



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE

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FIRST DIVISION

**Re: Anonymous Complaints
 against Hon. Dinah Evangeline
 B. Bandong, former Presiding
 Judge, Regional Trial Court,
 Branch 59, Lucena City, Quezon
 Province.**

A.M. No. RTJ-17-2507
(formerly OCA IPI No. 14-4329-RTJ)

Present:

SERENO, C.J., Chairperson,
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 JARDELEZA, and
 TIJAM, JJ.

Promulgated:
OCT 09 2017

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DECISION

DEL CASTILLO, J.:

On April 16, 2013, the Office of the Court Administrator (OCA) received two letters-complaints, one from an anonymous sender¹ (first letter-complaint) and the other under the pseudonym “Shirley Gomez”² (second letter-complaint), both narrating the difficulties encountered by the employees of, and litigants appearing before, the Regional Trial Court (RTC) of Lucena City, Branch 59 concerning then Presiding Judge Dinah Evangeline B. Bandong (Judge Bandong).

The first letter-complaint alleged, to wit: (1) Judge Bandong would rely on the legal researcher to resolve the cases; (2) she would not acquaint herself with the case status and would instead ask counsels about the same; (3) she would admit in open court that she could not resolve the case for failing to understand it; she would instead force her staff to mediate cases; (4) she would spend most of her time watching television inside her chambers; in fact, she would call for a recess in order to watch her favorite *telenovelas*; and, (5) Judge Bandong would unreasonably demand that all checks covering her salaries and allowances be immediately delivered to her upon release.

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¹ Rollo, p. 12; docketed as UDK-A20130416-01.

² Id. at 15-16; docketed as UDK-A20130416-02.

Further, Judge Bandong would unduly favor Criminal Case Clerk-in-Charge Eduardo Febrer (Febrer) thereby affecting the office dynamics negatively. Febrer, for his part, would always stay out of the office and delegate his tasks to his co-workers, on top of their respective assignments. Febrer would also look for records or process bail bonds only when given money by bonding companies or litigants. While obvious to all, Judge Bandong seemed not to mind Febrer's ways.

The second letter-complaint was of similar import. It claimed that Judge Bandong was not keen on studying cases, and would instead direct her staff, except the utility worker, to talk to the parties to settle the case at the outset. If the parties disagreed, Judge Bandong would repeatedly postpone the hearing until such time that the parties would just opt to settle. In one instance, Judge Bandong even pursued the settlement of a rape case notwithstanding that it was already submitted for decision prior to her assumption as Presiding Judge of the branch. She ordered the accused to plead guilty to a lesser offense, and when the Public Attorney's Office lawyer refused to assist the accused, Judge Bandong appointed another lawyer to the prejudice of the private complainant whose efforts to obtain justice was put to naught.

Also, Judge Bandong would refrain from reading voluminous case records and would instead order her staff, usually the stenographers and clerks, to make a digest or orally narrate to her the circumstances of the case. Because of this, the stenographers could not attend to the transcription of stenographic notes, causing them to pile up.

In addition, the second letter-complaint mentioned that Judge Bandong was especially fond of Febrer, whose wife would also frequent the office and bring food for Judge Bandong. Because of these, Judge Bandong tolerated Febrer's act of receiving money from litigants.

On April 18, 2013, the OCA received another anonymous letter-complaint,³ this time against Febrer and the Court Interpreter of the same branch, Francisco Mendiore (Mendiore). It similarly alleged that Judge Bandong would assign Febrer's duties to other staff members, leaving the latter with nothing to do. It also mentioned Febrer's scheme of demanding money from litigants before attending to follow-ups of cases. The letter-complaint likewise pointed to Mendiore as the person responsible for the missing records that would re-surface a few days later, a scheme on the part of Mendiore to make money.



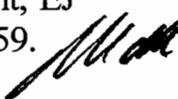
³ Id. at 45-47.

Acting thereon, the OCA indorsed the two letters-complaints against Judge Bandong and the letter-complaint against Febrer and Mendiore to the Executive Judge of RTC Lucena City for discreet investigation and report.⁴

Meanwhile, on November 20, 2013, the Court in A.M. No. 14889-Ret. approved the application of Judge Bandong for optional retirement effective at the close of office hours of September 30, 2013.⁵ However, her retirement benefits, except for the money value of her accrued leave credits, were ordered withheld pending resolution of the two aforementioned letters-complaints against her and of two other administrative complaints, to wit: (1) OCA IPI No. 12-3944-RTJ entitled "*Liberty R. Beltran v. Presiding Judge Dinah Evangeline B. Bandong*";⁶ and (2) OCA IPI No. 12-3963-RTJ entitled "*Yolanda G. Maniwang v. Presiding Judge Dinah Evangeline B. Bandong*."⁷

On February 26, 2014, the OCA received the separate reports⁸ of then RTC Lucena City Executive Judge Eloida R. De Leon-Diaz (EJ De Leon-Diaz) on the discreet investigations she conducted. While EJ De Leon-Diaz recommended the dismissal of the charges against Febrer and Mendiore for want of concrete evidence, she opined otherwise with respect to Judge Bandong.

EJ De Leon-Diaz revealed that even before the discreet investigation was made, the staff members of Judge Bandong already requested detail to other branches on account of the difficulties they experienced in dealing with the latter. Instead of acceding, EJ De Leon-Diaz advised Judge Bandong to settle the issues between her and her staff. Judge Bandong refused to heed EJ De Leon-Diaz' advice and even scolded her staff for discussing their problems with the Executive Judge. She allegedly told her staff not to listen to EJ De Leon-Diaz since it was her (Judge Bandong), as the Presiding Judge of Branch 59, who has the final say on matters concerning the branch. Because of the above-mentioned incident, EJ De Leon-Diaz claimed that she continued to monitor the activities in Branch 59.



