Jorgensen was afraid that nothing would come out of any complaint because respondent was a Judge and powerful.

On August 4, 1997, having delivered the allowances of all judges except the respondent, Jorgensen tried to look for someone who could deliver the money to him but she could find no one. So she waited until she knew that someone else was inside respondent's office. At about 3:00 o'clock, while Roderick Corral was inside respondent's office, she entered but respondent immediately threw to Corral the paper he had brought for his signature, in effect dismissing him. Corral immediately stepped out leaving Jorgensen alone in respondent's chambers. When they were alone, respondent stood up and held Jorgensen's jaw kissing her on her lips at the same time saying "Open your mouth". Jorgensen immediately left respondent's office in tears.

On August 8, 1997, Jorgensen learned that Floride Dawa, a stenographer in Branch 52, was the latest victim of the respondent. Jorgensen reported her experience to Judge Santiago, the Executive Judge, and she informed the good judge that she was ready to file a complaint against respondent in order to obtain justice.

Respondent personally cross examined Jorgensen who admitted that before August, 1997, she had gone to respondent's office with Baby Mapue in response to his call and while there they were shown an anonymous letter (Exhibit 2) which mentioned [the] alleged misconduct on her part.

3. Femenina Lazaro-Barreto is a thirty-year old married woman who is a Court Stenographer II in Branch 53 of the Caloocan City MeTC. During her direct examination by Atty. Roberto Abad, she identified her sworn statement (Exhibit E found on pp. 4-5 of the Record).

On July 22, 1997, she was assigned to Branch 51 because Judge Romanito Amatong of Branch 53 was on leave. While attending the session at Branch 51, respondent dictated an "Order" in open court. Her stenographic notes are found in Exhibit "F". She transcribed these notes (Exhibits F-1) and left them with the Branch Clerk Gina Amatong. When she returned after lunch, Gina told her there were some corrections so she again typed and submitted Exhibit "F-2". After typing one more draft (Exhibit F-3), she brought the final draft (Exhibit F-4) to respondent's office for his signature. After respondent signed the "Order", he stood up and while Barreto was looking at the "Order", he held her chin and kissed her. Barreto asked, "What are you doing?" Respondent kissed her again and tapped her shoulder saying, "Sigue na, Nina. Okay na," dismissing her. Barreto went out of the office and wiped her lips with her hand. Margo, a stenographer in Branch 51 saw her. She did not relate the incident to her husband but he learned about it from the newspapers.

4. Atty. Mona Lisa A. Buencamino is an unmarried forty-year-old lawyer who is presently the Clerk of Court of Caloocan City MeTC. Her first appointment was on June 18, 1987 as Branch Clerk of Court for Branch 51, presided by Judge Filemon Mendoza, now retired. After she became a lawyer in 1996, she was promoted to her present position as Clerk of Court.

Buencamino is acquainted with the three complainants. She first came to know Jorgensen when she assumed office as Clerk of Court because Jorgensen was detailed to her office. She had known Barreto since 1992 or 1993 and she personally came to know Dawa when the latter, accompanied by Jorgensen, approached her on August 12, 1997 and related her harrowing experience in the office of respondent. Jorgensen herself related similar experiences. Buencamino advised the two ladies that she would refer that matter to Judge Santiago, the executive judge, who was then on leave. She reasoned that being a woman and the executive judge, Judge Santiago would understand the complainant's situation. Dawa and Jorgensen told Atty. Buencamino that they

had already seen Judge Santiago and the latter had advised them to consult their families before taking any step. They further told the Clerk of Court that they had consulted their families and were decided to file an administrative case against respondent judge. At this juncture, sheriff Noli Calalang informed the complainants Dawa and Jorgensen that his brother, Councilor Gil Calalang, was willing to help them.

On August 13, 1997, at about 1:30 o'clock in the afternoon, complainants Dawa and Jorgensen were advised that Atty. Gil Calalang was in his office. Buencamino and the two complainants proceeded to Calalang's office who, after hearing their stories, advised them to report the matter to the police. Atty. Calalang was willing to handle their case provided permission was obtained from Mayor Malonzo. Buencamino and the two complainants were brought to the office of Councilor Manlapig, a former police colonel, and there they were interviewed by SPO2 Santiago. The latter asked what cases could be filed against the judge and Atty. Buencamino answered that a case for violation of the new "Anti-Sexual Harassment Law" or for Acts of Lasciviousness under the Penal Code could be filed against respondent. At 5:30 o'clock that same afternoon, Dawa and Jorgensen repaired to the Caloocan Police Station to have their complaints logged (Exhibits 7 and 7-A; Record; pp. 46-47).

