

## THIRD DIVISION

[ **A.M. No. RTJ-16-2450 (Formerly A.M. No. 14-4324-RTJ), June 07, 2017** ]

**PO1 MYRA S. MARCELO, COMPLAINANT, VS. JUDGE IGNACIO C. BARCILLANO, BRANCH 13, REGIONAL TRIAL COURT (RTC), LIGAO CITY, ALBAY, RESPONDENT.**

### DECISION

**JARDELEZA, J.:**

On September 25, 2014, the Office of the Court Administrator (OCA) received a complaint-affidavit<sup>[1]</sup> for grave misconduct from PO1 Myra S. Marcelo (complainant) against Judge Ignacio C. Barcillano (Judge Barcillano) and Atty. Ernesto Lozano, Jr. (Atty. Lozano) of Branch 13 of the Regional Trial Court (RTC) and the Public Attorney's Office (PAO), respectively, in Ligao City, Albay.

The complainant alleged that on July 4, 2014, she and her companion PO1 Jovie Batacan (PO1 Batacan) were "harassed and humiliated" by Judge Barcillano who acted "in unison, confederation and conspiracy" with Atty. Lozano.<sup>[2]</sup> Complainant attached her *Sinumpaang Salaysay*<sup>[3]</sup> in the complaint-affidavit along with sworn statements executed by PO1 Batacan<sup>[4]</sup> and Leonardo Rosero (Leonardo).<sup>[5]</sup> She also attached Certifications issued by the Ligao City Police Station regarding the official police blotters made about the July 4, 2014 incident.<sup>[6]</sup>

In her *Sinumpaang Salaysay* dated July 7, 2014, complainant narrated that she and PO1 Batacan were on duty as security officers at the Ligao Regional Trial Court Building (Hall of Justice) when they were approached by Judge Barcillano and Atty. Lozano. Although PO1 Batacan immediately stood up to greet the newcomers, complainant, who claims to have been taken by surprise, took a while before she was able to stand up, bow her head, and greet them "Sir." Despite this, she alleged that Judge Barcillano asked Lorna Roquid, an RTC employee sitting with the police officers at the security desk at the time of the incident, to leave and told complainant to sit down next to him. When she complied, Judge Barcillano asked her to go back where she was previously seated. Complainant was asked to do this repeatedly which embarrassed her.<sup>[7]</sup>

Complainant also narrated that Judge Barcillano thereafter asked her if she knew who he was. When, in her state of nervousness, she got his name wrong, Judge Barcillano asked for her name several times and even insulted her by saying "PO1 *ka lang*."<sup>[8]</sup>

Judge Barcillano, with Atty. Lozano, also allegedly harassed complainant about her firearm, including asking for the original of her Acknowledgment Receipt of Equipment (ARE), asking for the gun to check for the serial number and cocking it

many times in front of her and other court employees. Complainant claimed that when Judge Barcillano was not initially able to find the serial number, he handed the firearm to Dennis Arjona, Acting Foreman of the Maintenance Division, who, after verifying that the serial numbers in the ARE and the gun match, returned the same to complainant.<sup>[9]</sup>

Later on, complainant recounted that Judge Barcillano called Leonardo, the husband of Executive Judge Amy Ana L. de Villa-Rosero (Executive Judge Rosero). When Leonardo approached, Judge Barcillano then said: "*Lokoloko ka pala eh, ano bang pinagmamalaki mo, ano? Magsusumbong ka?*" Leonardo reportedly replied: "*Tinawag mo po ako Sir, wala naman akong ginagawang masama.*" Atty. Lozano then tried to mediate when Judge Barcillano cursed Leonardo by saying "*Tarantado ka pala.*" Afterwards, Judge Barcillano left the building.<sup>[10]</sup>

In her *Sinumpaang Salaysay* dated July 7, 2014,<sup>[11]</sup> PO1 Batacan narrated that on July 4, 2014, she immediately left after greeting Judge Barcillano because she noticed that his eyes were red and he smelled of alcohol. Although she initially thought that complainant followed her out, she later on saw that Judge Barcillano was talking to complainant and cocking her gun. PO1 Batacan states that she tried to signal complainant to go but that the latter was unable to leave. She also claims she saw Judge Barcillano call for a man. Afterwards, he left the building and boarded his car. PO1 Batacan recounts that she immediately went to complainant who told her about Judge Barcillano's acts of shaming her and Leonardo.

For his part, Leonardo, in his *Sinumpaang Salaysay* dated August 5, 2014,<sup>[12]</sup> claimed that on the day of the incident, he was at the Hall of Justice waiting for his wife, Executive Judge Rosero, when Arjona called him and pointed to a small bag the latter was carrying which allegedly contains a firearm owned by Judge Barcillano. At the time, respondent Judge was standing by the security desk and cocking a gun. Judge Barcillano saw Leonardo and called him out using a hand sign. He greeted Judge Barcillano, who thereafter sat down and drank his coffee. Leonardo claims that Judge Barcillano suddenly said "*Lokoloko ka pala, eh.*" When Leonardo replied "*Judge, tinawag mo po ako at wala naman akong ginagawang masama,*" Judge Barcillano allegedly told him: "*May pinagmamalaki ito! Ano? Magsusumbong ka!*" Leonardo claims he tried to leave the place to avoid further altercations but that Judge Barcillano allegedly tried to punch him and said "*Tarantado ka pala!*" Fortunately, Arjona was able to hold respondent Judge back and convinced him to go home. Leonardo then noted that Judge Barcillano was drunk and could not walk straight, having apparently shared some drinks with court employees during working hours.<sup>[13]</sup>

On November 5, 2014, the OCA referred the complaint-affidavit to Judge Barcillano for comment.<sup>[14]</sup>

In his Comment dated December 4, 2014,<sup>[15]</sup> Judge Barcillano essentially denied the allegations of grave misconduct and harassment made by complainant and her witnesses. He claims that the complaint is a result of his disagreement with Executive Judge Rosero, the Executive Judge, on some matters. For example, Judge Barcillano claims the complaint is Executive Judge Rosero's act of revenge against him for supposedly "castigating" her husband Leonardo inside the Hall of Justice. He

also states that they have differences in opinion as to Executive Judge Rosero's act of allowing police officers to act as security personnel for the Hall of Justice.<sup>[16]</sup>

Judge Barcillano does not deny saying the words "PO1 *ka lang?*" to complainant. He claims, however, that the same was made on a "clarificatory manner and purpose."<sup>[17]</sup> According to Judge Barcillano, during the incident on July 4, 2014, complainant, as she recounts, switched her seat several times but denies that the switching was made on account of his orders. He claims that complainant "seemed to be uneasy x x x, cornered and obviously nervous, for reasons she knows for herself only."<sup>[18]</sup> Judge Barcillano also does not deny that he asked for complainant's gun and ARE to check if the same was properly booked as he was "security conscious" due to prior instances of firearm-related violence in the vicinity of the Hall of Justice.<sup>[19]</sup> He also denies that he was under the influence of alcohol at the time, as claimed by PO1 Batacan and Leonardo. Judge Barcillano avers that his eyes may have been reddish at that time but this is on account of the usual voluminous paperwork in his office especially during Fridays (motion day). He also points out that: (1) nowhere in complainant's *Sinumpaang Salaysay* did she claim that he was drunk; (2) PO1 Batacan, who left immediately after greeting him, has no basis to say that he was drunk; and (3) Leonardo cannot believably claim that he saw Judge Barcillano drinking during office hours as he (Leonardo) himself claims that he arrived at the Hall of Justice at 3:50 PM, on or about the time of the incident complained of. The claim that he was drunk was thus "purely speculative and conjectural."<sup>[20]</sup>

Judge Barcillano likewise admits uttering the words "*Bakit mayabang ka?*" and "*Bakit paki-alamero ka?*" to Leonardo. Contrary to Leonardo's claim, however, Judge Barcillano denies ever having said the words "*Tarantado ka*" and the like. Taken in light of Leonardo's disrespectful and unsolicited declaration immediately prior, Judge Barcillano claims that the uttered words are not wrongful in themselves.<sup>[21]</sup>

In his *Sworn Explanation and Comment*,<sup>[22]</sup> Atty. Lozano essentially corroborated Judge Barcillano's narration of the events.

Due to the factual inconsistencies and contradictions between the opposing versions, the OCA recommended the conduct of a formal investigation.<sup>[23]</sup> Hence, in a Resolution dated March 2, 2016,<sup>[24]</sup> we resolved to re-docket the complaint as a regular administrative matter and refer the administrative matter to the Presiding Justice of the Court of Appeals, Manila for investigation, report, and recommendation.

On April 12, 2016, Associate Justice Normandie B. Pizarro was designated as the Investigating Justice.<sup>[25]</sup> After the conduct of hearing and the filing of the parties' respective memoranda, the Investigating Justice submitted his Report and Recommendation.<sup>[26]</sup> There, he found that Judge Barcillano conducted himself in an unbecoming manner, though not constitutive of grave misconduct, unbecoming of his stature as an esteemed officer of the court:

The circumstances presented above demonstrate how Judge Barcillano, Jr. conducted himself below the standard of decorum expected of a judge. His actions, words, and line of questioning appear to have been done arrogantly and uncalled for. In the first place, he should not have