⁴ Id. at 10 and 41, respectively; the 1st Indorsements from the OCA addressed to Judge Adolfo V. Encomienda, former Executive Judge of RTC Lucena City, were in turned indorsed by him to the incumbent Executive Judge, Judge Eloida R. De Leon-Diaz, through separate 2nd Indorsements, id. at 30 and 40.

⁵ Id. at 61.

⁶ For Gross Ignorance of the Law, Gross Inefficiency and Grave Misconduct. In a Resolution dated January 29, 2014, the Court dismissed the complaint for involving issues which are judicial in nature and for lack of merit.

⁷ For Conduct Prejudicial to the Best Interest of the Service. The charge was, however, declared baseless in the Report of the Investigating Judge which was approved by the OCA and adopted by this Court. Nevertheless, in the Court's Resolution of July 6, 2015, Judge Bandong was admonished for uttering improper statements during the mediation proceedings of a particular case.

⁸ *Rollo*, pp. 24-29 and 36-39, respectively.

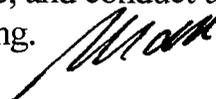
EJ De Leon-Diaz further stated that when Judge Bandong assumed office as Presiding Judge of Branch 59, there were complaints from prosecutors, lawyers, and litigants regarding her failure to conduct formal hearings in her court; compelling parties to conciliate even in criminal cases; and admitting that she does not know how to conduct hearings and write decisions and resolutions. Because of these, Judge Bandong had become the laughing stock of lawyers appearing before the RTC Lucena City.

EJ De Leon-Diaz also confirmed the allegation that Judge Bandong pursued the settlement of a rape case even if the same was already submitted for decision. The said incident, according to the Executive Judge, even caused the prosecutor assigned at Judge Bandong's sala to request detail to another station due to her disappointment with the latter's actuation.

Moreover, EJ De Leon-Diaz recounted that while conducting an observation of the courts in RTC Lucena City, she noticed that no hearing was being conducted in the sala of Judge Bandong. When she went inside, she found Judge Bandong in her chambers watching television with feet on the table. Judge Bandong even invited EJ De Leon-Diaz to join her in watching but the latter declined and advised her to just turn off the television and attend to her cases instead. Later, the staff of Judge Bandong told EJ De Leon-Diaz that they were scolded by their boss for their failure to warn her of the Executive Judge's arrival. They also told her that the money used to buy the television set of Judge Bandong came from their own contributions.

EJ De Leon-Diaz likewise confirmed the following charges: (1) Judge Bandong would assign duties not commensurate to the plantilla positions of her staff, *i.e.*, the Process Server was assigned duties of a Clerk; the Utility Worker was assigned duties of a Process Server; and the Stenographers were required to summarize cases; (2) it was the Legal Researcher who would resolve cases; (3) Judge Bandong would unreasonably demand priority in the delivery of money and checks no matter how small the amount; and, (4) Judge Bandong would exhibit eccentricities and attitude problems. She disallowed her staff from talking to other court personnel and instructed them to prevent the entry of other persons inside their office; she also at one time padlocked their office and brought the keys with her to Infanta, Quezon, forcing her staff to engage a locksmith so they could enter their office.

In view of the above, EJ De Leon-Diaz recommended that administrative charges for gross ignorance of the law, incompetence, and conduct unbecoming of a member of the bench be filed against Judge Bandong.



In the Resolution⁹ dated October 15, 2014, the Court, per recommendation of the OCA,¹⁰ resolved as follows:

1. CONSIDER the two (2) anonymous complaints filed on 1 April 2013 and 16 April 2013 against Presiding Judge Dinah Evangeline B. Bandong, RTC, Br. 59, Lucena City, Quezon Province, and the Reports both dated 15 August 2013 of Executive Judge Eloida R. De Leon-Diaz on her discreet investigation on the anonymous complaints as an ADMINISTRATIVE COMPLAINT against former Presiding Judge Dinah Evangeline B. Bandong;
2. DIRECT the Division Clerk of Court to FURNISH former Judge Bandong with copies of the two (2) anonymous complaints and the Reports both dated 15 August 2013 of Executive Judge Eloida R. De Leon-Diaz;
3. REQUIRE Judge Bandong to COMMENT on the charges against her within a period of ten (10) days from notice;
4. DISMISS the charges against Clerk III Eduardo Febrer and Court Interpreter Francisco Mendioro, both of the RTC, Br. 59, Lucena City, Quezon Province for lack of merit; and
5. DIRECT the Office of the Court Administrator to CONDUCT a JUDICIAL AUDIT in the RTC, Br. 59, Lucena City, Quezon Province.

x x x x¹¹

In her Compliance¹² dated February 18, 2015, Judge Bandong vehemently denied the charges against her. She instead imputed “sinister delight and malevolent glee” upon EJ De Leon-Diaz in drafting the investigation report and even insinuated that EJ De Leon-Diaz could be responsible for the two anonymous letter-complaints.¹³

Relevant portions of Judge Bandong’s comment to the charges against her are as follows:

That ‘the entire staff of Branch 59 has come to her (EJ. De Leon-Diaz) personally to communicate their grievances against Judge Bandong and request that they be detailed to the other branches or offices of the court, leaving no support staff in Branch 59’ is too absurd and far-fetched to be worthy of belief. First, while there may be at least a couple of ‘bad eggs’ in the staff of Branch 59, the rest are practical and sensible enough to recognize the irrationality of leaving

⁹ Id. at 62-64.

