

**REPUBLIC OF THE PHILIPPINES
BATANGAS CITY**

OFFICE OF THE SANGGUNIANG PANLUNGSOD

**EXCERPT FROM THE MINUTES OF THE REGULAR SESSION HELD BY THE
MEMBERS OF THE SANGGUNIANG PANLUNGSOD OF BATANGAS CITY
ON AUGUST 1, 2023 AT THE SAMPAGUITA FARM,
SAMPAGA, BATANGAS CITY**

PRESENT:

Hon. Alyssa Renee A. Cruz	Presiding Officer
Hon. Hamilton G. Blanco,	Councilor
Hon. Karlos Emmanjuel A. Buted,	”
Hon. Andrea Loise F. Macaraig,	”
Hon. Nestor E. Dimacuha,	”
Hon. Oliver Z. Macatangay,	”
Hon. Armando C. Lazarte,	”
Hon. Nelson J. Chavez,	”
Hon. Jose Jonash Luis F. Tolentino,	”
Hon. Zester Carlo M. Hernandez,	”
Hon. Isidra “Ched” M. Atienza,	”
Hon. Lorenzo A. Gamboa, Jr.,	”
Hon. Michael C. Villena,	”
Hon. Angelito Dondon A. Dimacuha,	(ABC-Rep.)
Hon. Marjorie A. Manalo,	(SK-Rep.)

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

RESOLUTION NO. 22- 310 S. 2023

**ADOPTING THE REPORT AND DECISION OF THE COMMITTEE ON ETHICS AND
GOOD GOVERNMENT ON SP ADMIN. CASE NO. 22-002-2023 FOR VIOLATION OF
RULE 10.46 (F) OF REVISED RULES ON ADMINISTRATIVE CASE IN CIVIL
SERVICE (RRACS) & CONDUCT UNBECOMING OF A PUBLIC OFFICIAL (NOEMI
C. CUETO, COMPLAINANT VS. BRGY. CAPT. EMMA A. TUMAMBING,
RESPONDENT)**

RESOLVED, to adopt the report of the Committee on Ethics and Good Government and the recommendations stated therein on SP Admin. Case No. 22-002-2023 for Violation of Rule 10.46 (F) of Revised Rules on Administrative Case in Civil Service (RRACS) & Conduct Unbecoming of a Public Official (Noemi C. Cueto, Complainant versus Brgy. Capt. Emma A. Tumambing, Respondent).

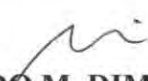
RESOLVED FURTHER, to adopt the decision of the Committee on Ethics and Good Government as the decision of the Sangguniang Panlungsod.

UNANIMOUSLY APPROVED.”

Continuation of Resolution No. 22- 310 S. 2023

ADOPTING THE REPORT AND DECISION OF THE COMMITTEE ON ETHICS AND GOOD GOVERNMENT ON SP ADMIN. CASE NO. 22-002-2023 FOR VIOLATION OF RULE 10.46 (F) OF REVISED RULES ON ADMINISTRATIVE CASE IN CIVIL SERVICE (RRACS) & CONDUCT UNBECOMING OF A PUBLIC OFFICIAL (NOEMI C. CUETO, COMPLAINANT VS. BRGY. CAPT. EMMA A. TUMAMBING, RESPONDENT)

I hereby certify that the foregoing Resolution No. 22- 310 S. 2023 was approved by the Sangguniang Panlungsod of Batangas City during its Regular Session held on August 1, 2023.


