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[A.M. No. P-96-1211. March 31, 2000]

Executive Judge PACIFICO S. BULADO, *complainant, vs.* **DOMINGO TIU, Jr., Utility Worker I, Regional Trial Court, Dumaguete City, Branch 44,** *respondent.*

SYNOPSIS

This is an administrative complaint against respondent. In his letter-complaint, Judge Pacifico S. Bulado, then Executive Judge of the Regional Trial Court, Negros Oriental, alleged that respondent had numerous enemies among his co-employees and had to be re-assigned to different stations several times. According to him, respondent may fittingly be called "notoriously undesirable." Respondent's infractions, among others, include: (1) not reporting for work and instead hiring somebody else to do his work for him; (2) using the office of Branch 44 as his personal quarters, and inviting another person to live with him therein; and (3) interfering with a pending criminal case by promising to release a bail bond absent a court order therefor. The Supreme Court referred this administrative matter to the OCA for evaluation, report and recommendation. The OCA recommended respondent's dismissal from the service, with forfeiture of all benefits and with prejudice to re-entry to any government office. The OCA gave weight to Judge Bulado's allegations because his letter-complaint was supported by numerous affidavits executed by other court personnel, among them judges and clerks of court, all attesting to respondent's errant behavior. Meanwhile, Judge Alvin L. Tan, presiding judge of Branch 44, RTC, Dumaguete City, informed the Court that respondent has a pending application for the position of Clerk III at Branch 41, RTC, Dumaguete City. He recommended that the case against respondent be withdrawn to pave way for respondent's promotion to Clerk III since Judge Bulado had already forgiven respondent, who had reportedly mended his ways. Required to evaluate Judge Tan's recommendation, the OCA reiterated its earlier memorandum recommending the dismissal of respondent. The OCA pointed out that actions in

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administrative cases are independent of the will of the complainant.

The Supreme Court agreed with the recommendation of the OCA. Withdrawal of the complaint will not free respondent from his administrative liability, particularly because administrative proceedings against public employees are imbued with public interest, public office being a public trust. The Court cannot be bound by the unilateral act of a complainant in a matter that involves its disciplinary authority over all employees of the judiciary; otherwise, our disciplinary power may be put to naught. The records clearly revealed that respondent had committed acts amounting to grave misconduct.

SYLLABUS

1. **ADMINISTRATIVE LAW; COURT PERSONNEL; THE WITHDRAWAL OF COMPLAINT AGAINST RESPONDENT WILL NOT FREE HIM FROM ADMINISTRATIVE LIABILITY.** — While the complainant in this case may have forgiven respondent, this Court, charged as it is with enforcing discipline in the judiciary, cannot simply close its eyes to respondent's acts of extreme intransigence. Withdrawal of the complaint will not free respondent from his administrative liability, particularly because administrative proceedings against public employees are imbued with public interest, public office being a public trust.

2. **ID.; ID.; PROCEEDINGS IN ADMINISTRATIVE CASES ARE NOT DEPENDENT ON THE WHIMS AND CAPRICES OF COMPLAINANTS.** — The need to maintain the faith and confidence of the people in the government, its agencies and its instrumentalities requires that proceedings in administrative cases should not be made to depend on the whims and caprices of the complainants who are, in a real sense, only witnesses therein. This Court cannot be bound by the unilateral act of a complainant in a matter that involves its disciplinary authority over all employees of the judiciary; otherwise, our disciplinary power may be put to naught.

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3. **ID.; ID.; GRAVE MISCONDUCT; PENALTY.** — The records clearly reveal that respondent had committed acts amounting to grave misconduct. Under Section 22, Rule XIV of the Omnibus Rules of the Civil Service, such an offense is punishable by dismissal at the first instance. Under Section 9 of the same rule, the penalty of dismissal shall carry with it forfeiture of leave credits and retirement benefits, and disqualification from reemployment in the government service.

RESOLUTION

***PER CURIAM*:**

In a letter dated January 18, 1986, Judge Pacifico S. Bulado, then the Executive Judge of the Regional Trial Court, Negros Oriental, referred to the Office of the Court Administrator the matter of Domingo T. Tiu, Jr., a utility worker assigned to Branch 44 of the RTC, Dumaguete City. Tiu had numerous enemies among his co-employees, and had to be re-assigned to different stations several times. Judge Bulado stated in his letter that Tiu may fittingly be called "notoriously undesirable."

From Branch 44, Tiu was detailed to the Office of the Clerk of Court of the RTC. However, he performed poorly in said office. Moreover, he physically assaulted the clerk of court of Branch 33, after sexually harassing her. Tiu was ordered to return to Branch 44, but the presiding judge of said court, Judge Alvin L. Tan, wrote Judge Bulado to state that if Tiu returned to his sala, there would be "fracas everyday which will derail the administration of justice."[1]

Tiu was then detailed to the Office of the Clerk of Court of the Municipal Trial Court in Cities, Dumaguete City, but such office also rejected him. He was then detailed to Branch 40.

Tiu's other infractions include: (1) not reporting for work and instead hiring somebody else to do his work for him; (2) using the office of Branch 44 as his personal quarters, and

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[1] *Rollo*, p. 8.

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inviting another person to live with him therein; and (3) interfering with a pending criminal case by promising to release a bail bond absent a court order therefor.[2] As regards the second and third infractions, Branch 44 clerk of court Atty. Armando Ricafort issued separate memoranda to respondent ordering him not to use the office as his residence and not to repeat his interference with a case.

