

THIRD DIVISION

[**A.M. No. P-08-2451 (Formerly OCA IPI No. 05-2201-P), October 17, 2008**]

**ROEL A. FERNANDEZ, COMPLAINANT, VS. RENATO RUBILLOS,
PROCESS SERVER, MUNICIPAL TRIAL COURT, ALBUERA, LEYTE,
RESPONDENT.**

R E S O L U T I O N

CHICO-NAZARIO, J.:

This is an administrative complaint^[1] for Grave Misconduct and Harassment filed by complainant Roel A. Fernandez against respondent Renato Rubillos, Process Server of the Municipal Trial Court (MTC), Albuera, Leyte.

The administrative complaint arose from a land dispute between the families of complainant and respondent. Complainant alleged that even though he and respondent have already reached a settlement before the *Barangay*, respondent still continued to harass him by calling him names, and even attempting to box him when he tried to report respondent's abuses to Hon. Ma. Cleofe V. Militante, Acting Presiding Judge of MTC, Albuera, Leyte, where respondent works.

In his Comment^[2] dated 27 June 2005, respondent refuted complainant's claim that their dispute was already settled before the *Barangay*. Respondent also denied that he verbally abused complainant and attempted to box him. On the contrary, it was complainant who harassed him by besmirching his reputation so that he will be removed from office.

Because of the conflicting factual claims of complainant and respondent, the Court referred^[3] the administrative case to Executive Judge Absalon U. Fulache (Judge Fulache) of the Regional Trial Court (RTC), Branch 14, Baybay, Leyte, for investigation, report, and recommendation.

After his investigation, Judge Fulache submitted to the Court his Report and Recommendation^[4] dated 8 September 2006, wherein he found the following facts which resulted in complainant's filing of the present administrative complaint:

This present case stemmed from a prior misunderstanding between complainant and respondent arising from a land dispute involving their families. By reason thereof, the parties were bickering with each other and the same have (sic) grown to greater proportions. The respondent and complainant are the main protagonist (sic) in the verbal skirmishes which occurred in their neighborhood which recurs (sic) every now and then.

Having been offended, complainant filed a case before the *Barangay*

Chairman in order to vindicate the wrong done to him. The case alluded to is docketed as Case No. 220 entitled Roel Fernandez & Salvador Fernandez vs. Renato Rubillos for oral defamation, unjust vexation and qualified trespass (Annex "A"). The incident was settled though at the barangay level and a sort of a resolution dated July 21, 2003 was issued by the Chairman to the effect that the respondent (Renato Rubillos) would not repeat his wrongdoings and should restrain him (sic) from getting into the premises of the complainant.

Seemingly, respondent is not serious in his promise not to disturb their peaceful arrangement because in the afternoon of September 28, 2003 while under the influence of liquor he shouted towards the direction of complainants' family members who were by the waiting shed, making reference that they are land grabbers or words of the same import. He is quoted to have uttered, thus: "You are land grabbers!" This incident was reported to the police station and is reflected in the police blotter (Annex "B").

Almost always when the respondent and complainant is (sic) said to have cross (sic) paths, the latter is always at the receiving end of insults and contemptuous rude remarks.

On September 20, 2004, complainant was at the Office of the Clerk of Court to transact an official business and while thereat he noticed the presence of respondent who was by the door eavesdropping. This prompted the complainant to politely ask the Clerk of Court that somehow he will be allowed to close the door. In fact the door was shut but little did complainant know that the respondent just stayed outside by the door. When he went out from the office it was then that he was met by respondent who made unpleasant remarks alluding him (sic) as: "BULOK NHA ENGINEER" (a dull engineer); `WALAY TRABAHO" (jobless); `WALAY BALAY" (no house of your own) or words of similar import. Complainant was badly hurt with such comments but his emotions were under control and he never fought back. He has been used to with (sic) such kind of remarks because it has been repeatedly uttered by respondent every time they met. He felt heaviness of heart and suffered wounded feelings as a consequence. He settled by the bench at the ground floor of the Court premises and collected his thoughts, pondering whether he deserved such a fate of being ridiculed and insulted by a public servant, no less a court personnel. In his desire to vindicate himself he went back to the Clerk of Court and he asked for an audience with the presiding judge as he intended to complain directly to him for the unbecoming behavior of respondent. Incidentally, the presiding judge was not present and he had to leave. Before he could leave though, on his way out by the lobby he was confronted by the respondent. The latter must have heard of his conversation with the Clerk of Court about his intentions to report the matter to the judge. Such confrontation was nearly violent. Respondent displayed a belligerent mood and a shouting matched ensued between the two protagonists. In fact the Clerk of Court admonished them to stop as they were disturbing the business of the office. On such occasion, the respondent is said to have clinched his fist, raised it and put it directly in front of complainant's face. Such kind of

gesture is invocative of a challenge to a fistfight which would become manifest at the height of emotional outburst. Simultaneously, respondent squeezed the lower abdominal quadrant of complainant wherein he claimed to have suffered a superficial injury as shown in the physical injury report issued by the Municipal Health Officer, Dr. Noemi Mencidor, dated September 24, 2004 (Annex "E"). Record disclosed however, that the Clerk of Court had no opportunity in witnessing (sic) the raising of the clinched (sic) fist, as well as the squeezing of the abdomen allegedly perpetrated by respondent. What she overheard was merely the heated argument that transpired.

Again, complainant initiated a confrontation at the barangay level on October 13, 2003. No positive outcome was realized in such conciliation. Instead he was treated insolently by respondent during the confrontation by calling him a "liar"; "having lots of enemy" (sic) and even alluding (sic) his mother as good for nothing. He resented so much such uncalled for statements emanating from a public servant who is supposed to be a sentinel of justice.

Complainant did not lose hope that somehow their differences could be settled peacefully thus he again obtained the assistance of the police authorities. A confrontation had taken place again at the PNP Police Station of Albuera, Leyte and this time the behavior of respondent graduated from bad to worst (sic). Complainant was the object of respondent's mockery during the proceedings and not contented badmouthing him he was kicked intentionally in the back of his left foot. It was this last straw that broke the camel's back, so to speak. Enough is enough, or so he says.^[5]

Based on the foregoing, Judge Fulache concluded that respondent was liable for discourtesy, and recommended that he be reprimanded. Judge Fulache's recommendation reads:

Accordingly, the undersigned finds respondent liable for discourtesy and recommends the penalty of reprimand with a stern warning that a repetition of the same or similar act will be dealt with more severely.^[6]

On 20 November 2006, the Court referred^[7] the administrative case to the Office of the Court Administrator (OCA) for evaluation, report, and recommendation.

The OCA submitted its report^[8] on 12 March 2008, in which it adopted Judge Fulache's finding that respondent was liable for discourtesy, but disagreed in the recommended penalty, thus:

WHEREFORE, IN VIEW OF THE FOREGOING, it is respectfully recommended that:

- 1) This administrative complaint be REDOCKETED as a regular administrative matter; and
- 2) Respondent Renato Rubillos, Process Server, Municipal Trial Court, Albuera, Leyte be FINED in the amount of P5,000.00 for conduct unbecoming a public officer with a stern warning that

commission of same or similar act in the future will be dealt with more severely.^[9]

On 14 April 2008, the Court required^[10] the parties to manifest within 10 days from notice if they were willing to submit the matter for resolution based on the pleadings filed. Respondent and complainant submitted their manifestations, on 5 June 2008 and 6 June 2008, respectively, stating that they were already submitting the case for resolution based on the pleadings filed. Resultantly, the administrative case was submitted for decision.

After a careful review of the case, the Court finds itself agreeing with the recommendation of the OCA.

In his defense, respondent merely denies that he verbally abused complainant and attempted to box him; and claims instead that it was complainant who was besmirching his reputation so that he will be removed from office.

It is settled that denial is inherently a weak defense. To be believed, it must be buttressed by strong evidence of non-culpability; otherwise, such denial is purely self-serving and is with nil evidentiary value. Like the defense of alibi, a denial crumbles in the light of positive declarations.^[11]

Respondent has undeniably failed to substantiate the allegations in his comment. He could have submitted evidence to substantiate the same, but other than his bare denials, respondent failed to submit any supporting proof. The basic rule is that mere allegation is not evidence, and is not equivalent to proof.^[12]

In contrast, it has been established that complainant previously filed against respondent a complaint for oral defamation, unjust vexation, and qualified trespass before the *Barangay*, docketed as Case No. 220, entitled "*Roel Fernandez and Salvador Fernandez v. Renato Rubillos*." Per Resolution dated 21 July 2003 issued by the *Barangay* Chairman, the complaint was settled when respondent agreed that he would not repeat his wrongdoings and that he shall restrain himself from entering complainant's property.

Respondent denies any settlement with complainant before the *Barangay* but his denial must crumble in the face of the Resolution dated 21 July 2003 issued by the *Barangay* Chairman. It is the duty of the *Barangay* to hold conciliation proceedings in an attempt to settle amicably disputes between neighbors without having to resort to the courts,^[13] thus, the Resolution in Case No. 220 enjoys the presumption of having been issued in the regular performance of the *Barangay* Chairman's official duty.^[14] Respondent failed to overcome the presumption with any evidence to the contrary.

Notwithstanding their settlement before the *Barangay*, respondent continued to utter unsavory remarks to complainant whenever they met, referring to the latter as *bulok nga engineer, walang trabaho*, and *walang balay*; or calling complainant and his family as "landgrabbers."

One such encounter took place at the Office of the Clerk of Court on 20 September 2004, resulting in a shouting match between complainant and respondent. On such