



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

IRENEO GARCIA, RECORDS
OFFICER I, METROPOLITAN
TRIAL COURT, OFFICE OF THE
CLERK OF COURT, CALOOCAN
CITY,

A.M. No. P-09-2691
(Formerly A.M. OCA IPI No. 09-3040-P)

Complainant,

- versus -

CLERK OF COURT IV ATTY.
MONALISA A. BUENCAMINO,
RECORDS OFFICER II JOVITA P.
FLORES and PROCESS SERVER
SALVADOR F. TORIAGA, ALL OF
METROPOLITAN TRIAL COURT,
OFFICE OF THE CLERK OF
COURT, CALOOCAN CITY,

Respondents.

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EXECUTIVE JUDGE MARIAM G.
BIEN, METROPOLITAN TRIAL
COURT, BRANCH 53, CALOOCAN
CITY,

A.M. No. P-09-2687
(Formerly A.M. OCA IPI No. 09-3093-P)

Complainant,

- versus -

IRENEO GARCIA, RECORDS
OFFICER I and SALVADOR F.
TORIAGA, PROCESS SERVER,
BOTH OF THE METROPOLITAN
TRIAL COURT, OFFICE OF THE
CLERK OF COURT, CALOOCAN
CITY,

Respondents.

x-----x

CLERK OF COURT IV ATTY.
MONALISA A. BUENCAMINO,
RECORDS OFFICER II JOVITA P.
FLORES, and PROCESS SERVER
SALVADOR F. TORIAGA OF THE
METROPOLITAN TRIAL COURT,
OFFICE OF THE CLERK OF
COURT, CALOOCAN CITY,
Complainants,

A.M. No. P-14-3247
(Formerly A.M. OCA IPI No. 09-3238-P)

Present:

CARPIO, *J.*, Chairperson,
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN, *JJ.*

- versus -

IRENEO GARCIA and UTILITY
WORKER I HONEYLEE VARGAS
GATBUNTON-GUEVARRA,
Respondents.

Promulgated:

OCT 13 2014 *HAY Cabalag Projecto*

X-----X

DECISION

MENDOZA, *J.*:

For resolution of the Court are three (3) consolidated administrative cases, two (2) of which originated from the November 5, 2008 letter-complaint¹ by Records Officer I Ireneo Garcia (*Garcia*) of the Office of the Clerk of Court, Metropolitan Trial Court (*MeTC*), Caloocan City, sent to then Chief Justice Reynato S. Puno. The other administrative case stemmed from a formal letter² by Judge Mariam G. Bien (*Judge Bien*) to Assistant Court Administrator Jesus Edwin A. Villasor (*ACA Villasor*), regarding an incident between Process Server Salvador Toriaga (*Toriaga*) and Garcia.

Considering that the cases were all related as they essentially involved the same parties, issues and causes of action, they were ordered to be consolidated for expediency and exhaustive determination.

A.M. No. P-09-2691 (Formerly A.M. OCA IPI No. 09-3040-P)

In his letter-complaint, Garcia charged his co-workers, Clerk of Court IV Monalisa A. Buencamino (*Atty. Buencamino*) with Misconduct; Records

¹ *Rollo* (A.M. No. P-09-2691), pp. 1-3.

² *Rollo* (A.M. No. P-09-2687), pp. 1-2.

Officer I Jovita P. Flores (*Flores*) with Dishonesty, Grave Misconduct and Falsification of Public Document; and Process Server Salvador F. Toriaga (*Toriaga*) with Conduct Unbecoming of a Court Employee. Garcia specifically alleged the following:

1. Despite being on leave from September 1-5, 2008, Atty. Buencamino still officially placed the remarks such as “out of office” and “sleeping during office hours” on their bundy cards for the month of September 2008.
2. As Records Officer II, Flores was responsible for signing and issuing court clearances. Flores, however, often left the office without permission. Thus, she made “pre-signed” court clearances making it appear that the court continued to issue the said clearances even when she was out of the office. More specifically, on September 19, 2007 between 1:00-2:00 o’clock in the afternoon, Flores’ signature appeared in some of the court clearances despite the fact that she was at the Supreme Court, attending to her loan and only came back to the office at around 2:50 o’clock in the same afternoon.
3. Toriaga exhibited acts which were unbecoming of a court employee in an incident that happened on September 19, 2008, as detailed in Garcia’s letter³ to Honorable Judge Bien, dated October 27, 2008 as follows:

