

EN BANC

A.M. P-10-2812 [Formerly OCA IPI 10-3420-P] – ANONYMOUS COMPLAINT AGAINST CLERK OF COURT V ZENALFIE M. CUENCO, COURT INTERPRETER CHRISTIAN V. CABANILLA, COURT STENOGRAPHERS FILIPINAS M. YABUT AND SIONY ABCEDA AND LOCALLY-FUNDED EMPLOYEE MS. ALELI DE GUZMAN, ALL OF THE REGIONAL TRIAL COURT, BRANCH 72, MALABON CITY AND OFFICER VANISSA L. ASIS OF THE PHILIPPINE MEDIATION CENTER

Promulgated:

August 18, 2020

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SEPARATE CONCURRING OPINION

LEONEN, J.:

Pertinent to locally-funded employee Aleli De Guzman (De Guzman), the letter-complaint from the *Taongbayan ng Pilipinas* provided the following details of her complicity in the anomalies committed by Clerk of Court Zenalfie Cuenco (Atty. Cuenco) and other court employees in Branch 72 of the Malabon Regional Trial Court:

1. [Si] [Atty. Cuenco] po ay isang corrupt ng Branch 72, RTC, Malabon City sapagkat lahat po ng dokumento na may pirma niya ay may bayad at walang resibo. **Siya po ay may kasabwat na tauhan ng isang detailed ng munisipyo ng Malabon na si Aleli de Guzman at isang kabit ng pulis ng Malabon. Ginagawa rin po nila ang nasabing opisina na isang law office, kaya po sila ay kumikita ng walang gastos.**
8. Lahat po na mga ebidensiyang pera at [sic] ginagamit niya sa pansariling kapakanan at ang mga [shabu] na ebidensiya ay nawawala.<sup>1</sup> (Emphasis supplied)

Albeit further surveillance was needed to acquire supporting evidence, it was revealed in Executive Judge Emmanuel Laurea's Report that De Guzman and Atty. Cuenco conspired in a scheme to make money out of new and archived cases:

3. Atty. Cuenco kept all criminal records locked up to the exclusion of Criminal Records Clerk-in-Charge Leo Angelo Provideo. **The few**

<sup>1</sup> Ponencia, p. 2.

individuals who had limited access are Stenographer Abcede, local government-funded employee De Guzman, and Mediation Officer Asis. Judge Laurea noted that this is highly irregular considering that the Malabon RTC Branch 72 is a special drugs court.

4. Abcede and De Guzman attended to the accused and their families regarding the posting of bail and setting of hearings, which are all subject to Atty. Cuenco's approval. It was reported that: (a) favorable or speedy action and early settings were granted if consideration was paid; and (b) Atty. Cuenco and De Guzman took interest on archived cases, with De Guzman coordinating with police for the arrest of the accused, who would later be released upon payment of consideration. Judge Laurea remarked that surveillance and entrapment are necessary to obtain evidence on these allegations.<sup>2</sup> (Emphasis supplied)

As there was *prima facie* evidence to hold the concerned court employees administratively accountable, the Office of the Court Administrator (OCA) placed them on indefinite suspension while the case was ongoing. With regard to De Guzman, it was discovered that her assignment to Branch 72 was not duly approved, and thus, she was directed to go back to her mother unit.<sup>3</sup>

The OCA's Supplemental Report showed, among other things, that the Court-issued office computer contains draft pleadings for parties with pending cases before Branch 72, as well as other courts and offices:

- b) With assistance from the personnel of the Management and Information Systems Office (MISO), and as witnessed by Clerk of Court Esmeralda Dizon of the Office of the Clerk of Court-Regional Trial Court, Malabon City, it was discovered that the contents of the computer officially issued by the Court to RTC, Branch 72 contained *draft pleadings* for private litigants that have pending cases with the said branch, RTC Branch 73, Malabon City, the Office of the City Prosecutor of Navotas and Malabon City, and the People Law Enforcement Board, Caloocan City.<sup>4</sup> (Emphasis supplied)

In her Comment to the Supplemental Report, Atty. Cuenco denied owning most of the pleadings found in her computer and argued that "all court employees have access to [it], including De Guzman, who admitted preparing the pleadings at home and printing them in the office."<sup>5</sup> Allegedly, De Guzman saved the said pleadings in the computer for purposes of printing and email.<sup>6</sup>

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<sup>2</sup> Id. at 4.