On August 14, 1997, Feminina Lazaro-Barreto, accompanied by her sister, saw Atty. Buencamino and told her that she, too, was one of respondent's victims. Ms. Barreto decided to file an administrative charge against respondent and requested David Maniquis, the deputy clerk of court, to accompany her to the police station to have her complaint recorded. (Exhibits 7-B and 7-C, Record, pp. 48-49).

Buencamino admitted that she had accompanied the three complainants to the Office of the Court Administrator to file the present case. Upon request of Atty. Perez of the Office of the Court Administrator, she had administered the oaths of the three complainants and had signed the original complaint.

5. Cielito M. Mapue, 33 years old, married and employed as Clerk III, OCC, MeTC, Caloocan City, took the stand for the complainants to corroborate their testimonies. She declared that --

She was in charge of releasing the cash bonds to the bondsmen when they were no longer needed. In this connection, she had to prepare the vouchers and the breakdown of checks and she had to go to the office of the respondent in order to secure his signature. In 1997, she remembers having been requested once by Jorgensen to bring a payroll for the signature of respondent. After respondent signed the documents she had brought to him, respondent stood up, went around his table and abruptly kissed her. She immediately left with Emily Rose Clemente, staff member of Branch 51 and never again went to see respondent alone. Mapue admitted that she and Jorgensen had been called by respondent in relation to a complaint of Judge Santiago. Asked by respondent where he had kissed her, she retorted in the vernacular, "Sa bibig, hindi mo ba natatanda-an?" Made to explain why she had not complained, she answered that she did not want anyone to know. As a matter of fact, her husband did not know of the incident even as she was testifying.

6. Maria Teresa G. Carpio, 37 years old, married, a casual employee of the City Mayor's office and detailed to Branch 52 of the MeTC had the following to say:

She had known Floride Dawa to be a happy girl. On August 8, 1997, she was rather in good spirits because it was the birthday of one of their officemates and there was some sort of a party. At about 10:00 o'clock that morning, Dawa had gone to the women's comfort room. When Dawa returned a few minutes later, Carpio noticed that she was pale and fidgety. She kept wringing her hands and was on the verge of tears. Carpio asked her what the matter was but Dawa answered that nothing was the matter. After some prodding, Carpio asked Dawa to go with her to the court room and there asked what really the matter was as she was no longer her gay self. Dawa cried and told the story of how the respondent had twice kissed her on the lips.

At lunch time, Judge Delfina H. Santiago, the presiding judge of Branch 52, came to join the birthday party. She was told by Esper Cabiling, another stenographer in Branch 52, that Floride Dawa wanted to see her in private. Judge Santiago brought Dawa to her private chambers.

On cross examination, Carpio admitted that respondent appeared at Branch 52 and asked if everything was okay, at which juncture, Dawa, accompanied by Rowena Martin, went to the courtroom.

7. David Maniquiz, deputy clerk of court, Caloocan City MeTC, declared that on August 14, 1997, he had been requested by Femenina L. Barreto, to accompany her to police headquarters to lodge a complaint against the respondent. Noli Calalang, Joselito Bedana, Noraliz Jorgensen and Floride Dawa were with them in the police station.

8. Ma. Victoria Soriano-Cruz, an interpreter in respondent's court, was originally reluctant to testify. She, however, appeared in the afternoon of February 18, 1998, to give testimony. She declared that she knew the complaints and that she [was] directly under the respondent who preside[d] Branch 51. On August 12, 1997, she learned from others that Floride Dawa was kissed by the respondent. She also learned that Jorgensen had also been kissed by respondent. She admitted that the respondent has the inclination for imposing fines on employees who were late or made mistakes. She identified Exhibit "G" as an order where [sic] requiring her to pay a fine.

9. Judge Delfina Hernandez Santiago the presiding judge of Branch 52, Metropolitan Trial Court of Caloocan City, was the last witness to testify for the complainants. The following is her story:

She had been sick and had been on leave since March of last year. For this reason, the respondent, who had been designated Vice Executive Judge, had to act in her stead.

Judge Santiago affirmed the contents of a verified eight-page letter (Exhibit I, I-1 to I-7; Record, pp. 17-24) which she had sent to the Court Administrator. This was submitted as her direct testimony.

