



SANGGUNIANG BAYAN

EXCERPT FROM THE MINUTES OF THE 19th REGULAR SESSION OF THE SANGGUNIANG BAYAN OF MONCADA, TARLAC HELD ON THE 17th DAY OF JUNE 2019 AT THE SB SESSION HALL, LEGISLATIVE BUILDING.

J
PRESENT:

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| HON. JAIME O. DUQUE | .. VICE MAYOR/PRESIDING OFFICER |
| HON. ALBERTO C. MARZAN, JR., MD | .. MEMBER |
| HON. JANIUS M. YASAY | .. MEMBER |
| HON. THELMAFLOR A. ESPEJO | .. MEMBER |
| HON. RUBEN V. GAMBOA, JR | .. MEMBER |
| HON. CLEOFE D. FAVIS | .. MEMBER |
| HON. GEORGE R. CUCHAPIN, MD | .. LnB PRESIDENT |
| HON. EZEKIEL C. RIVERA | .. SKF PRESIDENT |

W
ABSENT:

| | |
|--------------------------------|-----------|
| HON. EDWARD V. TOLENTINO | .. MEMBER |
| HON. GEORGE MICHAEL P. AGUILAR | .. MEMBER |

RESOLUTION No. 65 *Series of 2019*

B
Sponsored by: Sangguniang Bayan En Banc

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RESOLUTION ADOPTING THE DECISION OF THE SANGGUNIANG BAYAN FOR THE ADMINISTRATIVE CASE FILED BY MRS. MELBA D. TRONGCOSO AGAINST BARANGAY KAGAWAD JOEL M. GASCON OF BARANGAY STA. LUCIA WEST, THIS MUNICIPALITY

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WHEREAS, private individuals seeking redress for improprieties or for any other offenses as enumerated in the Local Government Code committed against them by public officials themselves is a relief offered under the Code as a deterrent to the abuse of vested authority by and violation of the code of conduct among said officials;

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WHEREAS, the Sangguniang Bayan by virtue of its quasi-judicial functions, is empowered under the Local Government Code to conduct investigations and render decisions thereof relating to administrative cases;

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WHEREAS, in instant administrative case, the Sangguniang Bayan sitting en banc as an investigative panel, strongly believes that respondent failed to live up to the established norms and standards expected from a duly elected public official;

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WHEREAS, under circumstances, the SB, by a unanimous vote, finds the respondent culpable for his acts and shall suffer the sanction of suspension from the service;

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NOW, THEREFORE, on motion unanimously presented and approved;



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RESOLVED, that the Sangguniang Bayan of Moncada hereby adopts the decision for the administrative case filed by Mrs. Melba D. Trongcoso against barangay kagawad Joel M. Gascon of Barangay Sta. Lucia West, this Municipality;

RESOLVED FURTHER, that the Decision shall form integral part of this Resolution and the promulgation thereof shall be presented to both parties, or their counsel, if any;

RESOLVED FINALLY, that the Decision is hereby rendered, to wit:

MELBA D. TRONGCOSO

Complainant,

-versus-

JOEL M. GASCON

Barangay Kagawad

Sta Lucia West, Moncada, Tarlac

Respondent.

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Administrative Case No. 2019-001

FOR: Abuse of Authority, Commission of Crimes involving Moral Turpitude, Grave Misconduct; Dishonesty, Oppression, Misconduct in Office, Gross Negligence, or dereliction of duty

DECISION

For this Honorable Body's consideration is an Administrative Complaint seeking the suspension or removal from office of a barangay official on the grounds of Abuse of Authority, Commission of Crime Involving Moral Turpitude, Grave Misconduct, Dishonesty, Oppression, Misconduct in Office, Gross Negligence or dereliction of duty.

The administrative complaint was filed by complainant Melba Durana Trongcoso ("Trongcoso" hereafter), resident of Barangay Sta. Lucia West, Moncada, Tarlac against respondent Joel Montemayor Gascon ("Gascon" hereafter), resident of the aforementioned barangay. Gascon is one of the incumbent barangay Kagawads of Brgy. Sta Lucia West, Moncada, Tarlac.