<sup>3</sup> Id. at 5.

<sup>4</sup> Id. at 7-8.

<sup>5</sup> Id. at 9.

<sup>6</sup> Id.

In its Report, the OCA posed the following conclusion and recommendation as to De Guzman's involvement in the irregularities committed within the trial court:

**5. Pleadings of Litigants in the Court Computer**

The OCA explained that the act of reviewing a litigant's pleading, as Atty. Cuenco claimed, is not within her job description as clerk of court. Doing so compromised the integrity and impartiality expected from a court personnel.

**As for De Guzman, the OCA held that, even if she used her own printer, she prepared and printed the pleadings using the court computer and during office hours. Therefore, she used the court's resources for personal gain.**

....

**7. Penalties**

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**As for De Guzman, the OCA recommended reprimand as a penalty since this is her first offense, with a warning that a repetition of the same or similar act shall be dealt severely.**<sup>7</sup> (Citations omitted, Emphasis supplied)

In ruling against De Guzman, the *ponencia* underscored that even if this Court has no administrative supervision over her, she must be held liable for "her acts of disrespect towards the Judiciary[.]"<sup>8</sup>

As for De Guzman, the Court sustains the OCA's findings that she violated reasonable office rules and regulations for using the court computer and printer to prepare pleadings for the litigants. . .

While De Guzman was never an employee of the Court, still she committed violations of the court's reasonable office rules and regulations when she used the court computer and printer to prepare and print pleadings for the litigants. **Her actions may be considered as improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice, thus a ground for indirect contempt. While the Court cannot exercise administrative supervision over her since, based on the records, her detail to the said RTC was not even approved, therefore, she is not a court employee, still she must be held accountable for her acts of disrespect towards the Judiciary.**<sup>9</sup> (Emphasis supplied)

However, since she already resigned from employment, the *ponencia* believed that referring her case to the local government unit would be futile. Instead, the *ponencia* deemed it proper to refer her case to the Presiding

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<sup>7</sup> Id. at 13-14.

<sup>8</sup> Id. at 19.

<sup>9</sup> Id. at 18-19.

Judge of Branch 72 for purposes of initiating the necessary contempt proceedings against her:<sup>10</sup>

Also, since according to De Guzman she is no longer connected with any government institution, a recommendation of referral to the local government unit would not serve any practical purpose. **For this reason, the Court deems it proper to refer De Guzman's case to the Presiding Judge of RTC Branch 72 and direct said Judge to commence contempt proceedings against De Guzman. The findings in this administrative case may be taken cognizance of by said court in the contempt proceedings.**<sup>11</sup> (Emphasis supplied)

I concur.

Even if De Guzman's detail to Branch 72 was not duly approved, I share the view that she must nevertheless be accountable for her transgressions which, on the other hand, may constitute indirect contempt of court.

## I

Supreme Court Administrative Circular No. 28-08<sup>12</sup> or the *Guidelines in the Detail of Locally-Funded Employees to the Lower Courts*<sup>13</sup> provides that the detail of locally-funded personnel to the lower courts shall be preceded by a request that is duly approved by the Supreme Court, through the OCA:

1. No detail of locally-funded employees to the lower courts shall be allowed without first obtaining permission from the Supreme Court (SC) through the Office of the Court Administrator (OCA).
2. The request for the detail of locally-funded employees shall be made by the Presiding Judge for those in the court branches and the Executive Judge for those in the Office of the Clerk of Court (OCC) and shall be submitted to the Supreme Court through the Office of the Court Administrator for approval. The request shall contain the following information:
  - a. Court caseload
  - b. Reasons or necessity for the detail
  - c. Name, position title and duties to be assigned

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9. The Presiding Judge/Executive Judge shall submit to the SC through the OCA, within one (1) month from receipt of this administrative

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Dated March 11, 2008.