In her letter, Judge Santiago stated that five ladies had unburdened themselves to her not only in her capacity as executive judge but because she was a woman. On Friday, August 8, 1997, she had gone to her office because she had been invited to lunch by birthday celebrants, Danilo Silverio and Esperancilla Kabiling. Upon her arrival, Ms. Kabiling had approached her and told her that Floride Dawa, one of her stenographers, urgently wanted to tell her something in confidence. Dawa entered the judge's office "red[-]eyed, red-faced and with a shiny nose". She kept clasping and unclasping her hands and could not stand still. She spoke in an incoherent and shaking voice which Judge Santiago could scarcely understand. She asked Dawa to sit down and compose herself. Dawa sat down and began to cry, so that her story could hardly be understood. Between sobs, the judge was able to piece out the fact that Dawa had been embraced and forcibly kissed twice on her lips by the respondent sometime that morning.

Dawa sought Judge Santiago's help to transfer to another court and she wanted her to talk to the respondent in order that the incident would not be repeated. Judge Santiago could not promise Dawa but she advised her to go home as she obviously was not herself. She further advised Dawa to think the matter over during the weekend and to talk to her parents about it. Judge Santiago promised to talk to Dawa again the next week.

After Dawa had left, Judge Santiago learned that Noraliz Jorgensen, a casual employee detailed to the OCC had had the same experience. To verify the truth, the judge went to the Office of the Clerk of Court and bluntly asked Noraliz Jorgensen whether it was true that she had been kissed by the respondent. Noraliz blushed and became red[-]eyed and told the judge of the several instances that the respondent had forcibly embraced and kissed her on the lips.

Judge Santiago sought out Judge Belen Ortiz who presides Branch 49. She related the stories of Dawa and Noraliz and asked Judge Ortiz whether she know of anyone from her branch who may have undergone the same experience. Judge Ortiz asked Jean Marie Lazo and the latter told them that there was one instance when she and Zenaida Reyes, another employee of the court, were seated on a bench near the door of their court and respondent sat between them and placed his arms on their shoulders and kissed them both on the cheeks. Jorgensen informed Judge Santiago that if Dawa would complain, she too would file a complaint. Judge

Santiago advised her to seek the counsel of her parents and her husband and to see her again the next week.

In the afternoon of August 13, 1997, Femenina Lazaro-Barreto, a court stenographer in Branch 53, accompanied by her sister, Jean Marie, came to see Judge Santiago. Femenina confessed to Judge Santiago that she, too, had been kissed and embraced by the respondent twice. In between sobs and with her handkerchief almost torn to shreds by her shaking hands, she related how she had harbored her shame in silence and her guilt at not being able to tell her husband.

That same week, Atty. Mona Lisa Buencamino also related her own story to Judge Santiago – how she was forcibly embraced and kissed on the lips by the respondent.

Mrs. Maria Victoria Cruz was the last one to tell Judge Santiago about the instances that the respondent had kissed her on her cheeks. Mrs. Cruz sought the assistance of Judge Santiago to transfer to another branch to escape the respondent."^[9]

The investigating justice summarized the testimonies of respondent's witnesses in this wise:

"1. Arniel Apostol, is 38 years old, married and the sheriff in respondent's branch. He affirmed the contents of his sworn statement (Exhibits 9 and 9-A; Record, pp. 56-57). He declared that he had been with the MeTC, Caloocan City, since 1980. In 1995, he was detailed to Branch 51 and later became its permanent sheriff.

In his sworn statement, Apostol declared that the respondent was an official who was faithful to his job. He observed office hours religiously. He was friendly and helpful to his personnel and was very approachable whenever they needed anything. The workers in his branch were free to enter his office, it being always open. It [was] not soundproof such that if anything improper happened inside, it could be heard outside.

Apostol further declared that since the respondent assumed office as judge, he had not heard of him being guilty of any improper conduct. On the other hand, he was the object of praise in his work even as a lawyer and as a fiscal.

Apostol continued saying he was surprised to learn that the respondent had been charged administratively by Nina (Femenina Barreto), Nora (Noraliz Jorgensen) and Flor (Floride Dawa) because he had not seen the respondent do anything indelicate to the three women. Whenever Nina came to Branch 51 to see the respondent, she would greet him with a "Hello Judge, I am sexy now". On the other hand, whenever Noraliz brought in documents for respondent's signature, she was always smiling going in and coming out of respondent's office. Apostol declared that he had seen Floride Dawa go to respondents' office only once and she was in company with other employees of Branch 52.

On cross examination, Apostol admitted that respondent's office ha[d] a back door and the same [was] locked with a main lock and two barrel bolts. It was his daily chore to open this back door from the inside by unlocking the barrel bolts. After he had done this he would go down to the street to await the arrival of the respondent.