GERARDO M. DIMAANO
Board Secretary III

ATTESTED:


ATTY. ALYSSA RENDE A. CRUZ
Presiding Officer

Republic of the Philippines
Batangas City

OFFICE OF THE SANGGUNIANG PANLUNGSOD

COMMITTEE REPORT

DATE : **AUGUST 1, 2023**

TO : **THE HONORABLE VICE MAYOR & PRESIDING OFFICER ATTY. ALYSSA RENE A. CRUZ & THE HONORABLE SANGGUNIANG PANLUNGSOD MEMBERS**

SUBJECT : **SP ADMINISTRATIVE CASE # 22-002-2023
FOR: VIOLATION OF RULE 10.46 (F) OF REVISED RULES ON ADMINISTRATIVE CASE IN CIVIL SERVICE (RRACS) & CONDUCT UNBECOMING OF A PUBLIC OFFICIAL AGAINST BRGY. CAPT. EMMA A. TUMAMBING**

Sir/Mesdames:

Referred to the Committee on Ethics and Good Government is the aforementioned subject which the undersigned is reporting it back to this honorable August Body for your outmost consideration.

Present during the proceeding hearings are Vice Mayor Alyssa Renee Cruz, Chairman of the Committee and its members Oliver Z. Macatangay, Councilors Michael C. Villena, Nestor "Boy Dimacuha, Dr. Jonash F. Tolentino, and Zester Carlo M. Hernandez. Also present are the SP Members Councilors Armando C. Lazarte, Nelson J. Chavez, Isidra "Ched" M. Atienza, Lorenzo A. Gamboa Jr., SK Fed. Pres. Marjorie Manalo, Hamilton G. Blanco, Andrea Loise F. Macaraig, and ABC Pres. Angelito Dimacuha, Party of the Complainant Noemi C. Cueto & her Counsel, Atty. Robert Iñigo Sanchez and Party of the Respondent, Emma A. Tumambing together with her Counsel Atty. Jaero Garcia.

It was June 6, 2023, that the Complaint was formally & officially referred to the Committee. Series of hearings were conducted dated July 13, 18, & 25, 2023. Submission of Sworn Affidavits and presentation of evidences, Response to the Rejoinder, and also Position Papers of both parties were filed accordingly.

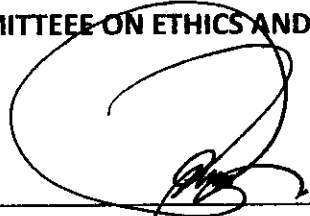
In consideration to the merit & veracity of the report, the Committee recommends the following:

1. Adoption of the Report;
2. Approval of the Decision.

Respectfully Submitted

: August 01, 2023


COMMITTEE ON ETHICS AND GOOD GOVERNMENT



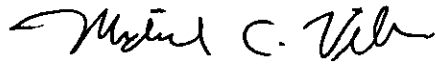
HON. NESTOR "BOY" E. DIMACUHA
Acting Chairman

INHIBITED

HON. OLIVER Z. MACATANGAY
Chairman of the Committee



HON. JOSE JONASH F. TOLENTINO
Member



HON. MICHAEL C. VILLENA
Member



HON. ZESTER CARLO M. HERNANDEZ
Member

Republic of the Philippines
Batangas City

OFFICE OF THE SANGGUNIANG PANLUNGSOD

SP ADM Blg. 22-002-2023
For: Violation of Rule 10.46 (F) of
Revised Rules on Administrative Cases
In Civil Service (RRACS) & Conduct
Unbecoming of a Public Official

Noemi C. Cueto
COMPLAINANT

Against

Emma A. Tumambing
Barangay Captain
Barangay Poblacion No. 24
RESPONDENT

DECISION

FACTS:

On June 2, 2023, 12:41 PM, the Sangguniang Panlungsod Admin Secretary received the Sworn Affidavit of Complaint by Ms. Noemi C. Cueto from Brgy. Gulod Itaas against Brgy. Capt. Emma A. Tumambing of Brgy. Poblacion No. 24 for Violation of Rule 10.46 (F) of Revised Rules on Administrative Cases in Civil Service (RRACS) & Conduct Unbecoming of a Public Official.

On June 6, 2023, it was officially & formally referred to the Sangguniang Panlungsod Committee on Ethics & Good Government chaired by Councilor Oliver Z. Macatangay. On June 21, 2023, fifteen (15) days after, the Committee sent letter to Ms. Emma A. Tumambing informing her of the Complaint presented against her by Ms. Noemi C. Cueto.