¹⁰ See OCA Memorandum dated September 11, 2014, id. at 1-9.

¹¹ Id. at 63; accordingly, the complaints against Judge Bandong were assigned OCA Informal Preliminary Inquiry [OCA IPI] No. 14-4329-RTJ.

¹² Id. at 144-159.

¹³ Id. at 146.



the branch without a single member of its staff. Second, it is no secret that EJ De Leon-Diaz is generally known, at least within the courthouse in Lucena City and local legal circles, to be unapproachable to most, to the point of being fearsome.

x x x x

As to EJ. De Leon-Diaz' claim that she received complaints that respondent 'does not conduct any formal hearings in her court', the records will show otherwise. Information, though unconfirmed, has reached [the] respondent that EJ. De Leon-Diaz has been spreading rumors to that effect, all the way up to the Supreme Court. And because EJ. De Leon-Diaz is an absentee judge, being always out of the courthouse, she has never seen how respondent has been working, sometimes staying in court up to 8:00 o' clock at night, to meet her self-imposed deadlines for court work.

There is simply no truth to EJ. De Leon-Diaz' finding that respondent's 'former prosecutor asked to be detailed in Laguna because she refused to conciliate criminal cases.' The truth is that former Prosecutor Alelie B. Garcia was already detailed in Laguna as early as April 2011 x x x concurrently serving as prosecutor for Branch 59, and acted in both capacities until her appointment as Presiding Judge of the Municipal Trial Court at Polillo Island on 09 September 2013.

EJ. De Leon-Diaz' story about finding respondent 'inside her chamber x x x, feet raised and very relaxed in watching her favorite telenovela' is a complete fabrication, a deliberate falsehood and a vicious lie. It must be stressed here that respondent previously underwent surgery on account of a complete fracture of her leg bone, and can neither walk long distances nor prop up her legs without experiencing disabling pain. Consequently[,] respondent would never raise her feet on a table, particularly one as high as that in her chambers at Branch 59, unless it was absolutely necessary. EJ. De Leon-Diaz seems to have forgotten that respondent walks with a limp, or it may have entirely escaped her notice. At any rate, it runs against respondent's moral fiber to watch a television show in lieu of hearing cases during the business hours of the court.

x x x x

About the television set: while other courts/branches have refrigerators, water dispensers and other electrical appliances, Branch 59 procured only a television set for use during lunch break which almost all members of the staff spent in court, to keep abreast of goings-on in the country and elsewhere as well as for entertainment. Worth some Php6,000.00, respondent paid the Php1,500.00 down payment while the balance was paid via contributions from the court employees. Respondent also shouldered the expenses for the installation of a cable TV service and the monthly subscription fees therefor while she was still presiding over Branch 59. The TV set is, as far as respondent knows, still in [the] court.

x x x x

It is not 'the Legal Researcher who resolves whatever is pending for the (respondent's) consideration'. That is the duty of respondent, which duty she discharges and fulfills by writing the drafts of her own decisions, orders and other



issuances, then affixing her signature to the finalized form thereof. The Legal Researcher, Shiela Amandy, is asked to check the citations of law and precedent, if any, that these drafts may contain, and proceed with the reduction of the drafts into typewritten or printed form for respondent's signature. Every decision or resolution respondent made and signed was the product of her study of the facts alleged, the evidence adduced, and the law and jurisprudence applicable to the case. Aware that such decisions/resolutions are subject to challenge by the parties, respondent takes care to carefully apply the law and precedent to the facts as shown by the evidence.

X X X X

Respondent did not and does not play favorites. An examination of her work in all the courts she served will show that she is a fair, just and humane judge and leader, who does not tolerate idleness and wrongdoing. She adheres to the principle that every member of the court staff represents a spoke in the wheel of justice. For the wheel to keep turning, each spoke must give its best and contribute its strength to the whole.

Branch 59's caseload consists of approximately eighty percent (80%) criminal cases and twenty percent (20%) civil and other cases. In view of the number of cases, the workload relative to criminal cases could not be accomplished singlehandedly by Criminal Docket Clerk Eduardo Febrer so that he was assisted by a provincial employee who was, however, appointed Process Server of the Municipal Trial Court at Lucban, Quezon, in March 2013. Process Server Eric Atienza was assigned to perform duties related to his position and functions, specifically the service of notices, orders, subpoenae, etc. by registered mail. Prior to March 2013 Atienza's workload was very light - he had much time on his hands that he could afford to attend to his bar/restaurant and construction contracting businesses as well as his functions as President of the Process Servers Association of the Philippines during office hours. When Atienza was given his new assignment of mailing notices, he became scarce, frequently absenting himself and when present refusing to work at the office, forcing his co-employees Sheriff Grace Armamento, Clerk III Madeleine Gaviola and OIC-Branch Clerk of Court Teodora Parfan to fill in for him. On hindsight, respondent should have filed a case or cases against Atienza.

X X X X

There is no truth whatsoever to EJ. De Leon-Diaz' report that respondent 'closed the entire office because she wanted her staff in San Pablo City as she was sick.' Respondent prefers to rest in private when she is under the weather or otherwise feels unwell, which preference is known to her staff in Branch 59 and the other courts she had served, to friends and relations.

The story laying responsibility, nay, culpability, upon respondent for the keys that went missing sometime in June 2013 while she was on official travel to Infanta, Quezon, is only for the gullible. Even EJ. De Leon-Diaz[, is] or should be aware that respondent is not the custodian of the keys to the offices of Branch 59, so that blaming respondent for their loss stretches logic and reason, and is certainly unjustified and unreasonable.