2. Liza Moreno, 47 years old, married, was respondent's second witness. She is a court stenographer in Branch 51 presided by respondent. She had been with the MeTC since January 2, 1969. She affirmed the sworn statement consisting of two pages (Exhibits 10 and 10-A) which she had jointly executed with Lina V. Cara, a clerk in the same branch who had been in the service for 17 years.

She said that during the almost five years that she had been under the respondent, no one had charged him administratively. She described him as friendly and helpful to those working under him. His office was always open to his subordinates. The same is not sound proof such that if anything untoward happened inside or [if there was] any loud conversation [it] would be noticed by those in the staff room.

During these past days she was stunned to learn that Judge de Asa had been charged [with] sexual harassment

by Nina, Nora and Flor because she had not seen the respondent do anything indecent to these three women. Everytime Nina saw the Judge, she would smilingly greet him with such remarks as “Hi, Judge” or sometimes “Hello, I’m sexy now”.

She learned about the charges on August 8, 1997 when she [went] to the Office of the Clerk of Court to fetch Fe Apostol. She [was] told by the employees thereat about the incident. She said that she [went] up to Branch 51 [o]n the third floor to ask her coworkers whether they had heard the news that the respondent had kissed someone. Those who were still in replied that they had not.

Moreno further declared that Barreto used to come to Branch 51 to have papers signed by respondent and sometimes she came to cut the hair of certain employees, including the respondent himself. On the other hand, she had seen Dawa only once when she came with her co-employees at Branch 52 to have their daily time records signed.

3. Mario Muncal, respondent’s third witness is 47 years old and single. He affirmed the contents of his sworn statement (Exhibit 11; Record, p. 53).

Muncal stated that on August 7, 1997, he had gone to see the respondent about a job in the MeTC. When he entered respondent’s office, Atty. Buencamino was with him. De Asa introduced Muncal to Buencamino telling her about his application for a job in the court. Atty. Buencamino told Muncal to wait for her at her office. When Muncal saw Buencamino, the latter told him that he would have to undergo an observation period of one to two weeks. She further told him that although he had been recommended by respondent, she would be his direct superior and he was admonished not to relate anywhere else whatever he heard or saw in her office.

Muncal was “taken aback” by this admonition knowing that respondent, as executive judge, was her superior and was entitled to know everything that happened in the clerk of court’s office. He left after Buencamino had told him to return on August 11 to begin his observation period. He returned to the respondent to thank him for his assistance.

Muncal learned that Atty. Buencamino had another candidate for the vacant position so that he had second thoughts about returning to her. However, on August 16, 1997, after reading in the papers that respondent was being charged with sexual harassment upon the instigation of Atty. Buencamino, he decided to see respondent and relate to him what had happened on August 11, 1997.

4. Respondent Judge Armando C. de Asa, took the stand in the afternoon of February 24, 1998. He affirmed his nine-page answer to the present charges (Exhibit “12”; Record, pp. 37-45).

Respondent declared that while there [was] a back door to his private office, the same [was] locked from the inside with two barrel bolts besides a main lock. Every day, he would use this door for entering his office as well as going out of it in order to avoid “ambush talks” with people. It was the duty of Arnel Apostol to draw the barrel bolts before respondent arrived at his office so that when he came, he could open the main lock with his key and have no difficulty in entering the said office. Whenever Apostol was absent, it was Fernandez who did the opening for respondent.

In his written answer to the charges, respondent claimed that all these charges “were obviously instigated and altogether orchestrated”. He accused the Clerk of Court, Atty. Mona Liza Buencamino, as the “prime mover of this cabal” and that aside from her there were “other people behind the conspiracy” who ha[d] yet to be uncovered.

Respondent further claimed that “the complaints were set up, hatched and designed, to destabilize and destroy the good image of the undersigned created in the minds of party litigants, government, local as well as private concerns, in Caloocan City. Although, known to be strict [in] fining lawyers, litigants, court personnel and even himself, for unsatisfactory and unexpected justifications for violations of court rules and procedures, he

had gained respect and admiration for his reasonable, well[-]balance[d], compassionate and well[-]meant application of the rule of law”.