“Humigit kumulang alas kwatro ng hapon habang ako ay nasa loob ng tanggapan ng Clerk of Court at nagtatrabaho, dumating at pumasok sa loob ng tanggapan itong si Salvador Toriaga lasing na lasing, nagsisigaw at nagwawala! Saglit lang at siya’y nanlilisik ang mga matang nakatingin sa akin at ako’y kanyang pinagmumura ng PUTANG INA MO, IKAW PARE, PUTANG INA MO! TUMATAE KA DIMO NILILINIS ANG KUBETA! PUTANG INA MO! Napamulagat ako sa aking kinauupuan dahil hindi ko akalain na sa akin pala galit na galit itong si Salvador Toriaga. Dugtong pa ni Salvador Toriaga “PUTANG INA MO ME DALA AKONG BARIL, ME DALA AKO, LUMABAS KA, LUMABAS KA DIYAN! Sa puntong iyon ay halos nakapaikot na sa kanya ang mga empleyado ng tanggapan at ako naman ay tatayo sa aking pagkakaupo upang siya ay kausapin. Ngunit mabilis siyang nakahagilap ng “stapler” at ako’y susugurin. Sa tagpong ‘yon ay mabilis naman siyang

³ Rollo (A.M. No. P-09-2691), p. 4.

nahawakan ng kanyang anak, ng guwardiyang si Catadman at ng ilang empleyado, at siya'y kinaladkad papalabas. Habang papalabas sumigaw uli siya ng 'HINDI AKO TAKOT MAWALA SA OPISINA! HAYUP KA ME ARAW KA RIN SA AKIN' Matapos siyang mailabas ng tanggapan, ako namay naupos na parang kandila dahilan sa nerbiyos. Alam kong tumaas ang presyon ng aking dugo kaya'y akoy namahinga ng ilang minuto bago umakyat sa Executive Judge.”⁴

In her Comment,⁵ Atty. Buencamino denied the allegations against her and averred that the comments/annotations on the bundy card/daily time record of Garcia and his common-law wife, Honeylee Gatbunton-Guevarra (*Guevarra*), as well as of all the court personnel was a method to stop erring court employees from further wrongdoings such as sleeping, loafing or missing, playing computer games, doing nothing, cooking during office hours and other acts in violation of the civil service and Supreme Court rules and regulations or circulars. Atty. Buencamino also claimed having instructed her staff and other persons to list all court employees of the Office of the Clerk of Court (*OCC*) of their whereabouts, what they were doing and those sleeping during office hours at the time/period she was on leave. If those instructed could not write their reports on the logbook or journal, then she would be the one to write them upon her return to work.

Atty. Buencamino further alleged that Garcia showed little concern for time lost from work as he was a habitual absentee, late comer, lazy, and indifferent. He did nothing everyday while listening to his music with headphone attached to his head and ears, slept during office hours, placed/piled the docket and records so high in order to hide while sleeping or doing nothing, and wore sunglasses inside the office in order not to get detected that he was already sleeping. She also averred that Garcia would be missing during office hours to go home and take care of his three (3) children with Guevarra and come back before office hours ended.⁶ Atty. Buencamino claimed that the attitude, conduct and behavior of Garcia had fallen short of the stringent standard of conduct demanded from everyone connected with the administration of justice.⁷

Insofar as the complaints against Toriaga and Flores were concerned, Atty. Buencamino claimed that Toriaga never complained about his work for 19 years and that he was not a quarrelsome person. Flores, on the other hand, had never issued pre-signed court clearances because she herself would not allow such act. The clearances marked as Annexes “B,” “C,” “D,” and “E”

⁴ Id..

⁵ Id. at 654-660.

⁶ Id. at 657.