<sup>13</sup> Supreme Court Adm. Circ. No. 28-08 was reiterated in OCA Circ. No. 89-12 (2012) and OCA Circ. No. 42-19 (2019).

circular, an inventory of all locally-funded employees detailed in their respective court branches including the OCC, specifying the names, position titles, assigned duties and duration of the detail. In addition, the Presiding Judge/Executive Judge shall regularly review the necessity for such details as well as the performance of the locally-funded employees, and recommend to the SC through the OCA the revocation of the detail for those whose services are no longer necessary in the lower courts or those with unsatisfactory or poor performance.

10. The Court Administrator is authorized to act on requests for detail of locally-funded employees and the revocation of such details.
11. Non-compliance and/or violation of this circular by the judge, court personnel or locally-funded employee shall be a ground for disciplinary action.<sup>14</sup>

In view of the confidentiality intertwined with court dealings, the tasks assigned to locally-funded employees are subject to the following limitations:

3. **Considering the confidentiality of court records and proceedings, locally-funded employees shall simply assist in the performance of clerical works, such as, receiving of letters and other communications for the office concerned, typing of address in envelopes for mailing, typing of certificate of appearance, and typing of monthly reports. They shall not be given duties involving custody of court records, implementation of judicial processes, and such other duties involving court proceedings.** However, they may perform functions appertaining to that of a messenger, janitor and driver if these positions are provided in the plantilla of the Local Government Unit (LGU).
4. **The detail shall be allowed only for a maximum period of one (1) year.** Details beyond one year may be allowed provided it is with the consent of the detailed employee.
5. Request for renewal or extension of the period of the detail shall be submitted to and received by the SC through the OCA fifteen (15) days before the expiration of the original/previous period of detail and must contain the information stated in paragraph 2 hereof.<sup>15</sup> (Emphasis supplied)

To the exclusion of specific personnel actions,<sup>16</sup> the concerned Local Government Unit abandons its administrative supervision over the locally-

<sup>14</sup> Supreme Court Adm. Circ. No. 28-08.

<sup>15</sup> Supreme Court Adm. Circ. No. 28-08.

<sup>16</sup> See provision no. 7 of Supreme Court Administrative Circular No. 28-08 which reads: "With respect to the personnel actions such as promotion, transfer, renewal, demotion, upgrading and reclassification of positions and the like, which requires the issuance of an appointment, and other personnel movement such as reassignment, detail, secondment, job rotation and designation which do not necessarily require the issuance of an appointment, including salary adjustment, step-increment and monetization of leave credits concerning the detailed locally-funded employee, the same **shall still be under the jurisdiction of the concerned LGU.**"

funded personnel during the period of assignment and gives way to the Supreme Court:

6. **During the period of the detail, the concerned LGU relinquishes its administrative supervision over the locally-funded employees to the SC. Administrative supervision refers to the authority to direct the performance of duties; restrain the commission of acts; and review, approve, reverse or modify acts or decisions of the detailed employee.** In this regard, the SC through the lower court has the responsibility to monitor the punctuality and attendance of the detailed locally-funded employees, approve request for leave, evaluate their performance, grant authority to travel and exercise other acts necessary to effectively supervise the employees.

Prior to the effectivity of the detail, and insofar as those already detailed before the issuance of this administrative circular, the Presiding Judge/Executive Judge shall request the concerned LGU to furnish the lower court with a certification of the available sick and vacation leave credits of the detailed locally-funded employee. In the event the Presiding Judge/Executive Judge approves the request for leave by the detailed employee, a copy of the same shall be submitted by the Clerk of Court to the concerned LGU.<sup>17</sup> (Emphasis supplied).

By virtue of administrative supervision, this Court oversees the locally-funded personnel's conformity with the rules and laws, and may proceed with appropriate administrative actions in case of any violation or deviation thereof.<sup>18</sup>

Notably, *Malanyaon v. Galang*<sup>19</sup> resolved whether this Court may discipline an erring locally-funded employee duly assigned or detailed to the lower court. In that case, respondent Deputy Sheriff Galang was adjudged negligent in the performance of his functions for failing to serve the writ of execution to defendant Tan Kim in the addresses supplied by petitioner Malanyaon. Although Galang was an appointee of the then Mayor of Manila and the authority to discipline, suspend, and remove lies with the latter, this Court nevertheless held Galang accountable for his actions by imposing upon him the penalty of fine and by withdrawing his authority to perform his duties as Sheriff:<sup>20</sup>

**PREMISES CONSIDERED,** We hereby impose upon respondent Galang a Fine equivalent to his one (1) month's basic salary to be paid within fifteen (15) days from finality of this judgment. In addition, We hereby withdraw the authority of respondent to perform functions appertaining the office of sheriff and We direct the respective Executive Judges to circularize this accordingly to all the branches of the Court of First Instance and the City Courts in the City of Manila, **without prejudice to any administrative action which the Mayor of the City**

<sup>17</sup> Supreme Court Adm. Circ. No. 28-08.

<sup>18</sup> See *Maceda v. Vasquez*, 293 Phil. 503 (1993) [Per J. Nocon, En Banc].

<sup>19</sup> 173 Phil. 312 (1978) [Per J. Muñoz-Palma, First Division].

<sup>20</sup> Id. at 313-315.

may take against herein respondent upon receipt of copy of this decision. This withdrawal of authority is effective immediately.

So Ordered.<sup>21</sup> (Emphasis supplied)

As a corollary, this Court's pronouncement in *Malanyaon* was echoed in Section 8 of Supreme Court Administrative Circular No. 28-08 which explicitly states:

8. **Inasmuch as the locally-funded employee is detailed to an office which carries with it duties and functions related to the administration of justice, such employee has the status of an officer of the court, and as such can be held accountable, short of being dismissed or suspended from office, to the court he serves as well as to the Supreme Court for any negligence or conduct which impedes the efficient and speedy administration of justice, following the Supreme Court ruling in *Esperanza Malanyaon vs. Rufino Galang*, A.M. No. P-133, July 20, 1978.**

**Complaints against locally-funded employee shall be filed before the Supreme Court through the Office of the Court Administrator, except for offenses classified under Civil Service Rules as light offenses which shall be filed with the Office of the Executive Judge, who shall conduct an investigation pursuant to A.M. No. 03-8-02-SC otherwise known as Guidelines on the Selection and Appointment of Executive Judges and Defining their Powers, Prerogatives and Duties. This is without prejudice to the authority of the concerned LGU to discipline locally-funded employee.<sup>22</sup> (Emphasis supplied)**

Thus, considering that a locally-funded employee whose assignment or detail to the lower court is approved<sup>23</sup> attains the status of an "officer of the court,"<sup>24</sup> he or she is expected to employ a high standard of competence and accountability "as service in the judiciary is not only a duty; it is a mission."<sup>25</sup>

On this Court's part, it "is duty-bound to sternly wield a corrective hand to discipline errant employees and to weed out those who are found undesirable."<sup>26</sup> It cannot tolerate any actuation which disrupts the "norm of public accountability, which would diminish the faith of the people to the Judiciary."<sup>27</sup>

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<sup>21</sup> Id. at 315.

<sup>22</sup> Supreme Court Adm. Circ. No. 28-08.

<sup>23</sup> See first provision of Supreme Court Adm. Circ. No. 28-08.

<sup>24</sup> See provision 8 of Supreme Court Adm. Circ. No. 28-08.

<sup>25</sup> *Re: Irregularity on the Bundy Cards of Personnel of the RTC, Br. 26 and MTC Medina Misamis Oriental*, 509 Phil. 580, 591 (2005) [Per J. Callejo, Sr. Second Division].

<sup>26</sup> *A Very Concerned Employee and Citizen v. De Mateo*, 565 Phil. 657, 665 (2007) [Per Curiam, En Banc].

<sup>27</sup> Id. at 665-666.

### III

Nevertheless, in this case, it was confirmed by the OCA Chief of Office that De Guzman's detail before Branch 72 was not duly approved.<sup>28</sup> This, notwithstanding, De Guzman should be held accountable for her misdeeds which, following Section 3, Rule 71 of the Rules of Court,<sup>29</sup> may constitute indirect contempt of court:

- a) Misbehavior of an officer of a court in the performance of his [or her] official duties or in his [or her] official transactions;
- b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts to enter or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;
- c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under Section 1 of this Rule;
- d) **Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;**
- e) **Assuming to be an attorney or an officer of a court, and acting as such without authority;**
- f) Failure to obey a subpoena duly served;
- g) The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him [or her]. (Emphasis supplied)

From Judge Laurea's Report, De Guzman was purportedly in cahoots with other court employees in making money out of cases filed before Branch 72. Even without a duly approved assignment, De Guzman seemingly acted as a court personnel, which, in my mind, was a means to lure litigants into paying for a consideration in exchange for unwarranted favors and benefits such as "favorable or speedy actions and early settings"<sup>30</sup> of their cases. Apart from this, it was discovered that De Guzman also took part in causing the arrest of accused in archived cases "who would later be released after payment of consideration."<sup>31</sup>

<sup>28</sup> Ponencia, pp. 18-19.

<sup>29</sup> See Adm. Matter No. 19-10-20-SC or the 2019 Amendments to the 1997 Rules of Civil Procedure.

<sup>30</sup> See Ponencia, p. 4.

<sup>31</sup> Id.

Although further surveillance was recommended to adduce evidence for the above findings,<sup>32</sup> it is my view that De Guzman's transgressions should, as a matter of course, be dealt with accordingly. Considering that the image of a court is reflected in the official and personal conduct of its employees,<sup>33</sup> she should be made liable for her misrepresentation that not only degrades the administration of justice, but also erodes the people's confidence to the courts.

Finally, I express my extreme discomfort with the practice that local government units routinely fill in the practical needs of our lower courts. Their support is pragmatic but has very grave consequences regarding the judiciary's independence and the lower court judges' impartiality when it comes to cases involving the local governments and their officials within their territorial jurisdiction. Were it not for the fact that the alleged local government detailed personnel in this case was not validly appointed, this Court would have been, again, confronted with the awkward questions as to whether we can exercise full disciplinary action against personnel from another constitutional branch of the government.

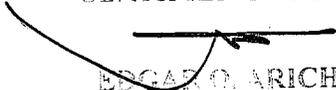
For these reasons, this Court must urgently examine how it can transition from this current state of affairs to a more ideal one: where *all* personnel of every lower court are from the judiciary. We should continually be vigilant with respect to our financial autonomy, and continually assert that the judiciary be given all the resources necessary to ensure its independence and impartiality in all cases.

**ACCORDINGLY**, I concur.



**MARVIC M.V.F. LEONEN**  
Associate Justice

CERTIFIED TRUE COPY



**EDGAR O. ARICHETA**  
Clerk of Court En Banc  
Supreme Court

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<sup>32</sup> Id.

<sup>33</sup> See *Re: Irregularity on the Bundy Cards of Personnel of the RTC, Br. 26 and MTC Medina Misamis Oriental*, 509 Phil. 580 (2005) [Per J. Callejo, Sr. Second Division].