EJ. De Leon-Diaz exaggerates when she reports that ‘The staff members are not allowed to talk to other court personnel, [that] no one shall be allowed inside the office of Branch 59, even those court personnel who [have] important business with any member of her staff, like to secure x x x stenographic notes in consolidated cases pending before the other branches of the court’. [It was just that] the workplace was rationalized whereby the staff was housed in a lower staff room open to the court-going public and in the mezzanine which was off-limits to the public and non-Branch 59 personnel, the latter for security reasons.

On Demands for Priority in the Delivery of Checks and Moneys

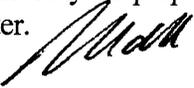
There is a payroll for the eight (8) judges presiding over the different branches of the Regional Trial Court in Lucena City, which is prepared ahead of and apart from the payroll for the other court employees. As a natural consequence, respondent received her paychecks ahead of her staff, but she never demanded that the same be given ahead of the other judges.

EJ De Leon-Diaz’ confirmation of the claim that respondent wants to be prioritized in the delivery of her checks appears to be a ploy on her part to cover or camouflage her own shortcomings regarding her pay. Unconfirmed reports have it that the EJ has a lot of loans. But it is a fact that there is a pending matter between Nedy Taringan and Lorelei Caranto, both employees of Branch 54. It is also a fact that the EJ has not investigated this matter until the present. Then there is talk that the EJ could not proceed with the investigation because she is in deep monetary debt to both employees.

At any rate, whether or not the reports are true, the issue on priority in check delivery is too petty to deserve any consideration. x x x¹⁴

In its Memorandum¹⁵ dated August 19, 2015, the OCA informed the Court that in compliance with the Resolution dated October 15, 2014, it dispatched a team to RTC-Lucena City, Branch 59 to conduct a judicial audit. In the course thereof, the OCA likewise conducted a parallel investigation in connection with the complaints against Judge Bandong which yielded the following:

x x x Four (4) of the court personnel, namely, OIC-Legal Researcher Shiela May Amandy, Court Interpreter Francisco Mendioro, Clerk III Eduardo Febrer, and Process Server Eric Atienza gave their respective sworn statements. OIC-Legal Researcher Amandy narrated her initial non-designation by respondent Judge Bandong as OIC. Moreover, she confirmed the allegation that respondent Judge Bandong belatedly conducted court hearings due to her habit of watching Korean *telenovelas* and how she instructed her staff to give her a detailed update on the scenes she missed whenever she was constrained to conduct hearings. OIC-Legal Researcher Amandy stressed that respondent Judge Bandong practically delegated to her the duty of preparing court decisions without any significant output from the latter.



¹⁴ Id. at 146-153.

¹⁵ Id. at 180-200.

Court Interpreter Mendioro confirmed respondent Judge Bandong's obsession to watch Korean *telenovelas* and revealed the latter's peculiar manner of dressing up [in] public by wearing dusters, slippers, and other household clothes. He expressed incredulity over respondent Judge Bandong's propensity to delegate cases (including appealed ones) for mediation even to the lower-ranked employees such as the process server. On the other hand, Clerk III Febrer denied being the pet employee of respondent Judge Bandong as he also received some dressing-down from the latter. He also denied loafing around or looking for records only when there was money involved. He, however, validated respondent Judge Bandong's declaration that Process Server Atienza's frequent loitering prompted the magistrate to delegate to the latter the duty of releasing orders and notices.

For his part, Process Server Atienza confirmed all the allegations against respondent Judge Bandong and Clerk III Febrer, without, however, giving specifics. He asserted that he was overloaded with tasks which are not part of his job description, including the mediation of cases, to the detriment of his own workload. x x x¹⁶

Interestingly, Process Server Atienza (Atienza) also stated that there were allegations that their former OIC, Stenographer Teodora Parfan (Parfan), was asking money in exchange of favorable orders or decisions. In fact, Atienza, for several times, saw litigants giving money to Parfan in their branch session hall. Later, the OCA investigating team came across a piece of paper which appeared to be a handwritten receipt issued and signed by Parfan on November 27, 2014 indicating as follows: "*Received the amount of ₱5,000.00 from Rowel Abella as partial settlement of case.*" Apparently, the said receipt pertained to Criminal Case No. 2005-1127, a case for frustrated homicide. The investigating team then tracked down the accused therein, Rowell Abella (Abella), and private complainant's father, Ruben de Ocampo (de Ocampo). They both confirmed that after a scheduled hearing, Judge Bandong referred the parties to Parfan for mediation.¹⁷

Considering the foregoing, the OCA evaluated the complaints as follows:

In the instant matter, respondent Judge Bandong is confronted with a considerable number of charges. After a careful evaluation of the charges, this Office is convinced that most of them failed to surpass and transcend the required substantial evidence to prove her culpability on said allegations, either because

¹⁶ Id. at 189-190.

¹⁷ The respective sworn statements of Rowell Abella (Abella) and Ruben de Ocampo (de Ocampo) indicate that the parties agreed to the proposition that Abella would pay de Ocampo ₱72,000.00 by installments of ₱5,000.00 bi-monthly in exchange for the latter's withdrawal of the case. The first installment of ₱5,000.00 was given directly by Abella to de Ocampo while the succeeding installments were coursed through Parfan until the payment was completed. It turned out, however, that while Abella religiously gave Parfan the agreed amount of installment on time until payment was completed, Parfan failed to timely and completely remit the same to de Ocampo. Thus, upon the recommendation of the OCA, the Court resolved to treat the sworn statements of Abella and de Ocampo as a Separate Administrative Complaint against Parfan through a Resolution dated May 30, 2016, id. at 210.



the charges against her were uncorroborated and inadequate, or because they were merely derived from second-hand information, or because they were just too inconsequential to merit the Court's attention, viz.:

- a. Her alleged predisposition to keep favorite employees;
- b. Her alleged public admission of ineptitude when conducting trials and hearings and/or propensity to compel litigants and lawyers to conciliate;
- c. Her alleged failure to conduct trials and hearings;
- d. Her alleged undue insistence for an immediate dispatch of her checks;
- e. Her alleged proclivity to delegate her decision-making duty to her court personnel; and,
- f. Her alleged eccentricities and/or peculiar directives to her personnel.