According to the Complainant, the Respondent Emma A. Tumambing approached the Complainant marked as Annexes "A" & "B" despite the extension of the time given to Respondent Emma A. Tumambing and aside from verbal demand & serving demand letter marked as Annex "C", still the Respondent failed to settle her obligation with the Complainant.

On July 10, 2023, 3:13pm, a copy of Sworn Affidavit of Brgy. Capt. Emma A. Tumambing was filed vehemently denying the allegations imputed on her for Violation of Rule 10.46 (F) of Revised Rules on Administrative Cases in Civil Service (RRACS) & Conduct Unbecoming of a Public

Official. She averred she never asked the Complainant, Ms. Noemi C. Cueto for a loan amounting to Php 2,592,000.00 in totality, that the Complainant knew all along that the money was for the investment to the construction business of certain Sonny Perez, that the Complainant vigorously insisted the Respondent issued her the check to cover Php 2,592,000.0, and that she assertively denied of having monetary obligation or indebtedness to the Complainant Ms. Noemi C. Cueto.

Finding no room for amicable settlement, the Committee on Ethics & Good Government on July 13, 2022, 10am convened to hear the Administrative Case Chaired by Coun. Oliver Z. Macatangay who declared outright inhibition to handle the case himself manifesting his personal association without elaboration with the Respondent Brgy. Capt. Emma A. Tumambing. Likewise, Coun. Nestor "Boy" Dimacuha was assigned and appointed to undertake the Temporary Chairmanship of the Committee, and without hesitation accepted the appointment to handle the case accordingly and impartially.

Coun. Nestor "Boy" Dimacuha immediately reconvened the said Committee into quasi-judicial body as part of the legislative function of the Sangguniang Panlungsod with the power to decide Administrative Case. Prior to the proceedings, the Temporary Chair Nestor "Boy" Dimacuha also informed both parties the Rules of Procedure governed in hearing Administrative Cases, citing the submission of verified Complaint and presentation of evidences that will warrant to commence the formal investigation of the case.

To begin with the proceedings, the Chair called the presence of the Complainant, Ms. Noemi C. Cueto with her Counsel, Atty. Robert Iñigo Sanchez to appear before the body wherein the Chair asked the Sangguniang Panlungsod Secretary to administer the oath. Also present is the Respondent, Brgy. Capt. Emma A. Tumambing with her Counsel, Atty. Jaero Garcia, who likewise take the oath.

Moving forward, the Chair called the Complainant Noemi C. Cueto to affirm her Sworn Statement against Brgy. Capt. Emma A Tumambing, however, Counsel for the Complainant Atty. Robert Iñigo Sanchez respectfully move for the postponement or the re-setting of the on-going hearing to another date in consideration for the Complainant to file a formal reply to the Respondent answer. Meanwhile, Atty. Garcia joined the motion of Atty. Sanchez to re-schedule the hearing and this was granted and approved by the Chair and was held on July 18, 2023, at exactly 9am.

Following the re-setting of the hearing on July 18, 2023 at 9am, the Committee resumed the proceedings, Counsel for the Respondent Atty. Mark Jason Ante acted on behalf of Atty. Jaero Garcia, and manifested that they just received the Rejoinder Affidavit of the Complainant and mentioned they will file their answer on or before July 23, 2023. However the Counsel for the Complainant, Atty. Robert Iñigo Sanchez filed additional evidence marked as Annex "D" to mention the Sworn Affidavit of Sonny Paul Anthony Perez and even asked the Respondent if she was willing to proceed with the hearing. He likewise furnished a copy of the Sworn Statement of Mr. Sonny Paul Anthony Perez to the Respondent for their action to wit:

"That Sonny Paul Anthony Perez, certainly confirmed that the said person, Ms. Noemi C. Cueto, has never invested any money with him or his business..."