As a possible reason for the animosity of Atty. Buencamino toward him, the respondent stated in his Answer, the following:

“Accordingly, as acting executive judge, work concerns and attitudes, were honed up if not altogether dramatically changed. Misconceptions have been straightened up. It was emphasized that the Office of the Clerk of Court [was] not an independent body. It must be the secretariat or unit that should serve and cater not only to its own concern, but that of all the administrative as well as functional requirements of the Metropolitan Trial Courts, thereat. Not because, it is called the Office of the Clerk of Court, would mean that the clerk of court installed, is a co-equal of the judges thereat. It was made clear that it was for this reason why an Executive Judge/Vice Executive Judge is designated, to fill up this impasse. Further, as clerk of court, functionally, such a position is under the direct control and supervision of all judges thereat. Accordingly, except those as provided for under the rules and applicable circulars, when a clerk of court can act independently, any action, movement, process and exercise, taken, with national, local as well as private agencies must bear the imprimatur of the executive Judge. This directive apparently was not observed. Either it was misunderstood, taken lightly, seriously resisted or even disregarded. But its non-observance cannot be excused or countenanced.

“Monthly meeting[s] with all clerks of court were scheduled and designed to update and enhance their working knowledge on assigned task[s]. Important concerns and problems of their offices [were] supposed to be taken up.

“Hours of work were strictly implemented, loitering/roaming around during office hours was prohibited, time records of the Clerk of Court. Clerks of Court of branches including its [sic] personnel, with presiding judges on leave or vacant, must after, its being authenticated, must [sic] be signed by the Executive Judge.

“Reports of immoral acts and loose moral values were received, specifically in the office of the clerk of court. Ms. Buencamino was apprised and directed to closely monitor such problem. Before the staging of this hatch-up, the undersigned received reports of its unabated occurrences. However, either these were treated with tolerance or viewed with blind eyes.

“Most importantly, for purposes of effective control, an installation of an office for the Executive Judge was conceived. This project was apparently disliked. It was about the last week of July or first week of August, 1997, that Judge Santiago informed the undersigned, that we ha[d] to implement such a scheme. The plan was to get the room of Atty. Buencamino, to house the Executive Judge[‘s] office, as its perimeter, appeared easily organizable with least renovation and expense, for a conference room and a library, folded into one. Buencamino, in turn, would take the room of David Maniquis, deputy clerk of court, who should occupy the executive table used by the former, located outside, along with OCC personnel for proper monitoring and active control of the affairs in the office.

“As related to me by Judge Santiago, she told Mona Lisa about it and insinuated to her, to follow first before talking with me, have the room vacated, place pertinent documents/papers, to be signed and attended to, locked [sic] it, if the Executive Judge, [was] not around. Atty. Buencamino approached me in disgust, proposing an alternative. She submitted a plan for renovation, as she insisted in maintaining her present location. She suggested to move the Executive Judge[s] office in the middle, the end part, housing the office of Maniquis, [to] be the one to be converted as conference room and library. For her to occupy David Maniquis[‘] office was ‘bad punsoy’ (feng shui). However, Judge Santiago’s directive was firm. Mona Lisa must have to comply first. The matter of renovation, to be further studied. The suggested sketch plan with scribblings from Judge Delfina Santiago dated August 6, 1997, is likewise hereto attached as annex ‘7’. Mrs. Buencamino vacated her office, refused David Maniquis’ room and stayed [at] her table outside with the OCC’s personnel.

“Also during the occasion, as there was a vacancy for the position of a sheriff in the said office, the

undersigned recommended one Mario Muncal, Jr. y de Castro, telling Ms. Buencamino that for the more than four (4) years that he stayed in the office, he was not given the privilege of appointing one of his own choice. She retorted to try Muncal as an understudy for about one (1) to two (2) weeks. The undersigned acceded. Mr. Muncal followed Ms. Buencamino to her office where he was interviewed, advised and instructed by the latter. He came back before he left and informed me of the developments but he never showed up at the designated time. He reappeared after reading the accounts in the newspapers about the complaints lodged against me, with revealing statements why he gave a second thought [about] returning or not. His affidavit is attached as Annex '8'" (pp. 3-5, Exhibit 12; pp. 39-41 of the Record). (Underscoring supplied).

Considering the above, respondent believed that "Ms. Mona Lisa Buencamino, took all my actions, with disdain, suspicion, more so, with resistance. On her face, she regretted the fact of my designation as Acting Executive Judge. She is not used to being controlled. She would want to maintain her 'madrina' and 'godmother' (i.e. influential, wealthy, etc.) image not only among the employees but also among the judges as well. Thus, these pathos, comics." (p. 5, Exhibit 12, Record, p. 41).

On the witness stand respondent vehemently denied the story of Floride Dawa. He stated that on August 8, 1997, he had come to work between 9:30 and 10:00 o'clock in the morning. Neither Apostol nor Fernandez met him. He found that his back door was still closed and could not be opened with his key. For this reason he had to enter through his courtroom. He said he did not see Floride Dawa near the comfort room that morning. He saw her at 11:45 when he made his rounds as executive judge.