Some of the above allegations might have been considered as serious enough to have merited a deeper scrutiny had they been supported by additional evidence. Unfortunately, mere allegation without any proof of the supposed improprieties committed by respondent Judge Bandong in the anonymous letters and the report submitted by Executive Judge De Leon-Diaz is evidently not sufficient to make her accountable for such misfeasance.

Still, this Office believes that substantial evidence exists against respondent Judge Bandong on the following charges:

- a. Her habit of watching TV programs during court trials and hearings;
- b. Her predeliction to delegate mediation of cases to court personnel; and,
- c. Her designation of Process Server Atienza to perform the functions and duties appertaining to Clerk III Febrer.¹⁸

As to Judge Bandong's habit of watching *telenovelas* during office hours, the OCA noted that (1) EJ De Leon-Diaz had a first-hand information on this as she herself witnessed it; and (2) the same was confirmed by Judge Bandong's staff, namely, Atienza, Amandy, Febrer and Mendioro in their respective sworn statements. For this, the OCA found Judge Bandong to have exhibited conduct prejudicial to the best interest of the service and violated Sections 1 and 2, Canon 6 of the New Code of Judicial Conduct which mandate a judge's strict devotion to judicial duties.

With respect to Judge Bandong's practice of delegating to her court staff the mediation of cases, this was confirmed by the sworn statements of Abella and de Ocampo which revealed that per instruction of Judge Bandong, Stenographer Parfan caused the parties in Criminal Case No. 2005-1127 to enter into monetary settlement in order to terminate the case. Per A.M. No. 01-10-5-SC-PHILJA dated October 16, 2001, cases where amicable settlement is possible should be referred to the Philippine Mediation Center (PMC) which shall assist the parties in selecting a duly accredited mediator. Judge Bandong therefore erred in not referring mediatable cases to the PMC and in letting her staff, who were not

¹⁸ Id. at 192-193.



accredited mediators, handle the mediation of cases. This, according to the OCA, constituted grave misconduct.

Anent Judge Bandong's designation of (Process Server) Atienza to perform the duties and functions pertaining to (Clerk III) Febrer, the OCA stressed that under Section 7, Canon IV of the Code of Conduct for Court Personnel, court personnel shall not be required to perform any work or duty outside the scope of their assigned job description. Here, the OCA noted the significant difference between the duties of a Clerk III, which are basically clerical in nature and require one to be always in the office, and the duties of a Process Server, which require the latter in the field to personally serve and/or mail court processes. The OCA opined that it is incongruent to assign a Process Server with duties pertaining to a Clerk since the same would tie down the former to the office to the detriment of his own work, which as mentioned, requires him to be out of the office most of the time. While Judge Bandong might have had the best intention in wanting to lighten the workload of Febrer, her assignment to Atienza of the duties pertaining to Febrer, however, adversely affected another important aspect of court management, that is, the prompt service of court processes. This, according to OCA, was counter-productive and did not serve the ends of justice. Hence, it found Judge Bandong to have violated Supreme Court circulars, rules and directives.

The OCA summed up its report as follows:

Recapitulating the three (3) charges discussed above, this Office believes that respondent Judge Bandong is liable for (1) conduct prejudicial to the best interest of the service (for watching TV during court trials and hearings), (2) gross misconduct (for erroneously referring cases for mediation), and (3) violation of Supreme Court rules, directives, and circulars (for wrongful delegation of duties to court personnel). Under Section 50, Rule 10 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS), if the respondent is found guilty of two (2) or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge and the rest shall be considered as aggravating circumstances. In the instant case, the charge of gross misconduct is the most serious charge, making the charges of conduct prejudicial to the best interest of the service and violation of Supreme Court rules, directives and circulars as aggravating circumstances. Under Section 11, Rule 140 of the Rules of Court, gross misconduct is punishable by dismissal from the service.

Considering, however, that respondent Judge Bandong has already retired from the service, this Office finds wisdom in applying the principle laid down in *Santiago B. Burgos vs. Clerk of Court II Vicky A. Baes*. In lieu of dismissal that the offense carries but which can no longer be effectively imposed because of respondent Judge Bandong's retirement, this Office recommends the forfeiture of whatever benefits still due her from the government, except for the accrued leave credits, if any, that she had earned. It is also recommended that she



be barred from reemployment in any branch or instrumentality of the government, including government-owned and controlled corporations.

x x x x

IN VIEW OF THE FOREGOING, this Office respectfully recommends that:

- (a) the instant complaint be RE-DOCKETED as a regular administrative matter;
- (b) retired Judge Dinah Evangeline B. Bandong, formerly of Branch 59, Regional Trial Court, Lucena City, Quezon be found LIABLE for Gross Misconduct;
- (c) considering that dismissal from the service can no longer be effectively imposed on respondent Judge Bandong in view of her optional retirement effective 30 September 2013, that whatever benefits still due her from the government, except for accrued leave credits, if any, be FORFEITED and that she be BARRED from re-employment in any branch or instrumentality of the government, including government-owned and controlled corporations.

x x x x¹⁹

The Court's Ruling

The Court partly adopts the findings and recommendations of the OCA.