"That Sonny Paul Anthony Perez only knew her when she contacted her to confirm whether the money obtained from her by Brgy. Capt. Emma A. Tumambing was indeed given to him... and that his number was given to her by Emma A. Tumambing..."

“That Sonny Paul Anthony Perez, outrightly denied having received money from Brgy. Capt. Emma A. Tumambing got from Ms. Noemi C. Cueto.”

“That Sony Paul Anthony Perez has no connection whatsoever with Brgy. Capt. Emma A. Tumambing.”

“That Sonny Paul Anthony Perez denied all the allegations connecting him to any of the amount obtained by Brgy. Capt. Emma A. Tumambing from Ms. Noemi C. Cueto.”

Further, Atty. Robert Iñigo Sanchez respectfully requested that the proceeding be possibly held Tuesday, July 25, 2023 at 9:00am whereas the Counsel for the Respondent Atty. Jaero Garcia stated they were amenable afterward the proceeding was declared in recess, and finally agreed for the same date and time requested by Atty. Sanchez.

With the resumption of proceedings dated July 25, 2023, the Chair informed everybody that Complaint was formally answered, an Affidavit of Rejoinder was filed, the body assumed that it was a rebuttal and surrebuttal, shall be subject for careful evaluation, analysis and be thoroughly studied its merit and veracity by the Committee.

On the other hand, Atty. Robert Iñigo Sanchez asked for a chance to submit a Position Paper to further support the allegations and claims against the Respondent. Atty. Jaero Garcia joined the request of the motion of the Complainant, and therefore came to an agreement for both parties submission of Position Paper to state their arguments.

The said Position Papers were submitted on July 27, 2023 to the Committee and Chair asked both Counsels of the parties for a chance to settle the issue amicably. Unfortunately the Counsel for the Complainant answered that amicable settlement was not an option, which was confirmed by the Counsel of the Respondent. On that note the Chair officially adjourned the proceedings.

ISSUES:

1. Whether or not guilty for Violation of Rule 10.46 (F) of Revised Rules on Administrative Cases in Civil Service (RRACS).
2. Whether the Alleged Act of Respondent constitutes Conduct Unbecoming of a Public Official.

RULING:

Rule 10, Section 46 F of the Revised Rules on Administrative Cases in Civil Service (RRACS) states that- “The following offenses are punishable by reprimand for the first offense; suspension of one (1) to thirty (30) days for the second offense; and dismissal from the service for the third offense:

1. Simple discourtesy in the course of official duties;
2. Improper or unauthorized solicitation of contributions from subordinate employees and by teachers or school officials from school children;
3. Violation of reasonable office rules and regulations;
4. Frequent unauthorized tardiness (Habitual Tardiness);
5. Gambling prohibited by law;

6. Refusal to render overtime service;
7. Disgraceful, immoral or dishonest conduct prior to entering the service;
8. Borrowing money by superior officers from subordinates;
9. **Willful failure to pay just debts** or willful failure to pay taxes due to the government;
The term "just debts" shall apply only to:
 - a. Claims adjudicated by court of law, or
 - b. Claims the existence and justness of which are admitted by the debtor.
10. Lobbying for personal interest or gain in legislative halls and offices without authority;
11. Promoting the sale of tickets in behalf of private enterprises that are not intended for charitable or public welfare purposes and even in the latter case, if there is no prior authority;
12. Failure to act promptly on letters and request within fifteen (15) working days from receipt, except as otherwise provided in the rules implanting the Code of Conduct and Ethical Standards for Public Officials and Employees;
13. Failure to process documents and complete action on documents and papers within a reasonable time from preparation thereof, except as otherwise provided in the rules implementing the Code of Conduct and Ethical Standards for Public Officials and Employees;
14. Failure to attend to anyone who wants to avail himself/herself of the services of the office, or act promptly and expeditiously on public transactions;
15. Engaging in private practice of his/her profession unless authorized by the Constitution, law or regulation, provided that such practice will not conflict with his/her official functions; and
16. Pursuit of private business, vocation or profession without the permission required by Civil Service Rule and Regulations.

