

REPUBLIKA NG PILIPINAS
SANGGUNIANG PANLUNGSOD
LUNGSOD NG ORMOC



EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE
FOURTEENTH SANGGUNIANG PANLUNGSOD NG ORMOC HELD
AT THE SANGGUNIANG PANLUNGSOD SESSION HALL,
ORMOC CITY HALL BUILDING
ON FEBRUARY 15, 2018

PRESENT:

Rolando M. Villasencio,	(Acting City-Vice Mayor & Temporary Presiding Officer),
	SP Member, Majority Floor Leader
Vincent L. Rama,	SP Member, Asst. Majority Floor Leader
Mario M. Rodriguez,	SP Member, Presiding Officer "Pro-Tempore"
Tomas R. Serafica,	SP Member
Benjamin S. Pongos, Jr.,	SP Member
Eusebio Gerardo S. Penserga,	SP Member
Gregorio G. Yrastorza III,	SP Member
Nolito M. Quilang,	SP Member
John Eulalio Nepomuceno O. Aparis II,	SP Member
	Minority Floor Leader
Lea Doris C. Villar,	SP Member, Asst. Minority Floor Leader
Mariano Y. Corro,	Ex-Officio SP Member
	Chapter President, Liga ng mga Barangay ng Ormoc

ON OFFICIAL LEAVE:

Leo Carmelo L. Locsin, Jr.,	(Acting City Mayor), Vice Mayor & Presiding Officer
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RESOLUTION NO. 2018-046

A RESOLUTION FINDING THE RESPONDENT NOT LIABLE OF GRAVE MISCONDUCT AND ABSOLVING HER OF ANY ADMINISTRATIVE LIABILITY IN ADMINISTRATIVE CASE NO. 2016-06 FILED BEFORE THE 14TH SANGGUNIANG PANLUNGSOD OF ORMOC CITY ENTITLED: JUANITA DICDICAN AS COMPLAINANT -VERSUS- CLARA CODOG AS RESPONDENT.

WHEREAS, this august Body was in receipt of an administrative complaint filed by Complainant Juanita Dicdican against Clara Codog, Punong Barangay, Barangay Don Carlos Rivilla (formerly Boroc), Ormoc City, seeking to hold respondent administratively liable for grave misconduct;

WHEREAS, said administrative complaint was filed pursuant to the authority and powers vested of this Sanggunian by Section 61 (c) of the Local Government Code of 1991 to hear and decide administrative cases filed before it against elected barangay officials within its jurisdiction as well as mandate under the City Ordinance No. 2016-01 which prescribes the processes and procedures for the filing of administrative cases;

WHEREAS, the complaint was found to be proper and in order and thereby given due course, and the consequent administrative case was docketed as Administrative Case 2016-06, entitled: "Juanita Dicdican, Complainant vs. Clara Codog, Respondent", after which an administrative investigation was conducted by this Sanggunian through the Committee of the Whole with utmost impartiality and due regard to the rights of the parties to be afforded due process of law in accordance with established law and rules of procedure;

WHEREAS, after a thorough and objective evaluation of said administrative case by this Sanggunian through the Committee of the Whole, on the basis of testimonies of the witnesses and evidence adduced by the parties, a fair, just and objective decision was finally arrived at by the said Committee with a vote of 11-0 finding the respondent not liable of grave misconduct and absolving her of any administrative liability under the case filed, a copy of said decision is attached herein and made an integral part hereof;

WHEREAS, this Resolution affirms the said decision without any note of reservation or expression of dissent to the findings and, likewise, it effectively formalizes the same as the judgment of the Sanggunian for that matter;

WHEREFORE, on motion of SP Member Nolito M. Quilang, Chairman, Committee on Good Government, severally seconded by SP Members Mario M. Rodriguez, Vincent L. Rama, Tomas R. Serafica, Benjamin S. Pongos, Jr., Eusebio Gerardo S. Penserga, Gregorio G. Yrastorza III, John Eulalio Nepomuceno C. Aparis II, Lea Doris C. Villar and Mariano Y. Corro; be it

RESOLVED, AS IT IS HEREBY RESOLVED, to pass A RESOLUTION FINDING THE RESPONDENT NOT LIABLE OF GRAVE MISCONDUCT AND ABSOLVING HER OF ANY ADMINISTRATIVE LIABILITY IN ADMINISTRATIVE CASE NO. 2016-06 FILED BEFORE THE 14TH SANGGUNIANG PANLUNGSOD OF ORMOC CITY ENTITLED: JUANITA DICDICAN AS COMPLAINANT -VERSUS- CLARA CODOG AS RESPONDENT;

ADOPTED, February 15, 2018.

RESOLVED, FINALLY, that copies of this resolution be furnished each to the Honorable City Mayor Richard I. Gomez; the City Legal Officer, Atty. Jasper Lucero; the Office of the Ombudsman-Visayas, Cebu City; the OIC-City Director, DILG, Engr. Jesus Jeremy Bagares; the Office of the Liga ng mga Barangay ng Ormoc; the Complainant, Respondent and the respective Counsels; and other offices concerned.

CARRIED UNANIMOUSLY.

I HEREBY CERTIFY to the correctness of the foregoing resolution.

Atty. Philip Allos
Counsel for the Complainant

Juanita Dicdican

Atty. Alexander Soler, Jr.
Counsel for the Respondent

Clara Codog

Mar 2/21/18

Fin 2.22.18

MARIA ANTONIETA G. CO HAT
(OIC - SP Secretary)
Supervising Administrative Officer

2/21/18

02/21/18

ATTESTED:

ROLANDO M. VILLASENCIO
(Acting City Vice-Mayor & Temporary Presiding Officer)
Majority Floor Leader
SP Member

REPUBLIC OF THE PHILIPPINES
14th Sangguniang Panglungsod
Ormoc City

JUANITA F. DICDICAN,
Complainant,

Admin Case No. 2016- 06

FOR: Grave Misconduct

-versus-

HON. CLARA CODOG,
Respondent,
X-----x

DECISION

This is an administrative complaint initiated by complainant Juanita F. Dicdican who seeks to hold the respondent Clara Codog an incumbent Punong Barangay of Barangay Boroc, Ormoc City, administratively liable for grave misconduct.

The complaint was filed on August 8, 2016 and respondent filed her Answer dated August 30, 2016. A preliminary conference was terminated on March 16, 2017. During the same Preliminary Conference, the following facts were stipulated on and agreed upon by the parties:

- a. That the respondent is the incumbent Punong Barangay of Brgy. Boroc, Ormoc City;
- b. That the respondent on two (2) occasions namely, July 8, 2015 and July 11, 2015 issued certifications stating that a certain Marissa B. Ligudan or Marissa B. Ligutan and Josephine P. Del Rosario are residents of Barangay Boroc, Ormoc City;
- c. That the certifications she issued are the ones attached in the Complaint as "Annex A" for Josephine P. Del Rosario and as "Annex A-1" for Marissa B. Ligudan or Marissa B. Ligutan;
- d. That the certifications were issued upon the request and representation of Marissa B. Ligudan and Josephine P. Del Rosario;
- e. That Marissa B. Ligudan and Josephine P. Del Rosario were listed in the Emergency Shelter Assistance master list facilitated by the City Social Welfare and Development Office.

Hearing on the merits ensued and the parties presented their respective testimonial evidences. The following testified for the complainant: complainant herself, Melbur Melgazo, Ruperto Bioc, Jr., Wenton Jose Tolero and Vilma Mendoza. On the other hand, the respondent offered the following witnesses in support of her defense: respondent herself, Melinda Tiongson and Amado Coronel. All the parties were subjected to direct, cross and clarificatory examinations.

The following are the respective documentary evidences of the parties herein:

FOR THE COMPLAINANT:

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| EXHIBIT "A" | Certificate of Residency issued by Ruperto P. Bioc, Jr. |
| EXHIBIT "B" | Brgy. Certification issued by Melbur N. Melgazo |
| EXHIBIT "C" | Certification issued by Wenton Jose O. Tolero |
| EXHIBIT "D" | Master Payroll from the CSWDO |
| And series | |

FOR THE RESPONDENT:

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| EXHIBIT "1" | ESA Masterlist for Brgy, Boroc, Ormoc City which shows the name of Josephine P. Del Rosario |
|-------------|---|

- EXHIBIT "2" ESA Masterlist for Brgy. Boroc, Ormoc City which shows the name of Marissa B. Ligudan
- EXHIBIT "3" Disaster Assistance Family Card (DAFAC) of Tereson Parilla Coronel
- EXHIBIT "4" General Payroll of Brgy. Boroc, Ormoc City of those who have received the ESA amounting to Fifteen Thousand Seven Hundred Thirteen Pesos and 25/100 (Php 15,713.25)
- EXHIBIT "5" Photocopy of the Senior Citizen ID of Tereso Coronel with ID No. 478;
- EXHIBIT "6" General Payroll of Brgy. Boroc, Ormoc City of those who have received the ESA amounting to fourteen thousand two hundred eighty six pesos and 75/100 (Php 14,286.75)
- EXHIBIT "7" General Payroll of Brgy. Camp Downes, Ormoc City of those which have received the ESA amounting to ten thousand pesos (Php 10,000.00)
- EXHIBIT "8" General Payroll of Brgy. Boroc, Ormoc City of those who have received the ESA amounting to fourteen thousand two hundred eighty six pesos and 75/100 (Php 14,286.75)

Both parties submitted a Memorandum/ Position Paper. The facts antecedent to the present case are simple: The respondent is the Barangay Captain of Brgy. Boroc, Ormoc City. In two instances, she issued certifications where she confirmed that Marissa B. Ligudan and Josephine P. Del Rosario were residents of Brgy. Boroc, Ormoc City. Complainant asserts that respondent issued such certifications with full knowledge that Marissa B. Ligudan is a resident of Brgy. Linao, Ormoc City, while Josephine P. Del Rosario is a resident of Brgy. Ipil, Ormoc City. The sole issue to be resolved by the body is whether or not the respondent may be held administratively liable for the alleged commission of the acts complained of.

To squarely address this controversy, a reading of the questioned certifications (Exhibits "A" and "A-1") is in order. Both certifications, state:

"THIS IS TO CERTIFY THAT (Josephine P. Del Rosario/ Marissa B. Ligudan), of legal age, married, Filipino, is a resident of Barangay Boroc, Ormoc City, and is the same person whose signature appears (below).

THIS CERTIFICATION is issued upon the request of (Mrs.) Josephine P. Del Rosario/ Marissa B. Ligudan as proof of his identity and in support of his claim for the Emergency Shelter Assistance.

xxx

Confirmed by:

CLARA I. CODOG (sgd)

Josephine P. Del Rosario (sgd)
Marissa B. Ligudan"

A perusal of the evidences for both parties indicate that the parties relate the issues herein to the Emergency Shelter Assistance (ESA) released by the government to the victims of Typhoon Yolanda. Complainant insisted that the issuance by the respondent of the Certifications to Josephine P. Del Rosario/ Marissa B. Ligudan resulted in the delisting of her mother-in-law Gregoria Dicdican from the ESA payroll. In fact, complainant admitted that she was prompted to file the instant case because of the exclusion of Gregoria Dicdican. (TSN, June 8, 2017, page 13)

On the other hand, the respondent's defense is that the certifications subject of this complaint were issued upon the request of Josephine P. Del Rosario and Marissa P. Ligudan who were then both and each accompanied by Roberto "Kiko" Ablen. (TSN, September 7, 2017)

Respondent's testimonial evidence indicate that the list of beneficiaries was prepared by said Mr. Ablen who was then connected with the Ormoc City Social Welfare and Development Office (CSWDO) as a coordinator. (TSN, November 9, 2017, page 12 and December 14, 2017, page 6) This same list is submitted to the CSWDO which validates the entries which is then forwarded to the proper offices for the release of the ESA. At the time that Josephine P. Del Rosario and Marissa P. Ligudan approached the respondent, both of them were included in the ESA Masterlist of Brgy. Boroc, which list was also posted in the Brgy. Hall. (TSN, September 7, 2017)

It must be emphasized that the very gist of this controversy is the act of the respondent issuing certifications attesting to the residency of a person or persons. This question is independent of matters concerning and relating to the ESA.

The Supreme Court has defined misconduct as follows:

"Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. xxx The misconduct must imply wrongful intention and not a mere error of judgment and must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office. In order to differentiate gross misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in the former." (Office of the OMBUDSMAN vs. Avelino De Zosa and Bartolome dela Cruz, G.R. No. 205433, January 21, 2015)

The records of this case lack any showing that respondent took advantage of his position to intentionally and maliciously violate the law or some established and definite rule of action. The issuance of the questioned certifications was attended with good faith in that the names of Josephine P. Del Rosario and Marissa P. Ligudan were included in the ESA Masterlist pertaining to Brgy. Boroc. This, as represented to the respondent by the teachers Josephine P. Del Rosario and Marissa P. Ligudan with the assistance of Mr. Ablen. The respondent clearly issued the prepared and standard form certifications forwarded to her, relying on the said representations of the teachers and the Masterlist. Clearly, the respondent did not intend to execute the subject Certifications for any other purpose. It should be noted that the complainant failed to show that the respondent obtained benefit from issuing certifications to qualify under the element of corruption. Hence, the act of Respondent is not tainted with corruption or willful breach of any law to constitute grave misconduct.

That the respondent acted in all good faith absent the resolve to mislead other persons or entities is supported by the fact that she has been in the service of Boroc since 2007 as a Sangguniang Member and then as Barangay Chairman. The length of her service implies her competence and willingness to abide by pertinent and existing rules and regulations.

In coming to this conclusion, this body is ever mindful of the principle that when sanctions are imposed on a government official or employee, the reason is because acts that lessen faith and confidence in the government are never countenanced. The respondent's acts in question do not show that it diminished or tended to diminish the people's respect for those in the government service.

If only to squarely address all matters attendant to this controversy, even compliance with ESA requirements which both parties repeatedly raise, it must also be considered that the Certification issued by the respondent is not that contemplated in and mandated under Department of Social Welfare and Development Memorandum Circular No. 24. Under the issuance, a Barangay Certification must state the circumstances "of the household if partially or totally damaged and residency in the community". The Certifications are incomplete insofar as ESA documents are concerned. The Certifications were released subsequent to the Masterlist and

were in fact based on the latter document. Evidently, these Certifications have no bearing to the implementation of the ESA.

As complainant would lead this body to believe, the very same Certifications are the reason why her mother in law was removed from the list and why Josephine P. Del Rosario and Marissa P. Ligudan were able to receive the ESA. The complainant's position is unsubstantiated, unsupported, and is speculative at best. While this body encourages the vigorous prosecution of wrongdoings with the end in view of disciplining erring public servants, complainants are also reminded of their civic duty to refrain from bringing to judicial or quasi-judicial bodies, cases that have no sufficient basis in fact and in law.

In sum, we find the respondent is not liable for misconduct and is hereby absolved on any administrative liability.

Let a copy of this Decision be furnished to the Department of Interior and Local Government, Ormoc City, the Office of the City Mayor of Ormoc City, the complainant and the respondent, for their reference, information and appropriate action.

SO ORDERED.

City of Ormoc, Philippines, January 18, 2018.

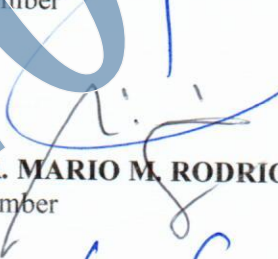

ATTY. NOLITO M. QUILANG
 Presiding Chairman

Concurred by:


ATTY. BENJAMIN S. PONGOS JR.
 Vice-Chairman, Committee on Good Government



ENGR. ROLANDO VILLASENIO
 Member


VINCENT RAMA
 Member


DR. MARIO M. RODRIGUEZ
 Member


TOMAS SERAFICA
 Member


DR. EUSEBIO GERARDO PENSERGA
 Member


DR. GREGORIO G. YRASTORZA III
 Member


JOHN EULALIO NEPOMUCENO APARIS II
 Member


LEADORIS VILLAR
 Member


ATTY. MARIANO CORRO
 Member