In her sworn complaint dated January 8, 2019, Trongcoso alleged that on July 14, 2018 at around 4 o'clock in the afternoon, she was informed by a certain Robert Ilumin that her son John Michael Trongcoso ("Michael" hereafter) sustained gunshot wound that prompted her to rush into their residence. Upon arrival, she saw her son bloodied and being carried by Christian Magbalot and Victor Caguina, and thereupon they hurriedly boarded Michael to the tricycle to transport to the nearest hospital. Trongcoso narrated that while they were in-transit going to the hospital, she alighted their tricycle to ask the driver of another tricycle to remove his vehicle that blocked their way. Then suddenly, she saw Gascon tailing their conveyance and the latter allegedly hacked Michael with bolo knife from behind, hitting his head. Horrified by the turn of events, Trongcoso screamed and yelled for help upon seeing her son bleeding profusely and had seen Gascon fled the area. Michael



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was then brought to Rayos-Valentin Hospital for first aid treatment, and was eventually transferred to Tarlac Provincial Hospital for further management. Thereafter, the criminal case was brought to the Office of the Provincial Prosecutor on the grounds of Frustrated Homicide dated July 19, 2018.

In his counter-affidavit dated February 21, 2019, Respondent Gascon denied involvement in the shooting incident that transpired on July 14, 2018. Likewise, he also disproved allegations that he was the one who hacked Michael while they were boarding a tricycle going to the hospital. Gascon avers that as per sworn statement of eye-witness Christian Magbalot ("Magbalot" hereafter), it was stated that "*Nang pagkaliko po ni John Michael sa bahay doon ay narinig ko po ang dalawang putok ng baril dahil na ako'y tumakbo palayo at nakatakbo pa po si John Michael Trongcoso pauwi sa kanilang bahay*". It can therefore be gleaned from the counter-affidavit of Gascon that witness Magbalot did not mention anybody who fired the gun but just heard the gun fire and the crowd ran off the area.

The Sangguniang Bayan conducted a preliminary hearing on March 4, 2019 at the SB Session Hall, Legislative Building. All the parties were present. During the hearing the complainant and respondent subscribed under oath their respective affidavits. The Sangguniang Bayan gave all the parties the opportunity to present their respective sides and explain the allegations stipulated in their sworn affidavits.

During the above-mentioned preliminary hearing, Trongcoso's testimony was substantially same as the allegations in her affidavit. Respondent Gascon in his statement denied all the allegations being hurled against him.

On March 12, 2019 during the resumption of administrative hearing, Michael Trongcoso, the alleged victim was presented by her mother, Melba Trongcoso, the complainant. He was therefore requested to subscribe and swear under oath his statements. The Presiding Officer gave the floor to the SB members for direct examination of the victim. Michael was asked as to the person who fired the gun that hit him. The victim directly answered that it was Gascon who committed the act, the same statement in his sworn affidavit. It was also found out during the resumption of hearing held on March 20, 2019 that Gascon absconded from the police station during an inquest procedure conducted by PO1 Kenn Lester H. Lopez of Moncada Police Station for fear of being detained therein.

After the presentation of the parties' testimonies and documentary evidences, the Sangguniang Bayan terminated the hearing.

Coming now to the issues of this case, this Honorable Body, sitting ~~en banc~~ as investigative panel thereof, could only deduce the following, viz:

(1) Whether or not Respondent Gascon is guilty of Abuse of Authority, Commission of Crime Involving Moral Turpitude, Grave Misconduct, Dishonesty, Oppression, Misconduct in Office, Gross Negligence or dereliction of duty;

(2) Whether or not Respondent Gascon should be held administratively liable for the acts complained of.



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At the outset, the Sangguniang Bayan found liability on the respondent as he was directly being accused as the person who fired shot towards Michael Trongcoso and the same who hacked his head that left the victim inflicted with multiple injuries.

The quantum of evidence required in administrative cases is only substantial evidence. Substantial evidence has been defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. The purpose of the administrative proceedings is to mainly protect the public service, based on time-honored principle that public office is a public trust (Cana vs. Gebusin, 329 GRA SCRA 132).

Section 60 of the Local Government Code provides for the grounds for disciplinary actions, to wit:

“SECTION 60. Grounds for Disciplinary Actions. – An elective local official may be disciplined, suspended, or removed from office on any of the following grounds:

(a) Disloyalty to the Republic of the Philippines;

(b) Culpable violation of the Constitution;

(c) Dishonesty, oppression, misconduct in office, gross negligence, or dereliction of duty;

(d) Commission of any offense involving moral turpitude or an offense punishable by at least prison mayor;

(e) Abuse of Authority;

(f) Unauthorized absence for fifteen (15) consecutive working days, except in the case of members of the sangguniang panlalawigan, sangguniang panlungsod, sangguniang bayan and sangguniang barangay;

(g) Application for, or acquisition of, foreign citizenship or residence or the status of an immigrant of another country;

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

The complainant filed the following administrative charges against Respondent Gascon, to wit:

1. Negligence
2. Dereliction of duty
3. Oppression
4. Grave Misconduct/Misconduct in office
5. Commission of crimes/offenses involving moral turpitude
6. Dishonesty
7. Abuse of authority



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The grounds relied upon by the complainant, the administrative charges for Abuse of Authority, Dishonesty, Negligence, Dereliction of Duty and Oppression lack basis. The acts complained of, which were allegedly committed by Respondent Gascon are not related to the performance of his official duty as a Barangay Kagawad.