Needless to say, **Section 46 F (1-8) and (10-16) of Rule 10 of the Revised Rules on Administrative Cases in Civil Service (RRACS)** are inapplicable in the instant case.

However, based on the allegation of the "loan" allegedly contracted by the Respondent, Section 46 F (9) of the said Rule finds reason to be discussed. Under the said provision, light offense includes willful failure to pay just debts or willful failure to pay taxes due to the government. The term "just debts" is only applicable to the following:

- a. Claims adjudicated by court of law, or
- b. Claims the existence and justness of which are admitted by the debtor.

It can be shown that there is still no case for the said "loan" between the parties have been adjudicated or already decided by the court. On the other hand, the existence of the said loan had been vehemently denied by the Respondent. Whatever the issue is with the truth of the said transaction between the parties can be threshed out in a proper proceeding in court and not through the Administrative proceeding.

With that said, the Respondent **cannot be held liable under Rule 10 Section 46 (F) of the Revised Rules on Administrative Cases in Civil Service (RRACS).**

With highest regard to the issue on whether the alleged act constitutes Conduct Unbecoming of a Public Official... It is noteworthy to affirm that public office is a public trust as stated in Article 11, Section 1 of the Philippine Constitution. As to the charge of Conduct

Unbecoming of Public Official or Officer, said offense has been defined as such conduct of Public Official which has the tendency to destroy public respect, stating harsh rhetoric... *"Putang inang Noemi yan... Hayop ang putang inang iyan huhuhu,"* of Public Official is uncalled for and even beyond the decency of a person, contrary to the virtue and core values a public official must possess.

As explained in the case of **Reyes vs. people (137 Phil. 112,120 (1969))**, the Supreme Court ruled that the expression *"putang ina mo"* is a common utterance in the dialect that is often employed, not really to slander but rather to express anger or displeasure. In fact, even former President of the Philippines is publicly known to normally utter those words. However, it does not permit or dictate anybody to abuse the said Ruling. It is tantamount to sheer mockery of the Rule of Law.

Therefore, after meticulous and thorough study of the documents filed, the Committee finds the Respondent, Brgy. Capt. Emma A. Tumambing **LIABLE for Conduct Unbecoming of a Public Official.**

Wherefore, the violation of **Rule 10.46 (F) of Revised Rules on Administrative Cases in Civil Service (RRACS)** filed against the Respondent **Brgy. Capt. Emma A. Tumambing** is hereby **DISMISSED.**

In view of this, Brgy. Capt. Emma A. Tumambing is hereby meted the Penalty of Fifteen (15) Days **SUSPENSION** for her service.

However, the **Local Government Code of 1991, Section 62** provides that no investigation for administrative proceedings shall be held within 90 days immediately prior to any local election. The Barangay and SK Elections 2023 is scheduled to be on October 30, 2023 according to **R.A. 11935.** Hence, the effectivity of this decision shall be after 90 days election ban.

SO ORDERED!

COMMITTEE ON ETHICS AND GOOD GOVERNMENT



HON. NESTOR "BOY" E. DIMACUHA
Acting Chairman

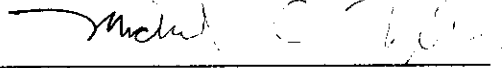
INHIBITED

HON. OLIVER Z. MACATANGAY
Chairman of the Committee



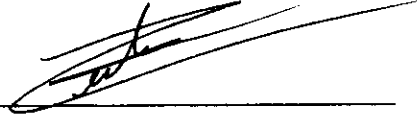
HON. JOSE JONASH F. TOLENTINO

Member



HON. MICHAEL C. VILLENA

Member



HON. ZESTER CARLO M. HERNANDEZ

Member