The above testimony is also in respondent's Exhibit '12' where he stated that:

'The Floride Dawa story, that she was seen by the undersigned after coming from the public toilet located along the third floor hallway obliquely facing the backdoor exit of the undersigned's chamber, asking her whether said comfort room was cleaned, to which she retorted in the negative, thereafter calling her up, placing the judge's arm around her shoulders, led her to his room and twice kissed her, to which she reportedly resisted. Afterwards, conversing with him, answering questions, as the latter sat comfortably at his seat, as though nothing had transpired. This is quite indeed a long process to lend credence to such prevarication. Aside from the fact, that the backdoor of the undersigned's office was not shown to have been closed on the date the alleged sham had happened, a verification of the site where the reported incident took place would show that the backdoor of the undersigned's office leads to a wide public hallway fronting directly the stairs servicing the second and third floor[s] of said building, where people come and go. The circumstances of persons, time and place cannot fit under such a frame set.['] (pp. 6-7, Exhibit 12; pp. 42-43 of the Record).

As regards the charges of Noraliz Jorgensen, he expressed surprise that Buencamino believed her story. The following is what he said:

[']Surprisingly, Mona Lisa coddled Noraliz L. Jorgensen, a casual employee, x x x detailed at the office of the Clerk of Court, and believed her story. Ms. Jorgensen is reportedly separated from her husband. Her credibility throughout the court's environs appears highly questionable, especially among her staff in the Office of the Clerk of Court. In fact, an unsigned letter was sent not only to the undersigned but also with Judge Santiago, divulging, her unchaste relationship with a co-employee, also assigned in the office of the Clerk of Court. x x x Ms. Buencamino, as her immediate superior, was advised, to closely monitor on [sic] this. Despite thereof [sic], the illicit relationship appeared to have continued. Nonetheless, she was convinced by Buencamino to execute and swear to a statement, which [was] maliciously and boldly concocted. x x x. Be that as it may, the story of 'victim' Noraliz borders the realm of illusion and fiction. In no less than three (3) occasions, the dates of which, to lend credibility, were fixed to coincide when the allowances were allegedly released and given to the respective judges, she claimed to have been licked at her ear, her mouth forced open, and kissed by the undersigned. If one was indeed a victim of such sexual harassment or lascivious conduct, why would she, after the first incident (January 31, 1997) return for the second (May 26, 1997) and third time (August 4, 1997) and

allow herself to suffer the same fate[?] This indeed, is preposterous. It does not have the rings of truth to it. Her lame excuse, that no one could do her assigned chore, does not have any legal as well as factual leg to lean on. As far as the undersigned can remember, there was Roderick Corral (Odi) who can do it. One Baby Mapue had occasion to do the same chore. Even others in the OCC can perform such feat. Such signing is not the exclusive affair of Noraliz L. Jorgensen. Even the August 4, 1977 incident, would not dissuade [sic] a person in her right mind, that she will still allow herself to be left behind by a co-employee (Roderick Corral) whom she saw ahead of her inside the judge's office and be subjected to the same alleged indignant act. This is plainly ABSURD.' (pp. 5-6, Exhibit 12, pp. 41-42 of the Record).

Regarding the story of Femenina Lazaro, respondent said the following:

[']Lastly, the Femenina Lazaro Barreto account appear[s] to be a mere patch up. Under the principle that in numbers there is strength, they blended another scenario consistently claiming that they were kissed, their mouths forcibly opened. In Barreto's version, she claimed that she went to the office of the undersigned to have an order signed as their Presiding Judge was then, on leave. Immediately thereafter, the judge stood up, approached her and kissed her. This was allegedly repeated[,] she reportedly resisted. Then she left.

The size and arrangement of the undersigned's chamber, would rule out such hallucination. The undersigned ha[s] developed the attitude of transparency, in his dealings with the public and his personnel. His room [is] always open. Everybody come[s] and go[es]. His staff can go inside, any time they wish, without even knocking at his door, [get] cold water and even [use] his private comfort room. How then could this be possible.

In all these instances, nothing unusual was seen or heard, much less substantiated, except the self serving narrations of the alleged offended parties themselves. If there was really any commotion or resistance that occurred, the same could not escape the ears of my personnel, whose tables are constrictedly [sic] placed and immediately outside. In fact, even the dates alluded to, were even tailored to fit and coincide, just to give credence, to the presence of the complainants, in the alleged places of incident.['] (p. 7, Exhibit 12; p. 43, Record)."[10]

After evaluating all the pieces of evidence presented by the parties, Justice Romulo S. Quimbo arrived at a conclusion, the salient portions of which are reproduced below:

"1. There is sufficient evidence to create a moral certainty that respondent committed the acts he is charged with. The testimonies of the three complainants were not in any manner emasculated by the lengthy and thorough cross examination personally conducted by the respondent. Incidentally, the undersigned had to recess the investigation several times to give complainants time to compose themselves as they invariably broke down in tears as they were required to relate the repeated violations of their persons and their honors by respondent.