The respondent is reminded that ["the Constitution mandates that a public office is a public trust and public officers 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"]. These constitutionally enshrined principles, oft-repeated in case law, are not mere rhetorical flourishes or idealistic sentiments. They should be read and implemented as working standards by everyone in the public service.

The Sangguniang Bayan stresses **Republic Act No. 6713**, otherwise known as the "**The Code of Conduct and Ethical Standards for Public Officials and Employees**," enunciates, *inter alia*, the State policy of promoting a high standard of ethics and utmost responsibility in the public service.

Section 4 (c) of the said Code commands that "[public officials and employees] 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." By his actuation, the respondent failed to live up to this standard.

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer. The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law or to disregard established rules which must be proved by substantial evidence. [Civil Service Commission v. Ledesma, G.R. No. 154521, September 30, 2005, citing BIR v. Organo, 424 SCRA 9 and CSC v. Lucas, 361 Phil. 486 (1999)]

In this case, Respondent Gascon, who is accused in shooting and hacking incident had demonstrated utter disregard of the law, evident by his unlawful behavior, thereby merits the ground for Grave Misconduct and violation of Republic Act 6713 otherwise known as "The Code of Conduct and Ethical Standards for Public Officials and Employees".

When Gascon inflicted injuries to Michael Trongcoso, he was not motivated by any official consideration. On the contrary, it appears that it was more of a personal reason that he had committed such acts. It can be found on the records that there had been an existing personal grudge between the two parties prior to the incident.

The foregoing does not in any way countenance the acts of Gascon nor does this Honorable Body allow injustice to be done. The alleged acts of shooting and hacking a person are apparent disregard for respect and consideration due another's human dignity. As a public official, Gascon should have exercised restraint, if not nobility, in the situation in which he had found himself. Said actions bring his office into disrepute and lower the majesty thereof in the eyes of the common public. The Sanggunian cannot, as fellow



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public officials, condone such actions. He should be punished and sanctioned, as he is hereby punished and sanctioned.

Article 19 of the Civil Code of the Philippines provides; "Every person must, in the **exercise of his rights** and in the **performance of his duties, act with justice**, give everyone his due, and observe honesty and good faith."

An elective local official may be disciplined, suspended or removed from office on such **other grounds** as may be provided in this Code and **other laws** (Section 60 [h] of the Local Government Code).

Although Section 60 [h] of the Local Government Code was not particularly or specifically named by the Complainant in their complaint as a ground on which they seek the suspension or removal of Respondent Gascon, the allegations of the complainant clearly show that they are denouncing and complaining Gascon's act of shooting and hacking Michael Trongcoso. What determines the act complained of is not the title of the Complaint but the allegations thereof.

It is the principle consistently adhered to in this jurisdiction that it is not the caption but the facts alleged which give meaning to the complaint. This is because courts are called upon to pierce the form and go into the substance thereof (*Canana et al., vs Pecson, et al., CA-G.R. No. 1051-A, 29 April 1953*; *Galutina vs. Ramones, CA-G.R. No. 10354-R, 23 June 1955*).

Thus, in the case of *Ras vs. Sua*, 25 SCRA 153, the Supreme Court declared:

"The rule is well-settled that it is not the caption of the pleading, but the allegations thereof that determine the nature of action, that even without the prayer for a specific remedy, proper relief may nevertheless be granted by the court, of the facts alleged in the complaint and the evidence introduced so warrant."

In the present case, the determining element in this action would be the allegations pleaded in the complaint.

ACCORDINGLY, it is respectfully submitted that Respondent Gascon be held liable under Section 60(h) of the Local Government Code. The principle is when an officer or employee is disciplined, the object sought is not the punishment of such officer or employee, but the improvement of the public service and the preservation of the public's faith and confidence in the government (*Remolona vs CSC*, 362 SCRA 304 [2001]).