Among the many charges against Judge Bandong, the OCA aptly found that only the following were supported by substantial evidence: (1) Judge Bandong's habit of watching television during office hours; (2) her predeliction to delegate mediation of cases to court personnel; and (3) her delegation to Process Server Atienza the performance of the functions and duties pertaining to Clerk III Febrer. "In administrative cases, the quantum of evidence required is that of substantial evidence."²⁰ "Substantial evidence is such relevant evidence as a reasonable mind may accept as adequate to support a conclusion. The requirement is satisfied where there is reasonable ground to believe that the [respondent] is guilty of the act or omission complained of, even if the evidence might not be overwhelming."²¹ Here, the other charges against Judge Bandong remain to be mere allegations and therefore did not meet the mandated quantum of evidence. Rightly so, Judge Bandong "should not be held responsible for

¹⁹ Id. at 198-199.

²⁰ *Astorga and Repol Law Offices v. Villanueva*, 754 Phil. 534, 551 (2015).

²¹ *Office of the Ombudsman v. Dechavez*, 721 Phil. 124, 130 (2013).



allegations which were not proven.”²² However and as stated, it is otherwise with respect to the three charges specifically mentioned as will be discussed below.

Judge Bandong’s habit of watching television programs during office hours

As noted by the OCA, Judge Bandong’s habit of watching *telenovelas* during office hours was personally witnessed by EJ De Leon-Diaz. Aside from this, the staff of Branch 59 in their respective sworn statements²³ uniformly attested that Judge Bandong would watch Korean *telenovelas* during office hours thereby causing delay in the conduct of hearings. Lawyers and litigants were made to wait until she had finished watching. Indeed, the report of EJ De Leon-Diaz regarding this matter and the consistent statements of the staff of Branch 59 already constituted substantial evidence. On the other hand, Judge Bandong did not categorically deny the charge and merely stated that “it runs against [her] moral fiber to watch a television show *in lieu* of hearing cases during the business hours of the court.”²⁴

Thus, the Court agrees with the OCA that Judge Bandong violated Sections 1 and 2, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary which provide, *viz.*:

CANON 6
COMPETENCE AND DILIGENCE

Competence and diligence are prerequisites to the due performance of judicial office.

SECTION 1. The judicial duties of a judge take precedence over all other activities.

SECTION 2. Judges shall devote their professional activity to judicial duties, which include not only the performance of judicial functions and responsibilities in court and the making of decisions, but also other tasks relevant to the judicial office or the court’s operations.

The Court has stressed time and again that “decision-making is the primordial x x x duty of a member of the [bench].”²⁵ “No other [task] can be more important than decision-making x x x.”²⁶ In the case of trial courts, the conduct of hearings is unquestionably an important component of their decision-making

²² *Lim, Jr. v. Judge Magallanes*, 548 Phil. 566, 574 (2007).

²³ *Rollo*, pp. 205-209.

²⁴ *Id.* at 149.

²⁵ *Re: Complaint Against Justice Elvi John S. Asuncion of the Court of Appeal*, 547 Phil. 418, 436 (2007).

²⁶ *Re: Problem of delays in cases before the Sandiganbayan*, 426 Phil. 1, 15 (2002).



process and, conversely, all other official tasks must give way thereto.²⁷ Hence, for a judge to allow an activity, and an unofficial one at that, to take precedence over the conduct of hearings is totally unacceptable. It is a patent derogation of Sections 1 and 2 of Canon 6 and a blatant disregard of the professional yardstick that “all judicial [officials and] employees must devote their official time to government service.”²⁸

Additionally, Judge Bandong’s habit of watching television during office hours violates Section 7 of the same Canon 6 which requires Judges “not to engage in conduct incompatible with the diligent discharge of judicial duties.” Watching *telenovelas* surely dissipates away Judge Bandong’s precious time in the office, which, needless to say, has an adverse effect on the prompt administration of justice.²⁹ Such activity is by all means counter-productive to the due performance of judicial duties.

For the afore-stated violations, the Court finds Judge Bandong guilty of conduct prejudicial to the best interest of the service. “Conduct prejudicial to the best interest of [the] service x x x pertains to any conduct that is detrimental or derogatory or naturally or probably bringing about a wrong result; it refers to acts or omissions that violate the norm of public accountability and diminish – or tend to diminish – the people’s faith in the Judiciary.”³⁰ As correctly stated by OCA, Judge Bandong’s “audacity to delay – and even interrupt – court trials and hearings just to satisfy her obsession for soap operas [is w]ithout a doubt [a] reprehensible conduct [which] lowers the people’s respect for the judiciary.”³¹

Judge Bandong’s predeliction to delegate mediation of cases to court personnel

Both the affidavits of De Ocampo and Abella confirmed that it was (Stenographer) Parfan who mediated between them in Criminal Case No. 2005-1127. This was supported by the handwritten receipt signed by Parfan (which the OCA investigating team came across in the course of its investigation) purportedly showing partial payment of the settlement amount in the said criminal case. Abella also categorically stated that it was Judge Bandong who referred them to Parfan. To the Court, these are substantial evidence to support the subject charge against Judge Bandong. Notably, Judge Bandong was silent about the matter. She totally failed to deny or proffer any explanation for the same.

²⁷ Id. at 15-16.

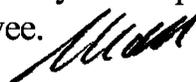
²⁸ *Concerned Litigants v. Araya, Jr.*, 542 Phil. 8, 18 (2007).

²⁹ *Rollo*, p. 194.

³⁰ *Executive Judge Contreras-Soriano v. Salamanca*, 726 Phil. 355, 361-362 (2014).

³¹ *Rollo*, p. 194.