Complainants' declarations were also fully corroborated by the persuasive testimony of Judge Santiago who had the opportunity of hearing Dawa's story soon after it had occurred and the uninhibited retelling by the other complainants. Judge Santiago, on her own accord, wrote a verified letter to the Court Administrator (Exhibits I, I-1 to I-7; Record, pp. 17-24), wherein she narrated all that she knew of the different incidents. x x x.[11]

x x x x x x x x

2. Respondent has not proven any vicious motive for complainants to invent their stories. It is highly improbable that the three complainants would perjure themselves only to accommodate Atty. Buencamino who may have had some real or imagined resentment against respondent. Moreover, the reason given by respondent for the ill will that Atty. Buencamino felt against him is too superficial to genuinely cause such malevolence, specially because it was Judge Santiago who insisted on the relocation of Atty. Buencamino so that her office

could be used by the executive judge.[12]

x x x x x x x x

The fact that respondent was strict in requiring the employees of the court to perform their duties and to observe office hours and his prohibition against loitering and idleness in the premises of the court is not enough to motivate [the] three women into exposing themselves to ridicule and chastisement, not to mention criminal prosecution, by relating false stories that would also be derogatory to them.

Jorgensen may have entertained some hostility at respondent's calling her attention to an anonymous letter which mentioned her indiscretions with another employees of the OCC who was also married. We are not convinced that this would move her into fabricating a story as shocking as the one she related under oath. x x x.[13]

x x x x x x x x

Respondent may have committed an error of judgment when he misjudged the young Floride Dawa to be fair game. Feeling perhaps that the nod Dawa gave him, when she saw him as she was about to enter the comfort room, was an invitation, he took advantage of the young maiden and forced himself on her. Perhaps because Dawa was naïve and innocent, she panicked and became near hysterical prompting Carpio to question her. This broke the dam, so to speak. When it became known that Floride Dawa was going to file a case against respondent, a slew of indignant women surfaced also wanting to file charges against respondent for his many indiscretions. How many more remain who prefer to suffer their humiliation in silence, we can only speculate.[14]

3. Respondent's denials cannot overcome the probative value of the positive assertions of complainants and their witnesses. This is elementary. Neither were the negative observations of respondent's witnesses sufficient to belie the complainants' declarations. All his witnesses could attest to was that they had not seen respondent do anything obscene to the complainants nor to others. The fact that they did not see such lewd acts is not proof that they did not occur specially so because they were all done in the privacy of respondent's chambers.[15]

x x x x x x x x

PREMISES CONSIDERED and in line with the decisions in Junio vs. Rivera, Jr., supra and Talens-Dabon vs. Arceo, supra, we regretfully recommend that respondent be dismissed from the service for gross misconduct and immorality, with forfeiture of all retirement benefits and with prejudice to reemployment in any branch of the government, including government owned or controlled corporations.”[16]

The Court reviewed the entire record of the instant administrative case and found the findings, conclusion and recommendation of the investigating justice to be adequately substantiated by the evidence presented by the parties and anchored on applicable law and jurisprudence. Thus, with no need to rehash the reprehensible indiscretions of the respondent judge, we adopt the conclusion and recommendation of the investigating justice.

The people's confidence in the judicial system is founded not only on the magnitude of legal knowledge and the diligence of the members of the bench, but also on the highest standard of integrity and moral uprightness they are expected to possess.[17] More than simply projecting an image of probity, a judge must not only appear to be a “good judge”; he must also appear to be a “good person.”[18] It is towards this sacrosanct goal of ensuring the people's faith and confidence in the judiciary that the Code of Judicial Conduct mandates the following:

“CANON 1

A JUDGE SHOULD UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY.

RULE 1.01. -- A judge should be the embodiment of competence, integrity, and independence.

x x x x x x x x

CANON 2

A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES.

RULE 2.02. – A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.”

The Canons of Judicial Ethics further provides: “A judge’s official conduct should be free from the appearance of impropriety, and his personal behavior, not only upon the bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach.”