WHEREFORE, premises considered and in the light of the foregoing disquisitions, judgment is hereby rendered:



Republic of the Philippines
MUNICIPALITY OF MONCADA
Province of Tarlac

SANGGUNIANG BAYAN

That Respondent Barangay Kagawad **JOEL MONTEMAYOR GASCON** of Sta. Lucia West, Moncada, Tarlac be held liable under Section 60 [h] of Republic Act 7160 or the Local Government Code and Republic Act 6713, and that he be meted the penalty of **SUSPENSION** from office for **NINETY (90) DAYS WITHOUT PAY** with stern warning that repetition of the same or similar infractions will warrant a more severe penalty;

LET COPIES of this **DECISION** be furnished the Honorable Mayor Estelita M. Aquino for her appropriate action, to both parties, to the Office of the MLGOO and the Office of the Ombudsman for their information;

SO ORDERED.

17 June 2019 at Moncada, Tarlac.

WE CONCUR:

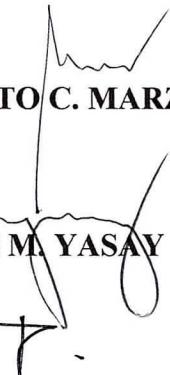
VACANT
Member

HON. EDWARD V. TOLENTINO
Member (Absent)


HON. THELMAFLOR A. ESPEJO
Member

HON. GEORGE MICHAEL P. AGUILAR
Member (Absent)


HON. GEORGE R. CUCHAPIN, MD
Ex-Officio Member, LnB Pres.


HON. ALBERTO C. MARZAN, JR., MD
Member


HON. JANIUS M. YASAY
Member


HON. RUBEN V. GAMBOA, JR.
Member


HON. CLEOFE D. FAVIS
Member


HON. EZEKIEL C. RIVERA
Ex-Officio Member, SKF Pres.

**CERTIFIED TO HAVE BEEN DULY ADOPTED
ON THE ABOVE DATE AND PLACE:**


VICTOR SANDINO S. MOLINA, MPA
Secretary to the Sanggunian - des



Republic of the Philippines
MUNICIPALITY OF MONCADA
Province of Tarlac

SANGGUNIANG BAYAN

ATTESTED AND CERTIFIED
TO BE DULY ADOPTED:



HON. JAIME O. DUQUE
Vice-Mayor & Presiding Officer

APPROVED:


HON. ESTELITA M. AQUINO
Municipal Mayor

date 6/18/19



Republic of the Philippines
MUNICIPALITY OF MONCADA
Province of Tarlac



OFFICE OF THE MAYOR

MELBA D. TRONGCOSO

Complainant,

-versus-

JOEL M. GASCON

Barangay Kagawad

Sta Lucia West, Moncada, Tarlac

Respondent.

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Administrative Case No. 2019-001

FOR: Abuse of Authority, Commission of Crimes involving Moral Turpitude, Grave Misconduct; Dishonesty, Oppression, Misconduct in Office, Gross Negligence, or dereliction of duty

SUSPENSION ORDER

This treats the Administrative Case filed against the respondent for Abuse of Authority, Commission of Crimes involving Moral Turpitude, Grave Misconduct; Dishonesty, Oppression, Misconduct in Office, Gross Negligence, or dereliction of duty.

The facts of the case are stated in the Transcript of Records of the series of administrative hearings and decision rendered by the Sangguniang Bayan En Banc through SB Resolution No. 65 dated June 17, 2019 adopting the Decision for Administrative Case No. 2019-001.

In the journal of proceedings conducted, the Decision of the Sangguniang Bayan En Banc found the Respondent culpable for his acts and shall suffer the sanction of suspension from the service for ninety (90) days without pay with stern warning that the repetition thereof or similar infractions will be dealt with more severely.

Records of the Sangguniang Bayan investigative panel reveal that the interest of fairness in justice and due process had been accorded to all parties concerned.

The undersigned is therefore left with no other recourse than to adopt the recommendation of the Sangguniang Bayan in order to serve as a deterrent to public officials for committing the same offense/s. Otherwise, the public may lose faith in the integrity of the public service system. "Public Office is a Public Trust" is a proverbial policy in the government service.

WHEREFORE, JOEL MONTEMAYOR GASCON, Barangay Kagawad of Sta. Lucia West, this municipality, is hereby ordered **SUSPENDED** from office for **NINETY (90) DAYS WITHOUT PAY** effective upon receipt of this **ORDER**. His suspension from office is without prejudicial to criminal and civil liabilities arising from other offenses.

Let copies of this **ORDER** be furnished all concerned parties for their information.

SO ORDERED.

Moncada, Tarlac, June 18, 2019.


ESTELITA M. AQUINO
Municipal Mayor