⁷ Id. at 659.

were signed by Flores only after her return to the office, contrary to Garcia's allegations, and for the reason that the latter, being the officer next in rank authorized to sign court clearances, refused to sign them and told one Edwin Cara (*Cara*) to wait for the return of Flores.⁸

On her part, Flores alleged in her Comment⁹ that upon her return to the office at around 2:50 o'clock in the afternoon, Cara presented to her the court clearances which did not bear any signature of any Records Officer I or any person next in rank to her. Attached to her comment was Cara's affidavit¹⁰ to prove that she did not sign any blank form or pre-signed court clearances, contrary to Garcia's claim. Flores also averred that she had witnessed the confrontational incident between Garcia and Toriaga on September 19, 2008 and that Toriaga did not utter any threatening words or carry any gun.¹¹

Furthermore, Flores claimed that Garcia was one of their erring court employees who were always caught sleeping, loafing or missing, and doing nothing during office hours.¹²

In like manner, Toriaga, in his Comment,¹³ denied Garcia's allegations against him and claimed that he did not threaten Garcia or bring any gun to work, as likewise contained by the report¹⁴ of the building's security guard. He, however, admitted that he and Garcia shouted and hurled invectives at each other. Because of the said incident, they were called by Executive Judge Bien to settle things between them. As no settlement took place, they were asked to submit their respective written explanations.¹⁵ Toriaga also mentioned having previously reported another misconduct of Garcia relating to the latter's misuse of their office comfort room to their other superiors namely: David Maniquis (Clerk of Court III), Rowena Ruiz (Administrative Officer II), Ferdinand Santos (Clerk III), Edwin Cara (Process Server) and Liza Macasaquit (Records Officer I-Appeal Cases), but no action was taken by any of them as they did not want to intervene.¹⁶

Toriaga also corroborated the claims of Atty. Buencamino and Flores regarding Garcia's behavior during office hours and that Garcia and Guevarra, who was married, were publicly known to be living together and

⁸ Id. at 656.

⁹ Id. at 586-588.

¹⁰ Id. at 24.

¹¹ Id. at 587.

¹² Id. at 587.

¹³ Id. at 27-32.

¹⁴ Id. at 33.

¹⁵ Id. at 30.

¹⁶ Id. at 28-29.

had three (3) children; that Atty. Buencamino's comments on the logbook/journal and bundy card of Garcia were true; and that Flores did not sign any blank or make any pre-signed court clearances.¹⁷

A.M. No. P-09-2687 (Formerly A.M. OCA IPI No. 09-3093-P)

This case arose from the formal letter¹⁸ sent by Judge Bien to ACA Villazor where she reported the September 19, 2008 incident between Garcia and Toriaga. Allegedly, Toriaga got irked by Garcia's manner of using their office's comfort room, and out of anger, he went home and drank liquor. He then returned to the office and confronted Garcia. A shouting match between the two ensued.

Judge Bien endeavored to talk to both parties immediately after the incident, but Toriaga already left the office premises and took a month-long leave of absence. Upon the latter's return to work on October 20, 2008, efforts were exerted to have the parties settle the matter amicably, but to no avail.¹⁹

Attached to Judge Bien's letter were the report²⁰ of the security guard on-duty at the time of the incident and the respective statements²¹ of Garcia and Toriaga.

Upon receipt by the Office of the Court Administrator (*OCA*) of Judge Bien's formal letter, then Court Administrator (now Associate Justice) Jose P. Perez sent a notice²² to Garcia and Toriaga requiring them to manifest their intentions to submit the case for evaluation by the said office. Toriaga submitted his letter²³ narrating the incident, while Garcia's letter²⁴ confirmed the submission of the case for evaluation and prayed for its early resolution.

Subsequently, the Court in its Resolution,²⁵ dated September 2, 2009, upon the Court Administrator's recommendation, resolved to re-docket the complaint as a regular administrative matter and referred the same to the Executive Judge for investigation, report and recommendation.

¹⁷ Id. at 31.

¹⁸ *Rollo* (A.M. No. P-09-2687), pp. 1-2.

¹⁹ Id.

²⁰ Id. at 3.

²¹ Id. at 4-7.

²² Id. at 14.

²³ Id. at 16.

²⁴ Id. at 20.

²⁵ Id. at 32-33.