By the very nature of the bench, judges, more than the average man, are required to observe an exacting standard of morality and decency. The character of a judge is perceived by the people not only through his official acts but also through his private morals, as reflected in his external behavior. It is therefore paramount that a judge’s personal behavior, both in the performance of his duties and in his daily life, be free from the appearance of impropriety as to be beyond reproach.[19] For this reason, “[t]he Code dictates that a judge, in order to promote public confidence in the judiciary, must behave with propriety at all times.”[20] This mandate has special import for municipal and metropolitan trial court judges, like herein respondent, since they are the “front-liners” of the judiciary who serve more people at the “grass-roots” level of society.[21]

In the present case, we find totally unacceptable the temerity of the respondent judge in subjecting herein complainants, his subordinates all, to his unwelcome sexual advances and acts of lasciviousness. Not only do the actions of respondent judge fall short of the exacting standards for members of the judiciary; they stand no chance of satisfying the standards of decency even of society at large. His severely abusive and outrageous acts, which are an affront to women, unmistakably constitute sexual harassment because they necessarily “x x x result in an intimidating, hostile, or offensive environment for the employee[s].”[22] Let it be remembered that respondent has moral ascendancy and authority over complainants, who are mere employees of the court of which he is an officer.

In view of the stature of respondent judge, as well as his authority and official responsibility over the complainants, who were his subordinates in the Metropolitan Trial Court of Caloocan City, the Court concludes with moral certainty that he acted beyond the bounds of decency, morality and propriety and violated the Code of Judicial Conduct. The bench is not a place for persons like him. His gross misconduct warrants his removal from office.[23] In resolving this administrative matter, we deem it apt to iterate our pronouncement in *Talens-Dabon vs. Arceo*, viz.:

“Respondent has failed to measure up to these exacting standards. He has behaved in a manner unbecoming of a judge as a model of moral uprightness. He has betrayed the people’s high expectations and diminished the esteem in which they hold the judiciary in general.

x x x x x x x x

The actuations of respondent are aggravated by the fact that the complainant is one of his subordinates over whom he exercises control and supervision, he being the executive judge. He took advantage of his position and power in order to carry out his lustful and lascivious desires. Instead of being in loco parentis over his subordinate employees, respondent was the one who preyed on them, taking advantage of his superior position.”[24]

WHEREFORE, Respondent Judge Armando C. de Asa is hereby DISMISSED from the service for gross misconduct and immorality, with forfeiture of all retirement benefits and leave credits and with prejudice to reemployment in any branch of the government, including government-owned or controlled corporations.

SO ORDERED.

Narvasa, C.J., Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Martinez, Quisumbing, and Purisima, JJ., concur.

[1] Rollo, AM No. MTJ-98-1144, p. 1.

[2] Stenographer II, Branch 52, Metropolitan Trial Court, Caloocan City.

[3] Stenographer II, Branch 53, Metropolitan Trial Court, Caloocan City.

[4] Casual employee, Office of the Mayor, detailed to the Office of the Clerk of Court, Caloocan City.

[5] Rollo, AM No. MTJ-98-1144, P. 63.

[6] Clerk of Court IV, Metropolitan Trial Court, Caloocan City.

[7] Rollo, AM No. MTJ-98-1148, pp. 2-3.

[8] Ibid., p. 32.

[9] Report, pp. 1-16.

[10] Ibid., pp. 17-28.

[11] Ibid., pp. 29-30.

[12] Ibid., p. 31.

[13] Ibid., p. 33.

[14] Ibid., pp. 34-35.

[15] Ibid., p. 35.

[16] Ibid., p. 38.

[17] Talens-Dabon vs. Arceo, 259 SCRA 354, 366-367, July 25, 1996.

[18] See Address delivered by Chief Justice Andres R. Narvasa at the Judicial Career Development Program for Judges, Tagaytay City, November 25-29, 1991, Reflections on Law and Justice, 1994 ed., p. 84.

[19] Socorro Yulo-Tuvilla vs. Judge Rolando V. Balgos, AM No. MTJ-98-1149, p. 5, March 31, 1998.

[20] Junio vs. Rivera, Jr., 225 SCRA 688, 706, August 30, 1993; citing Castillo vs. Calanog, Jr., 199 SCRA 75, July 12, 1991.

[21] Ibid., pp. 706-707.

[22] Sec. 3, par. A, no. 3, Republic Act No. 7877. See also Meritor Savings Bank, FSB, v. Mechelle Vinson et al., 477 US 57, 91 L Ed 2d 49, 106 S Ct 2399, decided June 19, 1986.

[23] Apiag vs. Cantero, 268 SCRA 47, 60, February 12, 1997.

[24] Supra, p. 368.

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