



Republic of the Philippines
 PROVINCE OF CAGAYAN
 City of Tuguegarao
EIGHTH CITY COUNCIL



EXCERPTS FROM THE MINUTES OF THE 71st REGULAR SESSION
 OF THE EIGHTH CITY COUNCIL OF TUGUEGARAO CITY, CAGAYAN
 HELD ON JANUARY 12, 2021, 9:00 A.M., TUESDAY,
 AT THE SANGGUNIAN PANLUNGSOD SESSION HALL

PRESENT:

Hon. Bienvenido C. De Guzman II	City Vice Mayor/Presiding Officer
Hon. Maila Rosario T. Que	Sangguniang Panlungsod Member (via Teleconferencing)
Hon. Imogen Claire M. Callangan	-do-
Hon. Gilbert S. Labang	Sangguniang Panlungsod Member
Hon. Danilo L. Baccay	-do-
Hon. Ronaldo S. Ortiz	Sangguniang Panlungsod Member (via Teleconferencing)
Hon. Arnel T. Arugay	Sangguniang Panlungsod Member
Hon. Mary Marjorie P. Martin-Chan	Sangguniang Panlungsod Member (via Teleconferencing)
Hon. Winnoco R. Abraham	Sangguniang Panlungsod Member
Hon. Grace B. Arago	-do-
Hon. Raymund P. Guzman	-do-
Hon. Karina S. Gauani	-do-
Hon. Gil G. Pagulayan	Ex Officio Member
Hon. Karen L. Taguinod	-do-

CITY RESOLUTION NO. 047-08-2021

RESOLUTION ADOPTING AND APPROVING THE COMMITTEE OF THE WHOLE (INVESTIGATING BODY) REPORT/DECISION ON ADMINISTRATIVE CASE NO. 01-2020 TITLED “WILLIAM SORIANO VERSUS BARANGAY CAPTAIN GLORIA T. EXCLAMADOR AND BARANGAY TREASURER VILMA T. ILAGAN OF BARANGAY GOSI NORTE, TUGUEGARAO CITY”

WHEREAS, on January 11, 2021 a Decision on Administrative Case No. 01-2020 has been rendered by the Committee of the Whole, a copy of which is hereto attached and made an integral part of this Resolution;

WHEREAS, the findings, issues and decision in the afore-quoted Administrative Case No. 01-2020 titled “*William Soriano versus Barangay Captain Gloria T. Exclamador and Barangay Treasurer Vilma T. Ilagan of Barangay Gosi Norte, Tuguegarao City*” are in accordance and pursuant to law and jurisprudence;

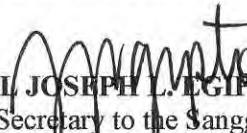
WHEREAS, on joint motion, this Resolution adopting and approving the aforementioned Committee of the Whole (Investigating Body) Report/Decision on Administrative Case No. 01-2020 dated January 11, 2021 is hereby adopted and approved.

NOW, THEREFORE, RESOLVE, as it is hereby **RESOLVED**, to approve the Resolution of the Committee of the Whole (Investigating Body) in its Committee Report/Decision dated January 11, 2021 on Administrative Case No. 01-2020 titled “*William Soriano versus Barangay Captain Gloria T. Exclamador and Barangay Treasurer Vilma T. Ilagan of Barangay Gosi Norte, Tuguegarao City*”.


On joint motion, **CITY RESOLUTION NO. 047-08-2021** was **APPROVED** under suspended rules.

X-X-X

I HEREBY CERTIFY TO THE CORRECTNESS OF THE FOREGOING:


JOEL JOSEPH L. EGIPITO, Ph.D.
Secretary to the Sanggunian

ATTESTED:


HON. BIENVENIDO C. DE GUZMAN II
City Vice Mayor/Presiding Officer
Date: 01/13/21

cd

Republic of the Philippines
PROVINCE OF CAGAYAN
Tuguegarao City
EIGHTH CITY COUNCIL

COMMITTEE REPORT
January 11, 2021

PRESENT:

Hon. Bienvenido C. De Guzman De II	Chairman
Hon. Raymund P. Guzman	Vice-Chairman
Hon. Imogen Claire M. Callangan	-do- (Via-Teleconferencing)
Hon. Danilo L. Baccay	-do-
Hon. Ronaldo S. Ortiz	-do-
Hon. Arnel T. Arugay	-do-
Hon. Winnoco R. Abraham	-do-
Hon. Mary Marjorie P. Martin-Chan	-do- (Via-Teleconferencing)
Hon. Grace B. Arago	-do-
Hon. Karina S. Gauani	-do-
Hon. Gil G. Pagulayan	Ex-Officio Member (Liga ng mga Barangay)
Hon. Karen L. Taguinod Kabataan)	Ex-Officio Member (Sanggauniang

ABSENT:

Hon. Maila Rosario T. Que	Sangguniang Panlungsod Member
Hon. Gilbert S. Labang	-do-

For the Presiding Officer:

The Committee of the Whole deliberated on the following:

COMMITTEE REPORT NO. ~~003~~ 2021

Submitted by the:

COMMITTEE OF THE WHOLE

Subject:

Recommendation on the Draft Decision on Administrative Case No. 04-2020 titled: "William Soriano versus Barangay Captain Gloria T. Exclamador and Barangay Treasurer Vilma T. Ilagan of Barangay Gosi Norte, Tuguegarao City".

Action Taken:

The Committee of the Whole convened and conducted hearings on the above-captioned administrative case the last day of which was on November 10, 2020. There being no clarificatory questions from the Honorable members of the Committee of the Whole-Investigating Body as to their desire to ask clarificatory questions, the parties were ordered on even date to formally offer their documentary evidence within Five (5) days from the receipt of the said Order and that with or without the same, the administrative case is deemed submitted for resolution.

Only the Respondent through counsel filed a Position Paper.

Findings:

Again, on January 11, 2021, the Committee of the Whole met for consultation on the draft Decision on the above subject Administrative Case No. 02-2020.

Recommendation:

There being no questions, corrections, amendments or objection from the members of the Committee of the Whole (Investigating Body), on the draft Decision, the Committee hereby recommends the adoption and approval of the Committee Report favorably recommending the approval of the draft Decision on Administrative Case No. 02-2020, copy of the said Decision of which is hereto attached.

The Committee further recommends the adoption and approval of the concomitant Resolution adopting and approving the Committee of the Whole (Investigating Body) Report/Decision on the above-cited Administrative Case No. 02-2020 titled: "William Soriano and Barangay Captain Gloria T. Exclamador and Barangay Treasurer Vilma T. Ilagan of Barangay Gosi Norte, Tuguegarao City, Cagayan".

xxx


Respectfully submitted:


BIENVENIDO C. DE GUZMAN II
Chairman

RAYMUND P. GUZMAN
Vice-Chairman


1-11-2021

IMOGEN CLAIRE M. CALLANGAN
SP Member

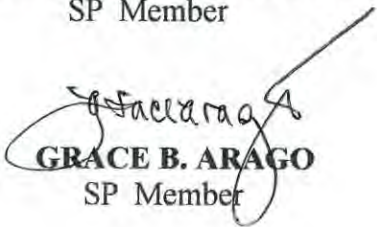

DANILO L. BACCAY
SP Member

RONALDO S. ORTIZ
SP Member

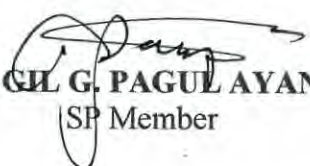

ARNEL T. ARUGAY
SP Member


WINNOCO R. ABRAHAM
SP Member

MARY MARJORIE P. MARTIN-CHAN
SP Member


GRACE B. ARAGO
SP Member


KARINA S. GAUANI
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GIL G. PAGULAYAN
SP Member


KAREN L. TAGUINOD
SP Member

Republic of the Philippines
PROVINCE OF CAGAYAN
Tuguegarao City
EIGHTH CITY COUNCIL

WILLIAM SORIANO,
Complainant,

ADM. CASE NO. 01-2020

Versus

**BARANGAY CAPTAIN GLORIA T. EXCLAMADOR
AND VILMA T. ILAGAN,**
Respondents.

X-----X

DECISION

This is a Complaint filed by **WILLIAM SORIANO** against **BARANGAY CAPTAIN GLORIA T. EXCLAMADOR** and **VILMA T. ILAGAN**, Barangay Treasurer, of Gosi Norte, for alleged Violation of Corrupt Practices Act under Sec. 3, par. (a) of R.A. 3019.

The Committee of the Whole on 20 October 2020 issued an Order of Dismissal of the Case against Respondent Vilma T. Ilagan for lack of jurisdiction on administrative cases against erring appointed brgy officials, pursuant to Section 61 of Republic Act No. 7160 (Local Government Code).

Factual Antecedents of the Case:

Sometime in December 2015, Respondent Ilagan acquired a Fifty Thousand Pesos (PHP 50,000.00) loan from Complainant Soriano with an agreed 3.5% interest per month to finance her carinderya business situated at the Cagayan Sports Complex. No written contract was made. Payments were subsequently made totaling to Php72,250.00, as enumerated in the list provided by Respondent Ilagan.¹

However, after considering previous agreements, partial payments of the principal amount and interests, as stated in both the Complaint and Counter-Affidavits submitted by the parties, there remains a balance of Twenty Thousand Pesos (PHP 20,000.)

Complainant Soriano exerted several efforts to fulfill payment from Respondent Ilagan. Hence, the latter now sought the help of Respondent Exclamador, in her capacity as the Punong Barangay to mediate the said issue.

Acting on the said request, Respondent Exclamador instructed Respondent Ilagan to formalize the request through a letter which was submitted by the latter on 10 June 2020.² Hence, the mediation was set immediately on 11 June 2020. Complainant and Respondent Ilagan were informed and thus, physically appeared at around 11:00 AM on the said for the Mediation Conference held at the Barangay Hall.

¹ See attachment to Exhibit "A" of Respondent Exclamador's Counter-Affidavit.

² See Exhibit "A" of Respondent Exclamador's Counter-Affidavit.

A heated confrontation occurred during the mediation conference but it was later resolved that Respondent Ilagan will pay Complainant, Ten Thousand Pesos (PHP 10,000.00). The same was duly received by Complainant in the presence of Respondent Exclamador and Kagawad Edward Macarubbo but refused to sign any document proving his receipt of the same.³

Ruling:

At the onset, it bears stressing that this Committee and the 8th City Council, only have jurisdiction to determine the administrative liability of herein Respondents. Any criminal or civil cause of action that may arise from the alleged acts shall be subject jurisdiction of the Regular Courts/Investigating Body as provided for by law.

As initially ruled, the Complaint against Respondent Ilagan is dismissed for lack of jurisdiction in an Order dated October 20,2020. Hence, we now rule on the substance of the Complaint against Respondent Exclamador.

The instant Complaint against Respondent Exclamador should also fail.

The Complainant failed to prove that there is substantial evidence sufficient to hold Respondent Exclamador administratively liable. The basic rule is that mere allegations is not evidence and is not equivalent to proof. Charges based on mere suspicion and speculation likewise cannot be given credence.

Truth be told, Respondent Exclamador, as the Barangay Chairperson of Gosi Norte only performed the duties and responsibilities attached to her office when she called for and mediated over the supposed amicable settlement between Complainant and Respondent Ilagan. It can be gainsaid that she acted on an official request from a constituent and gave both parties an opportunity to air their side of the issue.

It should also be emphasized that negotiations may fall apart and parties may come out of every mediation unsatisfied, as in the instant case. Complainant, therefore, cannot put against Respondent Exclamador if he was unhappy with the result of the conciliation.

Instead, it is noteworthy that Complainant himself did not dispute the following: (i) Respondent Exclamador called for a conference; (ii) Complainant attended and was able to air his side during the said conference; (iii) Complainant received PHP 10,000.00 from Respondent Ilagan during the said conference; and, (iv) Complainant refused to sign any document proving such receipt.

The basic rule is that mere allegations is not evidence and is not equivalent to proof. Charges based on mere suspicion and speculation likewise cannot be given credence. When the Complainant relies on mere conjectures and suppositions and fails to substantiate his allegations, the Complaint must be Dismissed for lack of merit.

Complainant has the duty to prove by substantial evidence the allegations in his Administrative Complaint.

The burden of proof to show Grave Abuse of Discretion lies on the Complainant. Complainant's belief does not constitute proof. Neither is it enough to impute action on the part of the Office of the Barangay Chair, Gosi Norte, in performing the duties and responsibilities attached to the office that is to call for a mediation regarding a controversy and exert all efforts to arrive at an amicable settlement as mandated by law, for otherwise, it would amount to Dereliction of Duty.

³ See Exhibit "4" and Exhibit "4-D" of the Respondent Ilagan's Judicial Affidavit.

Indeed, Respondent Gloria T. Exclamador, Barangay Chair, Gosi Nort, should be commended for having performed her duty without fear and favor in compliance with the Katarungang Pambarangay or Barangay Justice Court System.

Complainant should have been prudent enough not to have received the sum of Php10,000.00 from Ms. Vilma Ilagan if indeed he did not initially agree to settle the monetary obligation of Vilma Ilagan in the total amount of Php10,000.00. The fact remains that Ilagan had already more than the amount fully paid her obligation to the Complainant. To put one over the other is a sharp violation of the 10 Commandments and our Statute Laws one of which is the Usury Law.

In sum, the Office of the Barangay Chair of Gosi Norte represented by Chairwoman Gloria T. Exclamador did not act with grave abuse of discretion or in excess of its jurisdiction in calling for a conduct of mediation proceedings nor is lable for Violation of Section 3 (A) of R.A. 3019.

Sad to note that Complainant William Soriano miserably failed to prove by substantial evidence his bare allegations in the Complaint.

There is no iota of evidence from the records much more any evidence adduced by the Complainant which would pass the test of prima facie evidence nor even probable cause exist. On the other hand, Respondent's Counter-Affidavit dated July 25, 2020 (Exhibit "1" had clearly disputed the material allegation contained in the Affidavit-Complaint and was supported by Exhibit "2" , letter of Ms Vilma Ilagan dated June 10, 2020, to Respondent requesting for the conduct ,of a mediation between her and Complainant; Exhibit "3" which is a Certification of List of Partial Payment which proved that payments had already been made by Ms. Ilagan to Complainant; and Exhibit "4" is the Certification dated June 11, 2020 which proved that Complainant received the amount of Php10,000.00 from Ms. Vilma Ilagan, but the former refused to sign the same which has been collaborated by the testimony of Edward Macarubbo as contained in his Judicial Affidavit dated November 3, 2020.

Sec. 3 (A) of R.A. 3019. Corrupt Practices of Public Officers- In addition to acts or omission of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

(a) Persuading, inducing or influencing Another Public Officer to perform an act constituting a Violation of authority or an offense in connection with the official duties of the latter, or allowing himself to be persuaded. Induced or influenced to commit such violation or offense.

1. Deliberate Intent – Sec. 3 (a) of R.A. 3019 requires a deliberate intent on the part of the public official concerned to violate those Rules and Regulations duly promulgated by competent authority, or to commit an offense in connection with the official duties (Reyes vs. Atienza, G.R. No. 152243, Sept. 23, 2005).
2. By means of consideration- the deliberation in the Senate regarding this law shows that the mode of committing the crime under Sec. 3 (a) of R.A. No. 3019 is persuading, inducing or influencing a public officer by Another Public Officer to commit an offense or to violate Rules and Regulations by means of consideration, reward, payment or remuneration (Baviera vs. Zolata, G.R. No. 169098, Oct. 12, 2006).

It is very clear and as clear as the waters in the Pinacanauan River based on the foregoing undisputed facts and applicable laws that Respondent Gloria T. Exclamador is hereby acquitted of the administrative charges for lack of evidence.

SO ORDERED.

Tuguegarao City, Cagayan - January 6, 2021


BIENVENIDO C. DE GUZMAN II
Chairman


RAYMUND P. GUZMAN
Vice-Chairman

1-12-2021


IMOGEN CLAIRE M. CALLANGAN
SP Member



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RONALDO S. ORTIZ
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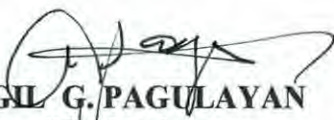

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GIL G. PAGULAYAN
SP Member


KAREN L. TAGUINOD
SP Member

Copy Furnished:

Ms. Gloria T. Exclamador
Barangay Captain
Barangay Gosi Norte
Tuguegarao City, Cagayan

Ms. Vilma T. Ilagan
Barangay Gosi
Tuguegarao City, Cagayan

Atty. Ricky James L. Suyu
Camella Homes Subdivision
Larion Alto, Tuguegarao City