

EN BANC

[**A.M. No. 00-1395 (formerly A.M. OCA IPI No. 97-282-P), October 12, 2000**]

FRANCIA MERILO-BEDURAL, COMPLAINANT, VS. OSCAR EDROSO,^[1] RESPONDENT.

D E C I S I O N

PER CURIAM:

Complainant Atty. Francia A. Merilo-Bedural is the Branch Clerk of Court of the Regional Trial Court of Naga City, Branch 20 while respondent Oscar Edroso is a Utility Worker at the Office of the Clerk of Court, RTC-Naga City.

In her sworn letter-complaint^[2] addressed to the Court Administrator Alfredo L. Benipayo, complainant Merilo-Bedural, who is married, charges respondent Edroso, who is likewise married, with misconduct, moral turpitude and conduct unbecoming of an employee of a court of justice for the incident that happened on March 15, 1997, a Saturday, at around 8:45 in the morning. She alleges that her former presiding judge retired on February 1, 1996. After the construction of the new Hall of Justice, she made preparations for the transfer of the properties and records of the office to the new building. She wanted to transfer the built-in screen closet/cabinet, where they store the disposed case records, to the new building and requested Deputy Sheriff Anastacio Bongon to look for a carpenter who can dismantle the cabinet. Bongon allegedly forgot about it as he was so busy. By February, complainant chanced upon respondent and requested him to look for a carpenter but respondent allegedly told her that he can do the carpentry job himself. Complainant told respondent to work on it on a Friday afternoon since there are no more court sessions but he refused as his superior might need him. They agreed to work on a Saturday instead. Originally scheduled on March 1, 1997, complainant moved the schedule to March 8, 1997 because she had a headache but this date, being her mother's birthday, was again reset to March 15, 1997.

On March 15, 1997 at around 8:45 a.m., complainant entered the Hall of Justice. Respondent, who was at the office of Assistant Clerk of Court, Atty. Rose Lalwani, followed her to the office. While inside the office, respondent borrowed from complainant the metal tape measure to measure the big bookshelf inside the judge's chamber. Respondent allegedly told her that he wanted to measure the screen cabinet so he could approximate the size of the screen cabinet he would re-install in the new building. Since all important papers and records of cases were in the chamber of the judge, complainant followed respondent as she does not usually permit people, other than the regular personnel, to go to the judge's chamber. Respondent allegedly told her to hold the far end of the tape measure starting at the end of the bookshelf. As she was about to go to the door of the judge's chamber to go out of the office, she passed the respondent who suddenly "half-carried half-dragged me to the chamber's comfort room". Respondent allegedly "pushed me

against the wall, pinned me with his body and as I struggled to get free he managed to kiss me several times in the mouth."^[3] Complainant later realized that all the fighting, screaming, crying and pleading she was doing were not effective so she decided to use a "psychological approach". She talked to him and respondent asked her for one kiss which she agreed but told respondent to be careful not to break her new dentures. Respondent asked her for a "date" and complainant agreed. The conversation went on until complainant continued talking about what to do with the screen cabinet. She pointed to the top of the cabinet indicating the work to be done and upon seeing an opportunity to escape, complainant grabbed her things on the table and ran through the corridors of the Hall of Justice and outside the street. She saw the wagon of the Naga City Jail and run towards it to seek assistance. She narrated the incident to jail officer Glenn Reonal who offered to bring her to the nearest PNP sub-station. Thereafter, complainant was accompanied to the office of the National Bureau of Investigation. An Information for Attempted Rape, which was amended to Acts of Lasciviousness, was filed with the Municipal Trial Court of Naga City and was docketed as Criminal Case No. 77993.

In the said criminal case, herein respondent filed a motion praying for a reinvestigation or re-evaluation which was granted by the trial court.^[4] The City Prosecutor conducted a reinvestigation and on June 1, 1998 a Resolution was issued affirming the earlier finding of a *prima facie* case against respondent. Respondent appealed to the Regional State Prosecutor who issued a resolution dated December 9, 1998 directing the City Prosecutor "to cause the withdrawal of the information filed".^[5] A motion for reconsideration thereto was filed by herein complainant but the same was denied in the Resolution dated March 5, 1999.^[6] Consequently, the trial court where the said criminal case was pending issued an Order dated May 18, 1999 considering the case "withdrawn."^[7] This order, has not been amended, modified or superseded per Certificate of Finality dated June 21, 1999.^[8] Respondent filed his Answer denying the allegations in the letter-complaint. He alleges that he has been a utility aide in the office of the clerk of court for almost seven (7) years already and in all of those years, he has never been remiss in his duties and has maintained a reputation and credibility worthy of an employee of the court. He attached an affidavit^[9] of Judge Rosario B. Torrecampo of the RTC-Pili, Camarines Sur, Branch 33 and a letter^[10] from Judge Rosita L. Lalwani of the MTC-Minalabac, Camarines Sur, who were his past superiors, attesting to his good behavior as a court personnel. Respondent's co-employees Aida Paradela-Latumbo and Gimena Tipones-Martinez likewise executed a joint-affidavit^[11] stating that it was complainant Bedural who frequented their office looking for respondent Edroso and that they were shocked to know about the complaint for rape against respondent Edroso whom they knew as God-fearing and a law-abiding citizen.

Respondent further alleges that complainant's allegations are full of inconsistencies. He points out that nowhere in complainant's narration of facts did she show that respondent had a weapon that would effectively subject her to unimaginable fear for her life and safety when she was allegedly half-dragged, half-carried to the comfort room of the judge's chambers. Respondent avers that it was complainant who approached him to do carpentry work contrary to her allegation that she "happened to meet" him at the corridor of the Hall of Justice. Moreover, complainant did not exhibit any resistance and even allowed respondent to kiss her and had the presence of mind to tell respondent to be careful not to break her new dentures.