

SECOND DIVISION

[**A.M. No. P-05-2056 (formerly OCA I.P.I. No. 02-1395-P), November 18, 2005**]

**LUZ C. ADAJAR, COMPLAINANT, VS. TERESITA O. DEVELOS,^{*}
CLERK III, CELSA G. ELLORIN, COURT STENOGRAPHER III, AND
CYRUS A. ELLORIN, COURT INTERPRETER, RTC, BR. 8,
MALAYBALAY CITY, BUKIDNON, RESPONDENTS.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before us is a sworn Affidavit-Complaint, dated March 13, 2002, executed and filed by Luz C. Adajar against Teresita Develos, Cyrus Ellorin and Celsa Ellorin, who are government employees stationed at the Regional Trial Court (RTC), Branch 8, Malaybalay City, Bukidnon.

Complainant alleges:

That I am an incumbent Sangguniang Bayan Member of the Municipal Council of San Fernando, Bukidnon, having been voted as such during the May 2001 local elections;

That, primarily I am engaged in the business of buy and sell of palay and corn. I am also in construction business. As a sideline business, I am also engaged in the business of buy and sell of jewelry;

That sometime [in] October 2000, I delivered pieces of jewelries on a consignment basis amounting to **Seventy Thousand (P70,000.00) Pesos** to Mrs. Teresita Develuz at her office at RTC Branch 8 Staff Room, Malaybalay City, Bukidnon with the agreement that she will pay the said amount within **Three (3) Months**, copy of the receipt is hereto attached and marked as Annex "A" and made an integral part hereof;

That Mrs. Teresita Develuz is presently connected with the RTC Branch 8, Malaybalay City, Bukidnon as Clerk III;

That initially Mrs. Develuz made partial payments in the total amount of **Fifty Thousand (P50,000.00) Pesos**;

That sometime [in] December 2001, I demanded from Mrs. Develuz her balance in the amount of **Twenty Thousand (P20,000.00) Pesos**, but she refused. Instead of paying her obligations, she angrily handed to me a list of her customers and told me to collect the balance by myself. To avoid further trouble, I left the office;

That on February 6, 2002 at about 10:45 A.M., I went inside RTC Branch 8 Staff Room to collect the account from Mrs. Develuz. When she saw me, Mrs. Develuz handed to me a check of Fiscal Phoebe Toribio which is a payment of a jewelry which the latter got from her;

That after receipt of the said check, I sat down on a bench facing Mrs. Develuz and asked her to pay me the balance of the jewelries that she got from me;

That in response of my plea, Mrs. Develuz in an angry and loud voice said, **"Dili ba nga gihatagan ta naman ka sa listahan sa mga nakakuha sa alahas? Ikaw na ang maningil sa ila", (which in English literally means "IS IT NOT THAT I HAVE ALREADY GIVEN YOU THE LIST OF THOSE WHO GOT THE JEWELRIES? YOU COLLECT IT YOURSELF")**;

That I reacted because that was not our agreement. Besides, I explained to her that I delivered the jewelries to her and not to the people whose names appeared on the list that she handed to me;

That while having a verbal tussle, Mr. Cyrus Ellorin who is a co-employee of Mrs. Develuz, with the designation of court interpreter of Branch 8, Malaybalay City, Bukidnon, went nearer to me and shouted at me to go out I told him that I don't want any trouble and that I just want to collect from Mrs. Develuz the unpaid balance of the jewelries which she got from me;

That Mr. Cyrus Ellorin violently pushed me out of the staff room, practically driving me out as if I was a leper, I reacted and told him that I just want to collect my money. Besides, being a woman and a member of the Municipal Council of San Fernando, Bukidnon, I also deserve a little respect, but the same proved futile. While I was talking, Mr. Ellorin continued pushing me until we reached the door;

That during our verbal tussle, Mrs. Celsa Ellorin, wife of Mr. Cyrus Ellorin, and who is also an employee of Branch 8, got her tape recorder and positioned it near my mouth presumably to record my utterances;

That when I was out of the office, Mr. Ellorin slammed the door leaving me outside crying;

That the employees of the office of the Clerk of Court, particularly Mrs. Parreño, brought me to their office and gave me water and comforted me. While being comforted, Mrs. Celsa Ellorin got inside the office of the Clerk of Court and hurled insults. She was rebuked by Mrs. Parreño and ordered to leave the room.

That I was extremely humiliated and hurt by the actuations of the respondents. I have been in business for 33 years but that was the first time I encounter such horrible experience;

That the incident was reported to the police and entered into the blotter, copy of the police blotter is hereto attached and marked as Annex "B";^[1]

In their joint Comment, respondents contend that the instant Affidavit-Complaint is identical to the complaint for Misconduct filed by complainant with the Office of the Ombudsman, Mindanao, docketed as OMB-M-A-02-126-E; in said case, respondents filed their Joint Counter-Affidavit With Counter-Complaint. They incorporated said Counter-Affidavit in their joint Comment to the instant complaint narrating therein their version of the incidents leading to the instant case as follows:

a) That sometime in October, 2000, complainant ADAJAR was in the court office selling jewelries, wherein respondents DEVELOS and CELSA, and some other court employees bought jewelries on a three-month term credit, at which time respondent DEVELOS facilitated the transaction by listing the names of the employees who bought complainant's jewelries on credit; and

b) That complainant ADAJAR left the said list of the debtor employees to respondent DEVELOS together with jewelry items to make available the same to other potential employee buyers, to which respondent Develos accepted the said list, and the unsold jewelry items as a matter of good will between friends;

c) Thus, respondent DEVELOS **strongly** denies complainant ADAJAR'S allegation that complainant "delivered pieces of jewelries on consignment basis amounting to seventy Thousand (P70,000.00) Pesos to Mrs. Develos with the agreement that she (Develos) will pay the said amount within Three (3) months,"; for the following reasons:

1) There was no consignee-consignor relationship between **complainant** ADAJAR and **respondent** DEVELOS as there was never any agreement to that effect, verbal or in any form;

2) **Complainant** ADAJAR was the one who introduced her jewelries to the persons then present and complainant **ADAJAR** was the one conducting the sale on credit, with **respondent** DEVELOS only facilitating the listing of **complainant's customers**, to save the complainant the trouble of going through the tedious process of asking the names of each of her customers, most of whom are **respondent DEVELOS' co-employees; ...**

3) **Respondent** DEVELOS did not earn any centavo from the jewelry sales, including from the sales of the jewelries that were left to her, as the payments made by the debtor employees which was in accordance to the listed price provided by **complainant**, were indorsed in its exactness to the **complainant**;

...

a) That respondent DEVELOS was not angry when she handed to **complainant ADAJAR** the list of **complainant's** customers;

b) That, what prompted **respondent DEVELOS** to give to **complainant** the list of complainant ADAJAR'S debtor customers was because of the collection work being added to **complainant's** heavy work as Docket Clerk of court cases, and others, that she had to stop giving favor to **complainant LUZ ADAJAR** by way of making the collection for her;

c) Moreover, **respondent DEVELOS** herein aver **THAT complainant ADAJAR received from her the list of her customer-debtors** sometime on December, 2000, as stated in complainant's seventh paragraph of her Affidavit Complaint; and in effect had nothing more to do with the collection work from **complainant's** jewelry customers;

...

...When respondent DEVELOS uttered the following words which slightly differed from how complainant narrated in Par. 11 of her Affidavit-Complaint, it was neither with any iota or anger or loudness, but with the normal tone of respondent DEVELOS' voice, which was in stark contrast to how respondent Develos speaks with anger which we have oftentimes witnessed. ...

...

...That **respondent CYRUS**, sensing a possible fight that may ensue, decided to intervene and said to **complainant Adajar**: "Time pa, unsa kana nga mag-away? Mrs. Dili kana mahimo nga mangaway ka, denhi sa opisina" WHICH IN ENGLISH IS: "IT CANNOT BE ALLOWED THAT YOU MAKE A FIGHT INSIDE THE OFFICE." To which **complainant ADAJAR** shouted back saying: "Nganong ga-apil apil ka nga wa ka may labut?" WHICH IN ENGLISH IS: "WHY ARE YOU INTERVENING WHEN YOU ARE NOT A PARTY TO THE MATTER?"

...That at this point **respondent CYRUS ELLORIN** stood from where he was seated and approached **complainant and said**: Mrs. Dili mahimo nga dili ako manghilabut kay opisina kini.", which in English is "MRS. IT CANNOT BE THAT I SHOULD NOT INTERVENE BECAUSE THIS IS AN OFFICE."

...That in fit of harassing anger, complainant ADAJAR said: "Nahibalo ko sa balaod kay Kagawad ko sa San Fernando; nganong gapagawason ko nimo nga wa ka may labut; nahibalo ra ba ko sa inyong binuhatan denhi, I-report ko kamo ni Judge Villanueva!", WHICH IN ENGLISH IS: "I KNOW THE LAW BECAUSE I AM A **kagawad** OF SAN FERNANDO, WHY ARE YOU GETTING ME OUT WHEN YOU HAVE NOTHING TO DO WITH THIS MATTER; I KNOW YOUR WRONGDOINGS (the nuance of the word "binuhatan" by its usage) HERE, I AM GOING TO REPORT THESE TO JUDGE VILLANUEVA (Acting Presiding Judge of the Municipal Trial Court of the municipality of San Fernando, province of Bukidnon.)"

...That because **complainant continued to insist that respondent Ellorin** has nothing to do with what she was doing, respondent Ellorin decided to let complainant get out of the office by saying: "Mrs. gawas na

lang denhi kay opisina man kini, dili mahimo nga mangaway ka denhi." WHICH IN ENGLISH IS: "Mrs, you better get outside because this is an office, you cannot be permitted to make a fight inside."

...

...That **respondent Cyrus led complainant out of the court office, without any harm or violence inflicted on her person;**

...That respondent **Ellorin** only did his inherent responsibility as the most senior employee of the said court office then present; the Acting Presiding Judge Hon. Jesus M. Barroso, Jr. being then presiding the court session at the session hall of RTC branch 10; and the Legal Researcher/OIC, and Acting Branch Clerk of Court was not around;

...That the manner whereby herein respondent Cyrus led Complainant ADAJAR out of the court office was by placing his body in front of complainant whose back was towards the alley leading to the entrance door of the court office, such that herein respondent stepped forward towards complainant, complainant stepped back to prevent her body from contact with the body of respondent CYRUS, until the point when Complainant's body was already outside the door, that respondent CYRUS then closed the door and locked it to prevent complainant from coming back to the court office of RTC 8;

...

... That respondent Celsa Ellorin came near complainant, and positioned her tape recorder on the table of Sheriff Benjamin Dael and later on the table of Process Server Rodolfo Bacawag, both tables being near where complainant **Adajar was located**, for the purpose that complainant will stop her verbal abuse against respondent **Develos and Cyrus**, and to have her threatening and harassing utterances recorded if she continues with it; but the said tape recorder was never positioned near complainant's mouth;

...

...That when the body of complainant **Adajar** was already outside the court office, respondent Cyrus closed the court office door in a natural manner **without emitting any sound;**

...

...That when complainant went inside the Office of the Clerk of Court, Mrs. Nenita Pareño was not inside, and that while it is true that respondent CELSA went inside the said office, it was for the purpose of reporting to the Clerk of Court Atty. Gloria Magtulis-Ariño, the incident that awhile ago then happened inside the court office of the RTC 8, BUT, because **respondent CELSA** failed to see the person of the Clerk of Court, who was in a corner of the said office that cannot be seen from