To decongest court dockets and enhance access to justice, the Court through A.M. No. 01-10-05-SC-PHILJA approved the institutionalization of mediation in the Philippines through court-annexed mediation. Along with this, structures and guidelines for the implementation of court-annexed mediation were put in place. Trial courts, therefore, cannot just indiscriminately refer for mediation any case to just anybody. For one, there are cases which shall³² and shall not³³ be referred to court-annexed mediation. For another, mediatable cases where amicable settlement is possible must be referred by the trial courts to the PMC, who in turn, shall assist the parties in selecting a mutually acceptable mediator from its list of duly accredited mediators. Here, Criminal Case No. 2005-1127 involving frustrated homicide is apparently not a mediatable case. Clearly on this score alone, Judge Bandong had already violated A.M. No. 01-10-05-SC-PHILJA. Worse, Judge Bandong entrusted the settlement of the case to Parfan, a Court Stenographer, who obviously was not a qualified, trained, or an accredited mediator. It must be emphasized that while courts and their personnel are enjoined to assist in the successful implementation of mediation, A.M. No. 01-10-05-SC-PHILJA does not authorize them to conduct the mediation themselves. Mediation of cases can only be done by individuals who possess the basic qualifications for the position, have undergone relevant trainings, seminars-workshops, and internship programs and were duly accredited by the court as mediators. These are to ensure that the mediators have the ability to discharge their responsibility of seeing to it that the parties to a case consider and understand the terms of a settlement agreement. Unlike therefore when the mediation is facilitated by an accredited mediator, there is great danger that legal rights or obligations of parties may be adversely affected by an improper settlement if mediation is handled by an ordinary court employee.



³² Per A.M. No. 01-10-5-SC-PHILJA, the following cases are referable to mediation:

- a. All civil cases, settlement of estates, and cases covered by the Rule on Summary Procedure, except those which by law may not be compromised;
- b. Cases cognizable by the Lupong Tagapamayapa under the Katarungang Pambarangay Law;
- c. The civil aspect of BP 22 cases; x x x
- d. The civil aspect of quasi-offenses under Title 14 of the Revised Penal Code; and
- e. The civil aspect of theft (not qualified theft), estafa (not syndicated or large scale estafa), and libel [per the Philippine Judicial Academy Website <<http://philja.judiciary.gov.ph/pfaq.html>, last visited August 29, 2017]

³³ Per the Philippine Judicial Academy Website <<http://philja.judiciary.gov.ph/pfaq.html>, last visited August 29, 2017>, the following cases shall not be referred to [Court-Annexed Mediation] x x x:

1. Civil cases which by law cannot be compromised, as follows:
 - o The civil status of persons;
 - o The validity of a marriage or a legal separation;
 - o Any ground for legal separation;
 - o Future support;
 - o The jurisdiction of courts; and
 - o Future legitime.
2. Civil aspect of non-mediatable criminal cases;
3. Petitions for Habeas Corpus;
4. All cases under Republic Act No. 9262 (Violence against Women and Children); and
5. Cases with pending application for Restraining Orders/Preliminary Injunctions.

The above important points could not have been unwittingly missed out by Judge Bandong. As opined by the OCA, Judge Bandong could not feign ignorance of A.M. No. 01-10-05-SC-PHILJA since the Philippine Judicial Academy frequently conducts “conventions and seminars for judges and clerks of court nationwide regarding the implementation of court-annexed mediations and judicial dispute resolutions.”³⁴ To the mind of the Court, Judge Bandong knowingly made the wrongful referral because her indolence got the better of her. Indeed, this wanton disregard and mockery of the proper procedure in mediation of cases, as correctly held by the OCA, was tantamount to misconduct.

Misconduct is defined as a transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, unlawful behavior, willful in character, improper or wrong behavior. The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law, or to disregard established rules, which must be established by substantial evidence. As distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in a charge of grave misconduct.³⁵

Here, the misconduct committed by Judge Bandong was grave since the circumstances obtaining established her flagrant disregard of the rules on referral of cases for mediation. Judge Bandong committed a patent deviation from the rules when she wrongfully referred a non-mediatable case to her staff, a court stenographer, who was not an accredited mediator. This was despite the expectation that as a member of the bench, she not only knows the rules and regulations promulgated by this Court but also faithfully complies with it. Indeed, Judge Bandong is guilty of grave misconduct.

Judge Bandong’s delegation of the functions and duties of Clerk III Febrer to Process Server Atienza

The separate sworn statements³⁶ of Atienza and Febrer confirmed the fact that the former was assigned the duties and functions of the latter as Clerk III. Judge Bandong, on the other hand, did not directly confront the subject charge and simply stated that: (1) the number of workload relative to criminal cases could not be accomplished singlehandedly by Febrer as the Clerk-in-Charge of criminal cases; and, (2) that prior to March 2013, Atienza’s workload was very light, allowing him to attend to his other businesses as well as to his functions as President of the Process Servers Association of the Philippines during office

³⁴ Rollo, p. 195.

³⁵ Re: Administrative Charge of Misconduct Relative to the Alleged Use of Prohibited Drug of Castor, 719 Phil. 96, 100-101 (2013).

³⁶ Rollo, pp. 205 and 208.

hours.³⁷ The consistent statements of the two personnel involved in this charge vis-à-vis Judge Bandong's ambivalent explanation on the matter lead this Court to sustain the charge.