Upon recommendation of the OCA, we opted to treat Judge Bulado's letter as an administrative complaint against Tiu and ordered the latter to comment thereon.

In his comment, respondent branded as without basis Judge Bulado's allegations against him. He argued that the complaint is merely a personal vendetta, caused by an old feud within the Bulado clan, to which both Judge Bulado and respondent belong. Respondent also pointed out that he filed administrative complaints against the same court personnel complaining against him, including Judge Bulado and Atty. Ricafort, and that the present complaint against him is simply harassment. He also claimed that Judge Bulado asked him to withdraw his complaint against Atty. Ricafort and the other court personnel, in exchange for a promotion and the dismissal of a case against respondent filed in another sala of the RTC.

Replying to respondent's comment, Judge Bulado pointed out that the basis of his letter complaint were the letters and reports he received from other court personnel regarding respondent's misbehavior. As regards the alleged feud within the Bulado clan, Judge Bulado explained that this had long been settled and that members of the family had restored their good relations.

Judge Bulado stated that the Office of the Ombudsman dismissed the complaint filed by respondent against Atty. Ricafort. He denied having asked respondent to withdraw his complaint,

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[2] This latter infraction was the subject of another administrative case, *Macalua v. Tiu, Jr.*, 275 SCRA 320 (1997), in which respondent was suspended for one month and one day for simple misconduct.

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and pointed out that this Court would resolve administrative cases notwithstanding withdrawal of the complaint. He also stressed that he could not have promised respondent a promotion since respondent was not even working in his sala.[3]

On August 4, 1997, we referred this administrative matter to the OCA for evaluation, report and recommendation.

In a memorandum dated February 2, 1998, the OCA recommended respondent's dismissal from the service, with forfeiture of all benefits and with prejudice to re-entry to any government office, including government-owned and controlled corporations.

The OCA gave weight to Judge Bulado's allegations because his letter-complaint was supported by numerous affidavits executed by other court personnel, among them judges and clerks of court, all attesting to respondent's errant behavior. The OCA particularly denounced the violence and savagery displayed by respondent (1) when he engaged Madonna Macalua, a clerk at Branch 44, RTC, Dumaguete City, in a verbal tussle as he interfered with a criminal case pending before Branch 44, whose records were under the care and custody of Macalua; and (2) when he punched Atty. Nieves Ivy Y. Carriaga, clerk of court of Branch 33, RTC, Dumaguete City, in the face. Such behavior, according to the OCA, does not have a place in the judiciary.

Meanwhile, in a 3rd Indorsement dated May 12, 1999, Judge Alvin L. Tan, presiding judge of Branch 44, RTC, Dumaguete City, informed this Court that respondent has a pending application for the position of Clerk III at Branch 41, RTC, Dumaguete City. The application could not be acted upon due to this pending administrative case against respondent, per Section 14, Rule VI of the Omnibus Rules of the Civil Service, which disqualifies a person with a pending administrative case from promotion.

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[3] Judge Bulado was the presiding judge of Branch 33, RTC, Dumaguete City.

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Judge Tan informed the Court that Judge Bulado, the complainant in this case, had already forgiven respondent, who had reportedly mended his ways. In this regard, Judge Tan recommended that the case against respondent be withdrawn to pave the way for respondent's promotion to Clerk III.

Required to evaluate Judge Tan's recommendation, the OCA reiterated its earlier memorandum recommending the dismissal of respondent. The OCA pointed out that actions in administrative cases are independent of the will of the complainant. Public interest requires that proceedings therein continue despite withdrawal of the complaint.

We agree with the recommendation of the OCA.

While the complainant in this case may have forgiven respondent, this Court, charged as it is with enforcing discipline in the judiciary, cannot simply close its eyes to respondent's acts of extreme intransigence. Withdrawal of the complaint will not free respondent from his administrative liability,[4] particularly because administrative proceedings against public employees are imbued with public interest, public office being a public trust.[5]

The need to maintain the faith and confidence of the people in the government, its agencies and its instrumentalities requires that proceedings in administrative cases should not be made to depend on the whims and caprices of the complainants who are, in a real sense, only witnesses therein.[6] This Court cannot be bound by the unilateral act of a complainant in a matter that involves its disciplinary authority over all employees of the judiciary; otherwise, our disciplinary power may be put to naught.[7]

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[4] *Estreller v. Manatad, Jr.*, 268 SCRA 608, 616 (1997).

[5] *Gacho v. Fuentes, Jr.*, 291 SCRA 474, 483 (1998).

[6] *Estreller v. Manatad, supra; Gacho v. Fuentes, supra.*

[7] *Sandoval v. Manalo*, 260 SCRA 611, 620 (1996.)

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The records clearly reveal that respondent had committed acts amounting to grave misconduct. Under Section 22, Rule XIV of the Omnibus Rules of the Civil Service, such an offense is punishable by dismissal at the first instance. Under Section 9 of the same rule, the penalty of dismissal shall carry with it forfeiture of leave credits and retirement benefits, and disqualification from reemployment in the government service.

WHEREFORE, respondent Domingo Tiu, Jr., Utility Worker, Regional Trial Court, Branch 44, Dumaguete City, is hereby *DISMISSED* from the service, with forfeiture of all retirement and other benefits, and with prejudice to reemployment in any branch of the government, including government-owned and controlled corporations.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and *De Leon, Jr., JJ.,* concur.