A.M. No. P-14-3247 (Formerly A.M. OCA IPI No. 09-3238-P)

This case was an offshoot of the respective comments submitted by Atty. Buencamino, Flores and Toriaga on Garcia's complaint against them. Pursuant to the Court's Resolution,²⁶ dated September 9, 2009, upon the OCA's recommendation, the charges and counter-charges contained in the aforementioned comments were treated and docketed as a separate administrative complaint against Garcia and his alleged common-law wife, Guevarra. Pieces of evidence were submitted to prove the immoral relationship between the two and the infractions that both had committed, in violation of the existing rules and regulations, circulars and laws of the Civil Service Commission and of the Supreme Court. More specifically, Garcia was charged with habitual absenteeism and violation of office rules, while Garcia and Guevarra were charged with immorality for their common-law relationship, which relationship was of public knowledge.

Consolidated Comment by Garcia and Guevarra

In their Consolidated Comment,²⁷ dated December 2, 2009, Garcia and Guevarra merely denied all the charges against them for being malicious, fabricated and baseless. It was their contention that Atty. Buencamino's act of placing the remarks on their Daily Time Record (*DTR*) constituted conduct unbecoming of an employee of the court. They emphasized that Atty. Buencamino was one of those previously found guilty of dishonesty and conduct unbecoming of a public servant in *A.M. No. P-07-2352 Ireneo Garcia, et al. vs. Monalisa Buencamino* and *A.M. No. P-07-2353 Atty. Monalisa Buencamino vs. Ireneo Garcia, et al.*, where Atty. Buencamino was reprimanded and fined.

As to the alleged immoral relationship, Garcia and Guevarra categorically denied such imputation and averred that the relationship between them was purely official in character and that Guevarra was very much married to her husband, Rolando Guevarra, with whom she has two (2) children.²⁸

²⁶ *Rollo* (A.M. No. P-09-2691), pp. 64-65.

²⁷ *Id.* at 74-78.

²⁸ *Id.* at 77.

Findings and Recommendation of the Investigating Judge

In the September 9, 2009 Resolution²⁹ of the Court, the administrative cases were referred to Executive Judge Thelma Canlas Trinidad-Pe Aguirre (*Judge Aguirre*) of the Regional Trial Court, Caloocan City (*RTC*), for investigation, report and recommendation.

Thus, on July 4, 2013, a resolution³⁰ in **A.M. No. P-09-2691** was issued by Judge Aguirre recommending the dismissal of the complaints against Atty. Buencamino and Flores. Garcia testified that he did not see Atty. Buencamino place the remarks being complained by him on the specified dates on his DTR. He also admitted having no knowledge whether Flores filed a leave of absence. Garcia also testified not seeing Flores sign the clearances.³¹

Insofar as Toriaga was concerned, Judge Aguirre recommended the imposition of the penalty of one (1) month suspension from office without pay for misbehavior, to serve as a deterrent to others. Garcia was meted out the penalty of suspension from office for one (1) month without pay for the inappropriate use of the office comfort room and for shouting invectives at Toriaga within the office premises.³² These same findings and recommendation were made by Judge Aguirre in **A.M. No. P-09-2687**, inasmuch as the facts of the case were identical.³³

On July 10, 2013, another resolution³⁴ in **A.M. No. P-14-3247** was issued by Judge Aguirre recommending the dismissal of the complaint against Garcia and Guevarra due to insufficient grounds for indictment. It was Judge Aguirre's conclusion that Atty. Buencamino was guilty of laches. The alleged wrongdoings of Garcia happened way back in 2008, and yet, Atty. Buencamino did not act on them. It was only a means of Atty. Buencamino to get even with Garcia for filing a complaint against her.³⁵

²⁹ Id. at 64-65.

³⁰ Id. at 904-917.

³¹ Id. at 915.

³² Id. at 917.

³³ Id. at 903.

³⁴ Id. at 918-929.

³⁵ Id. at 929.

**Evaluation and
Recommendation of the
Office of the Court Administrator**

The OCA agreed with the findings of Judge Aguirre in **A.M. No. P-09-2691** and **A.M. No. P-09-2687** and concluded that the recommendations made by the investigating judge were in order.

The OCA, however, concluded otherwise with respect to **A.M. No. P-14-3247**. Contrary to Judge Aguirre's ratiocination, the OCA stressed that it should not be whether a complainant had a motive in filing the complaint (to get even with a respondent who first filed a complaint against him, or the parties had a grudge against each other), but rather, it should be whether there was ample basis in law and evidence to hold a respondent liable for any offense. Consequently, the OCA found documentary and testimonial evidence showing that Garcia and Guevarra were remiss in their duties, which Garcia did not adequately refute. Further, the amorous affair between Garcia and Guevarra having been established, they could be held liable for immorality. The marriage certificate of Guevarra and the birth certificate of at least one of her purported three (3) children with Garcia were incontrovertible proof of such an illicit relationship. Nonetheless, the OCA opined that any neglect of duty on the part of the respondents would merely be an aggravating circumstance of the grave offense of disgraceful and immoral conduct, pursuant to the Civil Service Rules.³⁶

Therefore, the OCA recommended the following:

- (1) the complaint against respondents Atty. Monalisa A. Buencamino, Clerk of Court IV and Jovita P. Flores, Records Officer II, both of the Office of the Clerk of Court, Metropolitan Trial Court, Caloocan City, in *A.M. No. P-09-2691* [formerly *OCA IPI No. 09-3040-P*] be **DISMISSED** for lack of merit;
- (2) respondents Ireneo D. Garcia, Records Officer I and Salvador F. Toriaga, Process Server, same office, be both found **GUILTY** of Simple Misconduct in *A.M. No. P-09-2687* [formerly *OCA IPI No. 09-3093-P*] which contains similar allegations against the latter in *A.M. No. P-09-2691* and that respondent Toriaga be **SUSPENDED** for one (1) month without pay;
- (3) *OCA IPI No. 09-3238-P* be **RE-DOCKETED** as a regular administrative matter;

³⁶ Id. at 940.

- (4) respondents Ireneo Garcia and Honeylee Vargas Gatbunton-Guevarra, Utility I, be both found **GUILTY** of Disgraceful and Immoral Conduct in *OCA IPI No. 3238-P* for which (4-a) Garcia be **SUSPENDED** for one (1) year without pay after considering the aggravating circumstance of simple misconduct in *A.M. No. P-092687*; (4-b) Guevarra be **SUSPENDED** for one (1) month without pay; (4-c) both be **STERNLY WARNED** that the commission of the same offense shall be dealt with more severely; and (4-d) both be **ADMONISHED** to terminate their cohabitation or to take such proper course of action as would legitimize their relationship;
- (5) David E. Maniquis, Clerk of Court III; Rowena S. Ruiz, Administrative Officer II; Ferdinand N. Santos, Sheriff III; Edwin S. Cara, Process Server 2; and Liza D. Macasaquit, Records Officer I, all of the aforesaid office, be **DIRECTED** to **COMMENT** on the allegation of respondent Toriaga that they did not want to intervene and take any action on his grievance relative to respondent Garcia's improper use of the comfort room; and
- (6) Atty. Buencamino be **DIRECTED** to take appropriate action to ensure and maintain an efficient, effective and harmonious working relationship among all personnel in her office.³⁷

Ruling of the Court

The Court adopts with modification the recommendations of the OCA.

Public service requires integrity and discipline. For this reason, public servants must exhibit at all times the highest sense of honesty and dedication to duty. By the very nature of their duties and responsibilities, government employees must faithfully adhere to, hold sacred and render inviolate the constitutional principle that a public office is a public trust; that all public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency.³⁸ Improper behavior, especially during office hours, exhibits not only a paucity of professionalism at the workplace, but also great disrespect for the court itself. Such demeanor is a failure of circumspection demanded of every public official and employee.³⁹

³⁷ Id. at 942-943.

³⁸ *Court Personnel of the Office of the Clerk of Court of the RTC-San Carlos City vs. Llamas*, 488 Phil 62, 70 (2004).

³⁹ Id., at 71.

Insofar as the September 19, 2008 shouting incident is concerned, neither Garcia nor Toriaga denied it. In fact, Toriaga admitted hurling invectives against Garcia for the latter's improper use of their office comfort room. Garcia, on the other hand, did not refute the said imputation, but complained against the misbehavior displayed by Toriaga.

In *De Vera, Jr. v. Rimando*,⁴⁰ the Court held that the act of engaging in a shouting match, one even cursing the other, within the court premises, is censurable, to say the least. Court employees are supposed to be well-mannered, civil and considerate in their actuations, in their relations with both co-workers and the transacting public. Boorishness, foul language and any misbehavior in court premises diminishes its sanctity and dignity.⁴¹

The OCA, thus, was correct in finding Garcia and Toriaga both guilty for simple misconduct. Simple misconduct is defined as an unacceptable behavior which transgresses the established rules of conduct for public officers, work-related or not.⁴² Although Garcia had committed an impropriety relating to the use of the office lavatory, it was not a license for Toriaga to make such outbursts during office hours and within the office premises. Clearly, both employees failed to live up to the high standards of propriety and decorum expected of employees of the Judiciary.⁴³ It must be stressed that, as employees connected with the administration of justice, discharge of the most exacting standards of conduct are required of them.

As regards Garcia's alleged habitual absenteeism, loafing and sleeping during office hours are concerned, the OCA failed to include in their recommendations the corresponding sanction for any finding of neglect of duty, although the OCA has clearly mentioned in its report⁴⁴ that:

xxx On the contrary, there were documentary and testimonial evidence showing that respondents Garcia and Guevarra were remiss in their duties and that respondent Garcia was observed to be loafing and sleeping during office hours which he did not adequately refute. Nonetheless, any neglect of duty on their part would merely be an aggravating circumstance of the grave offense of disgraceful and immoral conduct. xxx⁴⁵

⁴⁰ 551 Phil 471 (2007).

⁴¹ Id. at 478.

⁴² *Ria Pamela B. Abulencia and Blessie M. Burgonio v. Regino R. Hermosisima, Security Guard II, Sheriff and Security Division, Sandiganbayan*, A.M. SB-13-20-P (Formerly A.M. No. 12-29-SB-P), June 26, 2013.

⁴³ Id.

⁴⁴ *Rollo* (A.M. No. P-09-2691), pp. 936-943.

⁴⁵ Id. at 940.

While the OCA correctly observed that Garcia had been loafing and sleeping during office hours, these acts, however, constitute two separate offenses as they are not embraced under the offense of neglect of duty. Loafing, just like frequent unauthorized absences, is a grave offense while sleeping during office hours, an act violative of office rules and regulations, is a light offense. More appropriately, Garcia was guilty of loafing for which the rules impose a penalty of suspension from work for six (6) months and one (1) day to one (1) year for the first offense, dismissal for the second,⁴⁶ as well as violation of reasonable office rules and regulations with reprimand as the penalty for the first offense.⁴⁷ It must be remembered that by reason of the nature and functions of the judiciary, its employees must be role models in the faithful observance of the constitutional canon that public office is a public trust. Inherent in this mandate is the observance of prescribed office hours and the efficient use of every moment thereof for public service, if only to recompense the government, and ultimately the people who shoulder the cost of maintaining the Judiciary.⁴⁸

Aside from loafing and sleeping during office hours, Garcia also frequently absented himself from work. More specifically, he had incurred unauthorized absences as follows:

2008:

- May 8, 23, 26, 29 and 30 - 5 days sick leave, without medical certificate⁴⁹
- July 7, 22, 25, 28-29, 31⁵⁰ - 6 days sick leave, without medical certificate⁵¹
- August 1, 4, 7, 8, 13, 15, 20, 28-29 - 10 days sick leave, without medical certificate⁵²

2009:

- March 2, 4, 11, 18, 19 - 6 days sick leave, without medical certificate⁵³
20 (½ day), 23 (½ day)
- July 3, 15, 27-29 - 5 days sick leave, without medical certificate⁵⁴
- September 15, 22, 23, 28-29 - 5 days sick leave, without medical certificate⁵⁵

⁴⁶ Section 52(A)(17), Rule IV, Uniform Rules on Administrative Cases in the Civil Service.

⁴⁷ Section 52(C)(3), Rule IV, Uniform Rules on Administrative Cases in the Civil Service.

⁴⁸ *Habitual Tardiness Aida Josefina J. Ignacio, MeTC-OCC, Pasay City*, 580 Phil. 42, 44-45 (2008).

⁴⁹ *Rollo* (A.M. No. P-14-3247), 66.

⁵⁰ *Id.* at 19.

⁵¹ *Id.* at 64.

⁵² *Id.* at 67.

⁵³ *Id.* at 68.

⁵⁴ *Id.* at 69.

⁵⁵ *Id.* at 71.

2010:

April 14-16, 19-21, 26-27 - 9 days sick leave, without medical certificate⁵⁶
 July 1-2, 7-9, 12-13, 15-16, 21, 23, 26-30 - 16 days sick leave, without medical certificate⁵⁷
 October 7, 8 (½ day), 11-14, 22 - 6.5 days sick leave, without medical certificate⁵⁸

2011:

February - 8 days sick leave, without medical certificate⁵⁹
 March 1, 3-4, 7, 14-15, 22-24 - 9 days sick leave, without medical certificate⁶⁰
 May 5, 9, 11-13, 17, 23 - 7 days sick leave, without medical certificate⁶¹
 June 7-10, 13-17, 22, 24, 28 - 12 days sick leave, without medical certificate⁶²
 August 1, 7-8, 28-29 - 5 days sick leave, without medical certificate⁶³
 October 5-7, 10-11 - 5 days sick leave, without medical certificate⁶⁴
 December 6-9, 13-14, 16, 20-23, 26-29 - 16 days sick leave, without medical certificate⁶⁵

Administrative Circular No. 14-2002 provides that an officer or employee in the civil service shall be considered habitually absent if he incurs unauthorized absences exceeding the allowable 2.5 days monthly leave credit under the law for at least three (3) months in a semester or at least three (3) consecutive months during the year. Garcia filed applications for sick leave for the absences he had incurred. Said applications, however, were not accompanied by any medical certificate and, thus, the subject absences were considered as unauthorized. Moreover, the number of unauthorized absences incurred by Garcia exceeded that allowed by law. Therefore, he is deemed to be a habitual absentee. Consequently, just like loafing, frequent unauthorized absences or habitual absenteeism is a grave offense where the penalty of suspension from work for six (6) months and one (1) day to one (1) year for the first offense and dismissal for the second,⁶⁶ are imposed.

As regards the charge of disgraceful and immoral conduct against Garcia and Guevarra, the OCA's findings and recommendation are correct. Garcia and Guevarra failed to refute the alleged illicit relationship and simply labeled the charge against them as malicious, fabricated and baseless.

⁵⁶ Id. at 73.

⁵⁷ Id. at 74.

⁵⁸ Id. at 75.

⁵⁹ Id. at 65.

⁶⁰ Id. at 76.

⁶¹ Id. at 78.

⁶² Id. at 80.

⁶³ Id. at 82.

⁶⁴ Id. at 84.

⁶⁵ Id. at 86.

⁶⁶ Section 52(A)(17), Rule IV, Uniform Rules on Administrative Cases in the Civil Service.

On the other hand, incontrovertible proof such as the marriage contract⁶⁷ of Guevarra with her husband, the birth certificate⁶⁸ of one of Guevarra's children with Garcia, and the affidavit of acknowledgement/admission of paternity⁶⁹ by Garcia were presented to support the allegation of immoral conduct. Moreover, the genuineness and authenticity of these documents were never questioned. Thus, there is no doubt that Garcia and Guevarra had, and appears to still have, an illicit relationship while the latter is still legally married. Such a relationship is highly frowned upon, especially when court employees are involved because they are expected to maintain moral righteousness and uprightness in their professional and private conduct to preserve the integrity and dignity of the courts of justice.⁷⁰ For the grave offense of disgraceful and immoral conduct, the rules impose a penalty of suspension for six (6) months and one (1) day to one (1) year for the first offense, and dismissal for the second offense.⁷¹

In sum, as modified, Garcia committed not only simple misconduct and disgraceful and immoral conduct but also the offenses of habitual absenteeism and loafing and violation of office rules and regulations. Guevarra, on the other hand, committed the offense of disgraceful and immoral conduct. In imposing the proper penalties especially with regard to multiple offenses, Section 55, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service provides that:

Section 55. *Penalty for the Most Serious Offense.* – If the respondent is found guilty of two or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge or count and the rest shall be considered as aggravating circumstances.

Insofar as Garcia is concerned, disgraceful and immoral conduct, and habitual absenteeism and loafing are the most serious offenses and, thus, the corresponding penalty shall be imposed in its maximum, after considering the other offenses as aggravating circumstances pursuant to the above rule in relation to Section 54 which provides:

Sec. 54. *Manner of Imposition.* – When applicable, the imposition of the penalty may be made in accordance with the manner provided herein below:

⁶⁷ *Rollo* (A.M. No. P-14-3247), 38.

⁶⁸ *Id.* at 39.

⁶⁹ *Id.* at 40.

⁷⁰ *Gibas, Jr. v. Gibas*, A.M. No. P-09-2651, March 23, 2011, 646 SCRA 110, 119.

⁷¹ Section 52(A)(15), Rule IV, Uniform Rules on Administrative Cases in the Civil Service.

- a. The *minimum* of the penalty shall be imposed where only mitigating and no aggravating circumstances are present.
- b. The *medium* of the penalty shall be imposed where no mitigating and aggravating circumstances are present.
- c. The *maximum* of the penalty shall be imposed where only aggravating and no mitigating circumstances are present.
- d. Where aggravating and mitigating circumstances are present, paragraph [a] shall be applied where there are more mitigating circumstances present; paragraph [b] shall be applied when the circumstances equally offset each other; and paragraph [c] shall be applied when there are more aggravating circumstances.

Accordingly, the OCA's recommendation of suspension from work for one (1) year without pay against Garcia and suspension for one (1) month without pay against Guevarra are proper, after considering the mitigating circumstances of the latter's twenty (20) long years of service and her first ever commission of the offense of disgraceful and immoral conduct.

With regard to the complaint against Atty. Buencamino and Flores, the Court finds no cogent reason to disturb the OCA's findings and recommendation of dismissal of the complaint as it was clearly without merit.

Finally, in her January 15, 2014 Letter,⁷² Flores appealed for the release of her terminal leave benefits, as the same were withheld at the time of her retirement, and expressed her willingness to set aside Ten Thousand Pesos (₱10,000.00) as payment for any fine that she might incur. Since the complaint against her was correctly dismissed, her terminal leave benefits can be released.

WHEREFORE,

1. The complaint against respondents Atty. Monalisa A. Buencamino, Clerk of Court IV, and Jovita P. Flores, Records Officer II, both of the Office of the Clerk of Court, Metropolitan Trial Court, Caloocan City, in *A.M. No. P-09-2691 [formerly A.M. OCA IPI No. 09-3040-P]* is **DISMISSED** for lack of merit;

⁷² *Rollo* (A.M. No. P-09-2691), pp. 932-933.

2. The respondents Ireneo D. Garcia, Records Officer I, and Salvador F. Toriaga, Process Server, of the same office, are both found **GUILTY** of Simple Misconduct in *A.M. No. P-09-2687 [formerly A.M. OCA IPI No. 09-3093-P]* which contains similar allegations in *A.M. No. P-09-2691*. Toriaga is hereby **SUSPENDED** for one (1) month without pay;
3. The respondents Ireneo D. Garcia and Honeylee Vargas Gatbunton-Guevarra, Utility I, are both found **GUILTY** of Disgraceful and Immoral Conduct in *A.M. No. P-14-3247 [formerly A.M. OCA IPI No. 09-3238-P]* for which:
 - a. Garcia is **SUSPENDED** for one (1) year without pay after having been likewise found **GUILTY** of Habitual Absenteeism and Loafing taking into account the aggravating circumstances of Violation of Office Rules and Regulations and Simple Misconduct in *A.M. No. P-09-2687*;
 - b. Guevarra is **SUSPENDED** for one (1) month without pay, after considering the mitigating circumstances of length of service and first commission of offense;
 - c. Both Garcia and Guevarra are **STERNLY WARNED** that the commission of the same offenses shall be dealt with more severely; and lastly,
 - d. Both are ordered to **terminate their cohabitation** or to take such proper course of action as would legitimize their relationship;
4. Atty. Monalisa A. Buencamino is **DIRECTED** to take appropriate action to ensure and maintain an efficient, effective and harmonious working relationship among all personnel in her office; and,
5. The terminal leave benefits of Jovita P. Flores are ordered **RELEASED**.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice