

## EN BANC

**[ A.M. No. P-09-2621 [Formerly OCA-I.P.I. No. 08-2939-P], September 20, 2016 ]**

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.  
EDUARDO T. UMBLAS, LEGAL RESEARCHER, REGIONAL TRIAL  
COURT, BRANCH 33, BALLESTEROS, CAGAYAN, RESPONDENT.**

## DECISION

### PER CURIAM:

This is an administrative' case charging respondent Eduardo T. Umblas (*Umblas*), Legal Researcher, Regional Trial Court, Branch 33, Ballesteros, Cagayan (*RTC*) with grave misconduct and violation of Republic Act (*R.A.*) No. 6713, otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees, for his act of certifying as true copy a spurious court decision, which declared the marriage of Maria Noemi Bautista-Pabon (*Noemi*) and Ramil Pabon (*Ramil*) null and void, and issuing a certificate of finality relative to the said decision.

### *The Antecedents*

On August 15, 2008, Noemi filed her Complaint<sup>[1]</sup> with the Office of the Court Administrator (*OCA*) against Umblas; the RTC Clerk of Court Atty. Rizalina Aquino (*Atty. Aquino*) for violation of the Code of Conduct for Judicial Employees or Court Personnel; and Judge Eugenio Tangonan, Jr. (*Judge Tangonan, Jr.*) for violation of the Code of Judicial Ethics and Conduct.

Complainant Noemi alleged, among others, that she was constrained to file criminal charges against her husband, Ramil, for violation of R.A. No. 9262, or the Anti-Violence Against Women and Their Children Act, before the Pasay City Prosecutor's Office, and for Adultery and Concubinage before the Provincial Prosecutor's Office of San Pedro, Laguna; that on July 22, 2008, Atty. Romeo Lumagui, Jr. (*Atty. Lumagui, Jr.*), Ramil's counsel, filed his Motion to Re-open Preliminary Investigation and Admit Attached Documentary Evidence<sup>[2]</sup> on the basis of a newly-discovered evidence in connection with the R.A. No. 9262 case before the Pasay City Prosecutor's Office; that the attached documents turned out to be copies of the June 20, 2005 RTC Decision<sup>3</sup> penned by Judge Tangonan, Jr., in Civil Case No. 33-328C-2005, entitled "Ramil- Pabon vs. Noemi Bautista-Pabon," and the December 18, 2005 Certificate of Finality<sup>[4]</sup> both issued by Umblas relative to the said decision; and that both documents were stamped with "Certified True Copy" bearing the name and the signature of Umblas.

Noemi further claimed that she inquired from the Office of the Solicitor General (*OSG*) and the said office issued a certification,<sup>[5]</sup> dated July 30, 2008, stating that it had not received any pleading or kept any record pertaining to Civil Case No. 33-328C-2005; that she went to Ballesteros, Cagayan, where the dubious decision was

promulgated, to verify the veracity of the subject documents; that she went to the RTC and discovered that no such case existed in the court docket as verified by the court stenographer and the sheriff; that she talked to Umblas who refused to say whether such case was recorded in the court docket and denied her request for copies of the case records; that she was able to talk on the phone with Atty. Aquino who was on leave that day and could not come to the office despite her request; and she also looked for Judge Tangonan but she was told that he had already retired.

Noemi prayed that Umblas, Atty. Aquino and Judge Tangonan, Jr. be all found guilty of Grave Misconduct and be penalized accordingly because she believed that the subject documents were non-existent and fabricated because at the time the RTC decision was allegedly rendered on June 20, 2005, she and Ramil were still living together in Batangas and never in Ballesteros, Cagayan.

#### *At the OCA level*

In a letter,<sup>[6]</sup> dated August 28, 2008, the OCA informed Noemi that Judge Tangonan, Jr. had compulsorily retired on April 26, 2006 and that it could no longer exercise supervision over him, but assured her that Umblas and Atty. Aquino would be required to comment on the complaint.

On September 8, 2008, in its 1<sup>st</sup> Indorsement,<sup>[7]</sup> the OCA required Umblas and Atty. Aquino to submit their respective comments within ten (10) days from receipt of a copy.

On October 9, 2008, Atty. Aquino filed her Comment<sup>[8]</sup> and explained that she was on leave on the day complainant Noemi arrived at the RTC office; that she was not familiar with the case as the document was dated June 2005 and she assumed office only in July 2005; that she asked Noemi to leave copies of the document but she did not; that she made contact with Noemi and got the information regarding the case; that she verified the same and on August 21, 2008, she issued a certification<sup>[9]</sup> attesting that the petition for declaration of nullity of marriage of Ramil and Noemi was not filed with their court; and that she performed her duties as Clerk of Court diligently, promptly and religiously.

In his Comment,<sup>[10]</sup> dated December 12, 2008, Umblas claimed that he neither issued nor consented to the issuance of the subject documents considering that there was no such case filed with the RTC; that his signatures appearing in the subject documents were imitations; that the lack of proof of payment for the certificate of finality meant that the same was fraudulent; and that it was Ramil's duty to provide an explanation as to how the subject documents came into existence consistent with the doctrine that the person in possession of a falsified document, who used it and who benefited therefrom, was presumed to be the author thereof.

In the Court's Resolution,<sup>[11]</sup> dated March 25, 2009, it was resolved that the complaint against Umblas be re-docketed as a regular administrative case and assigned to the Executive Judge of the RTC of Ballesteros, Cagayan, for investigation, report and recommendation. The Court, in the same resolution, dismissed the complaint against Atty. Aquino as it was not substantiated.

Later on, Noemi moved for change of venue because Umblas was one of the staff members of the Executive Judge. The Court, in its November 23, 2009 Resolution, [12] granted the motion and assigned the case to Executive Judge Vilma Pauig (*Judge Pauig*) of RTC, Tuguegarao City.

On August 11, 2010, a motion for inhibition was filed by Umblas on the ground that Judge Pauig admitted that she was personally familiar with Atty. Aquino, and that the latter, as Clerk of Court of the RTC, would have an inevitable role in the said inquiry. Thus, in her November 5, 2010 Order, Judge Pauig inhibited herself from further investigating the case.

The Court, in its Resolution, [13] dated February 7, 2011, assigned the investigation of the case to Vice Executive Judge Lyliha Aquino of RTC, Branch 4, Tuguegarao City. The latter, however, voluntarily inhibited herself because the Executive Judge of RTC, Ballesteros, Cagayan, who was the immediate superior of Umblas, was her classmate in law school. In another Resolution, [14] dated January 25, 2012, the Court designated Acting Presiding Judge Pablo Agustin of RTC, Branch 1, Tuguegarao City, who also inhibited himself because of his close friendship with Umblas.

Finally, Judge Raymond Reynold Lauigan (Judge Lauigan) who assumed performance of judicial functions in Branch 1, was directed by the Court, in its July 15, 2013 Resolution, [15] to take over the investigation.

Thereafter, Judge Lauigan took over the continuation of the investigation.

#### *The Report and Findings of the Investigating Judge*

In his Investigation Report and Findings, [16] dated February 28, 2015, Judge Lauigan determined that there was substantial evidence to hold respondent Umblas liable for grave misconduct. He found that the respondent participated in the production of the subject documents. He gave credence to the declaration of Atty. Randy Vega (*Atty. Vega*), Ramil's friend, whom the latter asked to go to the RTC and check on the status of his case for declaration of nullity of marriage. The report cited the Affidavit [17] of Atty. Vega, dated January 9, 2009, which stated that it was Umblas who handed to him the said documents. Judge Lauigan noted that the said statement of Atty. Vega was never categorically refuted by the respondent. Umblas instead claimed that Atty. Vega was "a total stranger to him"; that the statement of Atty. Vega was part of Noemi's documentary evidence in several cases she had filed against him but which were all dismissed; and that he could not have furnished the subject documents as he was no longer the OIC since July 2005.

Judge Lauigan did not give weight and credence to Umblas' defense of denial as the same was self-serving and not corroborated by other independent evidence. With regard to the respondent's claim of forged signatures, the report concluded that respondent failed to discharge the burden of proving that his signatures in the subject documents were indeed forged.

This investigation report and recommendation was referred to the OCA for its evaluation, report and recommendation.

In its Recommendation,<sup>[18]</sup> dated November 9, 2015, the OCA affirmed the findings of Judge Lauigan that Noemi was able to prove by substantial evidence that Umblas was guilty of grave misconduct. It was established that the subject documents were spurious. The OCA considered the testimonies of Noemi, Atty. Vega and Atty. Lumagui, Jr. as sufficient evidence to hold Umblas responsible for the issuance of the subject documents. It explained that their categorical and positive declarations prevailed over the plain denial of the respondent.

Further, the OCA stated that Umblas did not offer any evidence to support his claim of forgery. It opined that his mere disavowal of the signatures affixed in the subject documents could not exonerate him from liability for grave misconduct. Thus, the OCA recommended that the respondent be dismissed from service.

### **ISSUE**

#### **WHETHER UMBLAS WAS GUILTY OF GRAVE MISCONDUCT TO WARRANT HIS DISMISSAL FROM SERVICE**

#### **The Court's Ruling**

The Court agrees with the findings and recommendation of the OCA. Misconduct is a transgression of some established and definite rule of action, more particularly, it is the unlawful behavior of, or gross negligence by the public officer. To warrant dismissal from the service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply wrongful intention and not a mere error of Judgment.<sup>[19]</sup>

The misconduct is grave if it involves any of the additional elements of corruption willful intent to violate the law or to disregard established rules, which must be established by substantial evidence. As distinguished from simple misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of established rule, must be manifest in a charge of grave misconduct.<sup>[20]</sup>

Corruption, as an element of grave misconduct, consists in. the act of an official or fiduciary person who unlawfully and wrongfully uses his station or character to procure some benefits for himself or for another person, contrary to duty and the rights of others.<sup>[21]</sup>

Respondent Umblas was also charged with violation of R.A. No. 6713. Section 4 of the said law establishes the standards of personal conduct that every public. official and employee must observe in the discharge and execution of their official duties.

*Section 4. Norms of Conduct of Public Officials and Employees.-xxx.*

(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.

x x x (Emphases supplied)

After a judicious perusal of the records, the Court finds that respondent Umblas committed grave misconduct and violated Section 4 of R.A. No. 6713 for unlawfully producing spurious court documents. The findings of the Court shall be discussed *in seriatim*.

*The subject documents were falsified*

As correctly found by the OCA, the subject documents were spurious because, *first*, there was no record of the case for declaration of nullity of marriage in the docket of the RTC as certified by its Clerk of Court. Even the respondent himself, in his comment, acknowledged the non-existence of the case, *viz.*

3. That respondent fully agrees with the complainant on her observations **that there was no such case captioned "Ramil B. Pabon, Petitioner v. Ma. Noemi Bautista-Pabon, Respondent" filed with and docketed as Civil Case No. 33-328C-2005 with. RTC, Ballesteros, Cagayan- Branch 33 x x x.**<sup>[22]</sup> [Emphasis on the original]

*Second*, the OSG was not notified of the supposed proceedings pursuant to A.M. No. 02-11-10-SC, or the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages.<sup>[23]</sup> Also, there was no participation by the public prosecutor therein as required by Article 48<sup>[24]</sup> of the Family Code and Section 9<sup>[25]</sup> of A.M. No. 02-11-10-SC.

*Finally*, Noemi herself was not aware that Ramil filed a petition to declare their