

FIRST DIVISION

[**A.M. No. P-04-1817 (Formerly OCA IPI No. 03-1748-P), December 19, 2007**]

**ZENAIDA D. JUNTO, COMPLAINANT, VS. ALICIA BRAVO-FABIA,
FORMER CLERK OF COURT VI, REGIONAL TRIAL COURT, OFFICE
OF THE CLERK OF COURT, DAGUPAN CITY, PANGASINAN,
RESPONDENT.**

R E S O L U T I O N

CORONA, J.:

In a letter-complaint dated April 28, 2003, complainant Zenaida D. Junto charged respondent Atty. Alicia Bravo-Fabia, former clerk of court VI of the Regional Trial Court (RTC), Office of the Clerk of Court, Dagupan City, Pangasinan,^[1] with discourtesy, conduct unbecoming of a clerk of court and/or conduct prejudicial to the best interest of the service.^[2]

Complainant's house and lot located at Barangay Tebag, Mangaldan, Pangasinan was adjacent to respondent's property where bamboo groves were planted. Their properties were separated by a 1½-meter feeder road.^[3] Complainant was new in the area while the respondent had been the owner of the property for 30 years. Noticing that some of the bamboos were already protruding and encroaching on the feeder road and touching her house's roof gutter, she requested the barangay captain, municipal engineer and mayor to have the encroaching bamboos cut.^[4]

On November 5, 2001, complainant directed her laborers to cut the protruding bamboos and burn them. She alleged in her complaint that upon learning of this, respondent who was extremely angry entered her property at around 6:00 p.m. and shouted at her and her laborers. She yelled and cursed "*Mga tarantado kayo, putang ina ninyo, bakit pinakikialaman ninyo ang hindi sa inyo?!*" ("You bastards, why are you meddling with what is not yours?!") She threatened that she would ask her friends from the New People's Army to "liquidate" complainant if the latter would not stop cutting her bamboos. She also demanded from complainant P1.5 million in damages.^[5]

The following day, on November 6, 2001, respondent returned and again warned the complainant not to cut the bamboos since she was not the owner. From then on, whenever she saw the complainant or her house, she would utter or shout insulting words such as "*kabit*" ("mistress") to refer to the complainant.^[6]

It appears that it was only after the incident, in a letter dated November 14, 2001, that complainant asked permission from the Community Environment and Natural Resources Officer (CENRO), Region I to cut the bamboos.^[7] In a letter dated December 5, 2001, the CENRO responded that she should coordinate with the

barangay officials.^[8]

Respondent denied the accusations of complainant. She alleged that it was only on November 7, 2001 or after her birthday party that her husband, Daniel R. Fabia, informed her about the cutting and burning of the bamboos. According to her, at the time mentioned in the complaint, she was in several stores to buy items she needed for her birthday celebration.^[9]

Respondent asserted that their tenant-overseer, Juan Antenor, reported to her husband at around 7:00 p.m. of November 5, 2001 that some of their bamboos had been cut and burned by the laborers of complainant. The next day, on November 6, 2001, her husband reported the matter to the police and the barangay officials. During their "confrontation" in the barangay, they failed to reach a settlement.^[10]

Thereafter, respondent's husband filed a criminal case of malicious mischief against complainant. This was dismissed by the provincial prosecutor's office but he asked the Department of Justice to review the dismissal.^[11] On December 12, 2001, she and her husband filed a case for damages against the complainant^[12] in the Municipal Trial Court, Mangaldan, Pangasinan. Respondent claimed that this administrative case was filed purely for harassment and malicious motives especially since complainant knew she was about to retire.^[13]

Complainant furthermore averred that during a hearing of the civil case in the court of Judge Genoveva Maramba, respondent shouted at her and insultingly pointed a finger at her face, uttering "*sayang ang pagmumukha mo*" ("your face will become a waste").^[14]

In a resolution of this Court dated May 19, 2004, the complaint was referred to Judge Silverio Q. Castillo, executive judge of RTC, Dagupan City, Pangasinan for investigation, report and recommendation. A full-blown trial followed. The complainant testified and also presented Renato de Guzman as witness. The latter had been hired by complainant to fumigate her mango trees. He was supposedly present when respondent stormed the house of complainant on November 5, 2001. He corroborated complainant's testimony.

For her defense, respondent testified on her own behalf. She also presented as witnesses her husband, their tenant-overseer and Judge Maramba. The first two corroborated her story that she learned about the incident only on November 7, 2001; Judge Maramba testified that no finger-pointing incident ever happened in her courtroom.^[15]

Judge Castillo submitted his resolution/recommendation dated November 22, 2004 with the following findings and recommendation:

The Court believes that, indeed, the respondent went to Tebag, Mangaldan, Pangasinan and uttered those remarks on November 5, 2001 against the complainant in her fit of anger upon discovering that the bamboo grooves which her husband planted and which they nurtured with their marriage were cut and burned without her and her husband's knowledge and permission.

Even if the respondent first went to the market in Dagupan City after office hours, by strategic location and distance, it is not impossible for her to [have] dropped by the place of the incident where she saw the cut and burned bamboos.

It is not likewise impossible for her to be mad and furious with what she discovered and consequently utter the remarks "*Mga tarantado kayo, putang ina [ninyo], bakit pinakikialaman [ninyo] ang hindi sa inyo?!*" and the threat that she will have them liquidated by the NPAs.

However, this Court believes that these remarks are made in a fit of anger and product of uncontrolled rage and passionate outburst of emotions which is not actuated by [ill will] or conscious desire to do any wrong. It is neither obstinate, premeditated nor intentional.

The act of the respondent, suffice to say, does not [concern] the administration of justice which is prejudicial to the interests of the service of the respondent as a government employee nor it is related to the discharge of the respondent's duties and obligations as a Clerk of Court.

At that precise moment, she is just a plain land owner. Her actuations are just the natural reactions of a property owner whose rights have been transgressed. Right at the moment that the respondent saw what happened to her bamboo grooves and eventually uttered those remarks, she was just reacting as a property owner and not as the public officer or a government employee. The remarks she made have nothing to do with the respondent being a Clerk of Court.

For administrative liability to attach, it must be proven that the respondent was moved by bad faith, dishonesty, hatred or some other like motive. Anger cannot be equated with the above enumerations and cannot be considered as tantamount to the like as to make the respondent administratively liable because the above enumerations connote premeditation.

Anger is just a passionate outburst, in other words.

There was no furtive design or ill will for ulterior motives operating in the mind of the respondent at that time. There was no deliberate intent on the part of the respondent to do wrong or [cause] damage but merely to vindicate her right. There was no criminal intent on her part.

WHEREFORE, in view of the above, the administrative case leveled against the respondent Atty. Alicia Bravo Fabia is hereby respectfully recommended DISMISSED.

It is, however, recommended that the same respondent be admonished not to repeat the said outburst. But in as much as she has already retired from the service effective November 7, 2003, this recommendation has now become moot and academic.