In *Executive Judge Apita v. Estanislao*,³⁸ the Court had the occasion to explain that:

While the [2002 Revised Manual for Clerks of Court which defines the general functions of all court personnel in the judiciary] provides that court personnel may perform other duties the presiding judge may assign from time to time, said additional duties **must be directly related to, and must not significantly vary from, the court personnel's job description.** x x x

Section 7, Canon IV of the Code of Conduct for Court Personnel expressly states that court personnel shall not be required to perform any work outside the scope of their job description, thus:

Sec. 7. Court personnel shall not be required to perform any work or duty outside the scope of their assigned job description.³⁹

The rationale for this is as follows:

This rule is rooted in the time-honored constitutional principle that public office is a public trust. Hence, all public officers and employees, including court personnel in the judiciary, must serve the public with utmost responsibility and efficiency. **Exhorting court personnel to exhibit the highest sense of dedication to their assigned duty necessarily precludes requiring them to perform any work outside the scope of their assigned job description, save for duties that are identical with or are subsumed under their present functions.**⁴⁰

Clearly here, Judge Bandong violated Supreme Court circulars, rules and directives when she delegated to Atienza the duties of Febrer as Clerk III. As explained by the OCA, the duties of a Clerk III are not directly related to and significantly vary from those of a Process Server, viz.:

The duties of a Clerk III differ significantly from those of a Process Server. A Clerk III's job is basically clerical in nature and requires him to be always in the office to assist the clerk of court in maintaining the integrity of the docket books of the court. A Process Server, on the other hand, has the primary duty of serving court processes such as subpoenas, summons, court orders and notices, thus, necessitating him to be mostly out of the office and in the field personally serving and/or mailing court processes. Hence, it would be

³⁷ Id. at 101.

³⁸ 661 Phil. 1 (2011).

³⁹ Id. at 7; emphasis supplied.

⁴⁰ Id. at 9-10; emphasis supplied.



incongruent to assign a Process Server with duties pertaining to that of a Clerk III since it would tie him down in the office to the detriment of his own work accomplishment. Evidently, a Clerk III's duties are not directly related to, and significantly vary from, the functions of a Process Server. Such arrangement diminishes the court personnel's professional responsibility and peak efficacy in the performance of their respective roles in the administration of justice.⁴¹

Penalty

Under Sec. 46(B), Rule 10 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS), the offense of conduct prejudicial to the best interest of the service is punishable by suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal from the service for the second offense.

The penalty for grave or gross misconduct under Sec. 11 in relation to Sec. 8, Rule 140 of the Rules of Court is any of the following: "(1) dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations; *Provided, however,* that the forfeiture of benefits shall in no case include accrued leave credits; (2) suspension from office without salary and other benefits for more than three (3) but not exceeding (6) months; or (3) a fine of more than ₱20,000.00 but not exceeding ₱40,000.00."

With respect to violation of Supreme Court rules, directives, and circulars, the same is sanctioned by any of the following under Sec. 11 in relation to Sec. 9 of the same Rule 140: "(1) suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or (2) a fine of more than ₱10,000.00 but not exceeding ₱20,000.00."

Under Sec. 50, Rule 10 of the RRACCS, if the respondent is found guilty of two or more charges or counts, the penalty to be imposed should be that corresponding the most serious charge and the rest shall be considered as aggravating circumstances. Here, the most serious charge against Judge Bandong is grave or gross misconduct. As mentioned above, any of the three sanctions therefor provided under Sec. 11, Rule 140 of the Rules of Court may be imposed for the said charge. Considering Judge Bandong's service to the government spanning 46 years⁴² and also the fact that she has not yet been previously penalized for an administrative offense, the Court deems it proper to impose upon her the penalty of fine in the amount of ₱40,000.00 to be deducted from her retirement benefits. It may be recalled, however, that the Court, in its Resolution

⁴¹ *Rollo*, p. 197.

⁴² Per Judge Bandong's Service Record on file with the Records Division, Office of Administrative Services of the Office of the Court Administrator.



of November 20, 2013, ordered the withholding of Judge Bandong's retirement benefits pending the outcome of this case and of the then two other pending administrative cases against her, to wit OCA IPI No. 12-3944-RTJ and OCA IPI No. 12-3963-RTJ. In view of this decision and also of the January 29, 2014 Resolution in OCA IPI No. 12-3944-RTJ (dismissing the complaint against Judge Bandong for involving issues that are judicial in nature and for lack of merit) and the July 6, 2015 Resolution in OCA IPI No. 12-3963-RTJ (merely admonishing Judge Bandong and directing her to refrain from further acts of impropriety), it is proper that Judge Bandong's retirement pay and other benefits be now ordered released after deducting the fine herein imposed, subject to the usual clearance requirements, unless withheld for some other lawful cause.

As a final note, it bears to emphasize that a judge's "high and exalted position in the Judiciary requires [her] to observe exacting standards of x x x decency and competence. As the visible representation of the law and given [her] task of dispensing justice, a judge should conduct [herself] at all times in a manner that would merit the respect and confidence of the people."⁴³

WHEREFORE, the instant complaints are **RE-DOCKETED** as a regular administrative matter. Retired Judge Dinah Evangeline B. Bandong, formerly of Branch 59, Regional Trial Court, Lucena City, Quezon is hereby found **GUILTY** of Gross Misconduct, Conduct Prejudicial to the Best Interest of the Service, and Violation of Supreme Court Rules, Directives and Circulars for which she is imposed a **FINE** of ₱40,000.00 to be deducted from whatever retirement pay and other benefits which may be due her. The Financial Management Office of the Office of the Court Administrator is directed to release Judge Bandong's retirement pay and other benefits after deducting the fine herein imposed, unless withheld for some other lawful purpose.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

⁴³ *Mercado v. Judge Salcedo (Ret.)*, 619 Phil. 3, 21 (2009).

WE CONCUR:



MARIA LOURDES P. A. SERENO

Chief Justice

Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice

