

REPUBLIC OF THE PHILIPPINES  
BATANGAS CITY

OFFICE OF THE SANGGUNIANG PANLUNGSOD

EXCERPT FROM THE MINUTES OF THE SPECIAL SESSION HELD BY THE  
MEMBERS OF THE SANGGUNIANG PANLUNGSOD OF BATANGAS CITY  
ON JANUARY 9, 2018 AT THE SANGGUNIANG SESSION HALL

PRESENT:

Hon. Emilio Francisco A. Berberabe Jr.,	Presiding Officer
Hon. Aileen Grace A. Montalbo,	Councilor
Hon. Glenn M. Aldover,	“
Hon. Sergie Rex M. Atienza,	“
Hon. Hamilton G. Blanco,	“
Hon. Alyssa Renee A. Cruz,	“
Hon. Oliver Z. Macatangay,	“
Hon. Armando C. Lazarte,	“
Hon. Karlos Emmanjuel A. Buted,	“
Hon. Julian B. Villena,	“
Hon. Gerardo A. Dela Roca,	“
Hon. Nestor E. Dimacuha,	“
Hon. Nelson J. Chavez,	“
Hon. Angelito “Dondon” A. Dimacuha,	ABC-Rep.

“On motion of Councilor Aldover seconded by Councilor Nestor Dimacuha, the following Resolution was Adopted:


RESOLUTION NO. 1 S. 2018

ADOPTING THE DECISION OF THE COMMITTEE OF THE WHOLE AS THE  
DECISION OF THE SANGGUNIANG PANLUNGSOD ON SP ADM. CASE NO. 01-17  
FOR CONDUCT UNBECOMING A PUBLIC OFFICIAL, BARANGAY CAPTAIN  
RAMIL L. CASEDA VS. BARANGAY KAGAWAD RESTITUTO ALMADIN

**RESOLVED**, to adopt the decision of the Committee of the Whole as the decision of the Sangguniang Panlungsod on SP ADM. Case No. 01-17 for Conduct Unbecoming A Public Official, Barangay Captain Ramil L. Caseda vs. Barangay Kagawad Restituto Almadin.

**UNANIMOUSLY APPROVED.”**

I hereby certify that the foregoing Resolution No. 1 S. 2018 was approved by the Sangguniang Panlungsod of Batangas City during its Special Session held on January 9, 2018.

  
APPY. OLIVA D. TELEGATOS  
Secretary  
Sangguniang Panlungsod

ATTESTED:

  
EMILIO FRANCISCO A. BERBERABE, JR.  
Presiding Officer

ODT/ystingchuy...

REPUBLIC OF THE PHILIPPINES  
BATANGAS CITY  
OFFICE OF THE SANGGUNIANG PANLUNGSOD

BARANGAY CAPTAIN RAMIL L. CASEDA,  
Complainant

SP ADM. BLG. 01 - 17  
FOR: "Conduct Unbecoming  
Public Official"

- versus -

BARANGAY KAGAWAD RESTITUTO ALMADIN,  
Respondent

X - - - - - X

**DECISION**

This is an Administrative Case of Conduct Unbecoming of a Public Official filed by Barangay Chairman Ramil L. Caseda of Barangay Cuta, Batangas City against Barangay Kagawad Restituto D. Almadin of the same Barangay. The complaint was filed on June 29, 2017, and was referred to the Sangguniang Panlungsod Committee of the Whole on July 4, 2017 in the Council's Regular Session. The Committee on Ethics and Good Government chaired the Committee of the Whole composed for the purpose of taking up the Administrative Case. The respondent was notified of the complaint and was required to file his verified answer, which the latter filed on July 25, 2017. After the Committee has determined a prima facie case on the basis of the documents submitted by the complainant and the respondent, the Committee called an initial hearing on August 3, 2017. Subsequent hearings were held on August 7, 11, and 18, 2017. On September 4, 2017, Complainant filed a Motion for Submission of Position Paper in Lieu of Trial-type proceedings. The Motion was opposed by the respondent through his Comment/Opposition with Motion to Suspend Proceedings, grounding his opposition and

motion on his stand that there has not yet been any determination that there exists a prima facie case to warrant the institution of a formal administrative proceedings against respondent, that in effect, respondent has not yet been formally charged. Likewise, respondent pointed out that the Local Government Code prohibits any investigation within ninety (90) days immediately prior to any local election. As of the date of filing the Comment/Motion, the Barangay and Sangguniang Kabataan Elections were set on October 23, 2017 and no Resolution or directive had yet been issued by the COMELEC to postpone the said elections. Thus, the Committee suspended the proceedings on the Administrative Case. The holding of barangay and SK elections was subsequently postponed by the COMELEC, thereby the proceedings were resumed. The Committee required the parties to submit their respective position paper. Only the respondent filed his Position Paper, hence the complainant is deemed to have waived his right to file his position paper.

This case stemmed from an incident that occurred on June 21, 2017 at around 9:00 o'clock in the evening in front of the Barangay Hall of Barangay Cuta, Batangas City. The complainant walked to the respondent who was standing by the front of the Barangay Hall. Thereupon, the respondent hit the complainant at the side of his face which caused the latter to fall to the ground and while in that position, respondent again hit the complainant on his face/head. People who were in the place of the incident intervened and pulled the respondent away who immediately left. The complainant went to the PNP Station and reported the incident. He was advised to go to the Batangas Medical Center for a medico-legal examination.

The complainant submitted to the Committee a reproduced copy of the CCTV footage showing the incident. The original recording of the CCTV footage was not presented; and the copy submitted contains only the cut where the complainant approached the respondent who, after a few seconds, hit the complainant, causing him to fall and the respondent hit him for the second

time while sitting on the ground apparently trying to collect his senses together.

Complainant also submitted the sworn statement of Barangay Tanod Bienvinido R. Perez which affidavit affirms the allegations in the sworn statement of the complainant. Affidavits of several other witnesses were submitted to the Committee and the Clinical Summary and related medical documents on the examinations done on the complainant at the Saint Patrick's Hospital Medical Center, but the said documents were not testified to by the witnesses concerned, hence, were bereft of evidentiary value.

The respondent, on his part, denied the offense charged, claiming that he merely defended himself when the complainant attacked him and shouted invectives on him. He claimed that the complainant was drunk and it was the reason he fell to the ground, after which, complainant stood up and attacked him again. It was only the intervention of barangay tanods present which prevented the complainant from attacking him. He left to avoid further conflict.

The respondent attached to his Answer a copy of the Medico-Legal Certificate of the complainant issued by the Batangas Medical Center and pointed out the finding stated therein of "Positive alcoholic breath," and concluding that the complainant was drunk when the incident happened.

The main issue to be resolved by the Committee is whether or not the respondent committed conduct unbecoming of a public official. The other issue put to question by the respondent is one of procedural due process which he claims he was denied by the Committee in giving way to this very administrative proceeding.

To put first thing first, the Committee tackles the issue of due process.

Enshrined in the Philippine Constitution is this time-honored principle of due process. Article III Section 1 of the 1987 Constitution states that "no person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws." A profession, trade, or calling is a property right within the meaning of our constitutional guarantees; one cannot be deprived of the right to work or the right to make a living because these rights are property rights, the arbitrary and unwarranted deprivation of which normally constitutes an actionable wrong. (Executive Secretary vs. CA, G.R. No. 131719, May 25, 2004).

The basic requisites of procedural due process in administrative proceedings are: 1) actual or constructive notice of the institution of the proceedings which may affect one's legal rights; 2) real opportunity to be heard personally or with counsel; 3) opportunity to present witnesses and evidence in one's favor and to defend his rights; 4) tribunal vested with competent jurisdiction to afford the person charged a reasonable guarantee of honesty and impartiality; 5) findings supported by substantial evidence contained in the records and made known to the parties. (Fabella v. CA, G.R. No. 110379, November 28, 1997.) In Banco Español - Filipino v. Palanca (G.R. No. L-11390 March 26, 1918,) the Supreme Court held that due process implies that: 1) there must be a court or tribunal clothed with the power to hear or determine the matter before it; 2) that jurisdiction has been lawfully acquired; 3) defendant shall have the opportunity to be heard; and 4) judgment shall be rendered upon lawful hearing.

The essence of due process is the right to be heard, and as applied to administrative proceedings, this means a fair and reasonable opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of. Administrative due process cannot be fully equated with due process in its strict judicial sense, for in the former, a formal or trial-type hearing is not always necessary, and

technical rules of procedure are not strictly applied. (Vivo vs. PAGCOR, G.R. No. 187854, November 12, 2013). Due process is satisfied when a person is notified of the charge against him and given an opportunity to explain or defend himself. In administrative proceedings, the filing of charges and giving reasonable opportunity for the person so charged to answer the accusations against him constitute the minimum requirements of due process. (Ledesma v. CA, G.R. No. 96914, July 23, 1992).

The respondent Barangay Kagawad insists that he cannot be found liable for Conduct Unbecoming a Public Official due to the lack of formal charge. He posits that the Committee had not determined the existence of prima facie case to warrant the institution of a formal administrative proceedings; that in effect, the respondent has not yet been formally charged.

The Local Government Code provides:

Section 61. Form and Filing of Administrative Complaints. - A verified complaint against any erring local elective official shall be prepared as follows:

x x x

x x x

c. A complaint against any elective barangay official shall be filed before the sangguniang panlungsod or sangguniang bayan concerned whose decision shall be final and executory.

x x x

Section 62. Notice of Hearing. - (a) Within seven (7) days after the administrative complaint is filed, x x x the sanggunian concerned, x x x, shall require the respondent to submit his verified answer within fifteen (15) days from receipt thereof, and commence the investigation of the case within ten (10) days after receipt of such answer of the respondent.

X x x

X x x

The determination of a prima facie case is part of the mandate of the Committee which determination is done ex-parte through examination of the documents submitted by the complainant and the respondent. The respondent misconstrue the provision under Rule III of the Sangguniang Panlungsod Rules on Administrative Cases Against Barangay Officials. Rule III, as it is, establishes the personality of the Investigating Authority which, as the Rule states "shall be the Sanggunian Committee organized by the Sangguniang Panlungsod which shall determine if there is a prima facie case to warrant the institution of formal administrative proceedings. If the Investigating Authority finds prima facie case, the formal investigation of the case will commence."

From the afore-quoted Rule, after the ex-parte determination of prima facie case, the Investigating Authority shall commence the formal investigation. Nowhere in the provision is the filing anew of a formal charge as claimed by the respondent. The formal charge is the verified complaint filed by the complainant for which the respondent filed a verified answer. These documents were the bases of the Committee in determining ex-parte the existence of a prima facie case and commencing the formal investigation.

All the other requisites of administrative due process as afore-cited were afforded to the respondent. He was not denied due process of law.

The Committee now tackles the main issue as to whether or not the respondent committed conduct unbecoming a public official.

The law in reference is Section 60 of the Local Government Code which provides:

Section 60. - Grounds for Disciplinary Actions. - An elective local official may be disciplined, suspended, or removed from Office on any of the following grounds:

- (h) Such other grounds as may be provided in this Code and other laws.

Conduct Unbecoming a Public Official is an offense more properly defined under R.A. No. 6713 otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees. The provision of said law pertinent to this case states:

Section 4. Norms of Conduct of Public Officials and Employees. - (A) Every public official and employee shall observe the following as standards of personal conduct in the discharge and execution of official duties:

x x x

(c) Justness and sincerity. - Public Officials shall remain true to the people at all times. They must act with justness and sincerity and shall not discriminate against anyone, especially the poor and the underprivileged. They shall at all times **respect the rights of others, and shall refrain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety and public interest.**

x x x

Unbecoming conduct means improper performance and applies to a broader range of transgressions of rules not only of social behavior but of ethical practice or logical procedure or prescribed method. (Asst. Special Prosecutor III Rohermia J. Jamsani-Rodriguez v. Justices Gregory Ong, et al. A.M.No. 08-19-SBJ, August 24, 2010). The Supreme Court has too often declared that any act that fall short of the exacting standards for public office shall not be countenanced. (Pablejon vs. Calleja, A.M. No. P-06-2102, January 24, 2006). It is a categorical declaration in the Constitution that a "public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice and lead modest lives." (Section 1, Art. XI, 1987 Constitution).

The only piece of evidence presented and testified to during the proceedings of this administrative case is a copy of



the CCTV footage showing the incident as it happened. The video footage shows the man identified the by witnesses to be the complainant approached the person standing by the front of the Barangay Hall identified as the respondent, and after a few seconds, the respondent hit the complainant in the face with his fist. The complainant fell down and while trying to get up on his feet, the respondent delivered another blow with his fist hitting the complainant on his head again. Some people pulled the respondent and he walked away.

The respondent objected to the admission of the CCTV footage as evidence, claiming that it is merely a reproduction copy and not the original CCTV footage taken with the Barangay Hall's CCTV camera. Respondent also moved to subpoena the authorized barangay officer or personnel who handles the CCTV operation in the barangay hall, and has custody of the original footage. The respondent, however, did not object to the showing or exhibition of the footage during the hearing.

The respondent likewise did not deny the happening of the incident or any portion of it as shown/exhibited in the video footage. Neither did he deny the identities of the complainant and himself nor offered a different version of the incident save from the self-defense which he claimed in his Answer.

The respondent claims that the complainant was drunk when the incident happened and that it was proved by the finding of positive alcoholic breath stated in the Medico-legal Certificate of the Complainant. He alleged that the complainant cussed and shouted expletives towards the respondent and it is this aggression which caused the respondent to respond physically for self-preservation.

The Committee finds that the CCTV footage speaks for itself. Notwithstanding that the copy submitted to and viewed by the Committee was a reproduction of the original footage taken by the camera installed at the Barangay Hall, the video

was clear and long enough to capture the complete material incident, that is from the time the complainant appeared by the side of the Barangay Hall and strode towards the respondent, stopped facing the respondent at which point the respondent hit the complainant on his face causing him to fall, and while the complainant was trying to get up, the respondent once again boxed him in the head. The claim by respondent of prior aggression by the complainant remained an allegation; it was not corroborated by any witness or proved by any other evidence. Hence, the Committee only has the CCTV footage to rely on as regards the demeanor and prior apparent action of both the complainant and respondent.

At any rate, the respondent did not deny the fact that he hit the complainant; he merely claim that it was in self-defense. The video, however, showed the respondent in the act of aggression towards the complainant.

The issue, then, to be resolved, is whether or not the respondent, in committing the acts shown in the video footage, is guilty of conduct unbecoming of a public official.

Discussed earlier are the stringent standards of conduct and ethical behavior of public officials provided in RA 6713, set forth in Section 4 thereof. Administrative offenses by their very nature pertain to the character of public officers and employees, the object sought is not the punishment of the officer or employee but the improvement of the public service and the preservation of the public's faith and confidence in our government. (Remalona V. Civil Service Commission, G.R. No. 137473 August 2, 2001).

The instant case for conduct unbecoming a public officer involves (1) the respondent's act of inflicting physical harm of injury to another person, and (2) his utter disrespect and disregard of the Barangay Chairman who is a person in authority and presumed to have a moral ascendancy over him.

As provided in Section 4 (c) of R.A. 6713, public officials shall at all times respect the rights of others and shall refrain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety, and public interest. The Committee finds the respondent failing in this norm of conduct of a public official. In the eyes of the Committee, the respondent committed a conduct contrary to the norms imposed upon him by his Office as a public official when he inflicted physical harm or injury to the complainant barangay chairman. In so committing the act, he exhibited a baseness of moral behavior and lack of respect towards a recognized authority.


Now, the penalty.

Again Section 60 of the Local Government Code of 1991 provides for the penalties imposable on elective officials under disciplinary action. An elective local official may be disciplined, suspended, or removed from office. However, the same Section 60 of the Code provides that an elective Local Official may be removed from office by order of the proper court. (Section 60, RA 7160). The disciplinary action in the Local Government Code is a mode of correction or punishment for certain unlawful conduct, behavior, or actuations of elective local officials in connection with the performance of their powers, functions and duties as prescribed by law or in relation to the public based on grounds specified therein. (Aralar, Barangay Government, 2002 Edition, p. 149). Under R.A. 6713, the imposable penalty ranges from a fine not exceeding the equivalent of six (6) months salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense. (Section 11, R.A. 6713).

**WHEREFORE,** the Committee finds the respondent guilty of conduct unbecoming a public official. The penalty of suspension from office for a period of thirty (30) days is hereby imposed.

**SO ORDERED. January 8, 2018.**

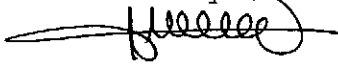
COMMITTEE OF THE WHOLE

  
COUN. GLENN M. ALDOVER  
Chairman

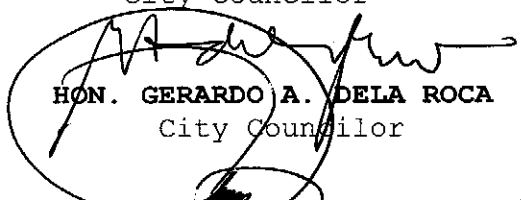
  
HON. AILEEN GRACE A. MONTALBO  
City Councilor

  
HON. KARLOS EMMANJUEL A. BUTED  
City Councilor

  
HON. SERGIE REX M. ATIENZA  
City Councilor


  
HON. JULIAN B. VILLENA  
City Councilor

  
HON. HAMILTON G. BLANCO  
City Councilor

  
HON. GERARDO A. DELA ROCA  
City Councilor

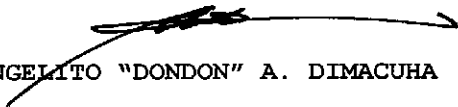
  
HON. ALYSSA RENEE A. CRUZ  
City Councilor

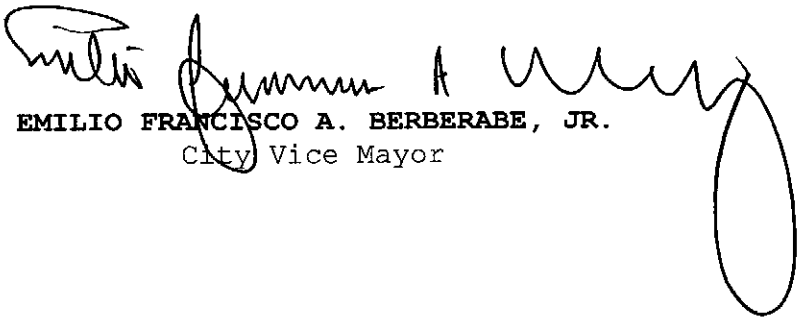
  
HON. NESTOR E. DIMACUHA  
City Councilor

  
HON. OLIVER Z. MACATANGAY  
City Councilor

  
HON. NELSON J. CHAVEZ  
City Councilor

  
HON. ARMANDO C. LAZARTE  
City Councilor

  
HON. ANGELITO "DONDON" A. DIMACUHA  
ABC Representative

  
HON. EMILIO FRANCISCO A. BERBERABE, JR.  
City Vice Mayor