

ORIGINAL

Item No.: **04**

Date: **13 2024 NOV**

SANGGUNIANG PANLALAWIGAN
RECEIVED
OCT 25 2024
PROVINCE OF LEYTE

Republic of the Philippines

Province of Leyte

Provincial Capitol, Palo, Leyte

**OFFICE OF THE SANGGUNIANG PANLALAWIGAN
BLUE RIBBON COMMITTEE**

MARVIN T. MARTICIO

Complainant,

ADMIN CASE NO. _____

-versus-

**FOR: GRAVE MISCONDUCT
and NEGLECT OF DUTY**

HON. ANGEL ARAS SIA JR.,

Municipal Mayor of La Paz, Leyte

Respondent,

X-----X

REJOINDER

[WITH MOTION TO STRIKE OUT COMPLAINANT'S REPLY]

RESPONDENT, by and through the undersigned counsel and unto this Honorable Sangguniang Panlalawigan for the Province of Leyte respectfully manifests: THAT –

PREFATORY STATEMENT

Jurisprudence dictates that in administrative proceedings, complainants bear the burden of proving the allegations in their complaints by substantial evidence. If they fail to show in a satisfactory manner the facts upon which their claims are based, the respondents are not obliged to prove their exception or defense. The same goes with administrative cases disciplining for grave offense court employees or magistrates. The evidence against the respondent should be competent and should be derived from direct knowledge¹. (Underling and Emphasis Ours)

BASIC DISCUSSIONS

TO REBUT UNWARRANTED OBJECTIONS

1. On 21 October 2024, respondent thru counsel received Marvin T. Marticio's ("MARVIN") Reply with Motion to Strike out respondent's Answer based on the ground that it is allegedly an unverified answer and was filed out of time sans proof presented.

¹ Re: Letter of Lucena Ofendoreyes alleging illicit activities of a certain Atty. Cajayon involving cases in the Court of Appeals, Cagayan De Oro City, A.M. No. 16-12-03-CA, June 6, 2017 and Re: Letter-Complaint of Sylvia Adante charging Hon. Jane Aurora C. Lantion, Associate Justice, Court of Appeals, Cagayan De Oro City, and Atty. Dorothy Cajayon with "Systematic Practice of Corruption", IPI No. 17-248-CA-J, June 6, 2017

2. First things first, the governing rule of this administrative proceeding is Section 5, Rule XVI of Resolution no. 2020-817 dated November 27, 2020 on Provincial Ordinance No. 2020-17 otherwise known as the Revised Internal Rules of the Sangguniang Panlalawigan of Leyte and the pertinent provisions of the Local Government Code of 1991 and its implementing rules and regulation which does not authorize submission of a reply to respondent's Answer, the pleading being *unauthorized* should be stricken off the record.

3. But for the sake of argument with reservation over the expulsion of the reply, MARVIN posits as the standing complainant that respondent's answer is unverified and should be stricken off the record advancing the sole ground that its disposition was not in accordance with Section 8 of Provincial Ordinance No. 2020-17 as misleadingly delved by MARVIN and his counsel in plagiarizing and without authority amending the aforesaid provision to impregnate a different meaning.

4. To settle and save MARVIN and his counsel from obvious discomfiture over their nonsense burbling, respondent is quoting in verbatim supported by the **attached pertinent page of Provincial Ordinance No. 2020-17**² exhibiting Section 8, Rule XVI clearly showing the word "**OR**" placed in between the words verified and sworn which in basic English parlance is a conjunction which means "*used to introduce another choice or possibility*"³ according to Britannica Dictionary, *viz*:

*Section 8. How initiated. The prosecution of administrative disciplinary cases falling within the original jurisdiction of the Sangguniang Panlalawigan shall be initiated by filing a **verified or sworn written complaint** against any elective municipal or city official directly with the Sangguniang Panlalawigan, through the Office of the Secretary to the Sangguniang Panlalawigan. The complaint must be in such number of copies as there are respondents plus fifteen (15) hard copies for the Sangguniang Panlalawigan members and for the Sangguniang Panlalawigan's files and electronic copies of all materials they are submitting. Moreover, the complainant shall also furnish a copy of the complaint to the Provincial Governor's Office and the Department of Interior and Local Government (DILG) Provincial Office. (Underling and Emphasis Ours)*

² Annex "1" – Page 39/57 – Res. No. 2020-817 dated November 27, 2020 on Provl. Ord. No. 2020-17 "Revised Internal Rules of the Sangguniang Panlalawigan of Leyte

³ <https://www.britannica.com/dictionary/or>

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³ <https://www.britannica.com/dictionary/or>

5. The same authorizes respondent's answer being verified or sworn to which in this case was sworn to before his counsel, Atty. Leo S. Giron; therefore, there is sufficient compliance of the rules contrary to the false asseveration of MARVIN over his self-proclaimed issue that an answer "shall" or "must" be accompanied by a verification is a clear misleading and false remarks of the aforementioned rule; **FALSUS EN UNO, FALSUS EN OMNIBUS!**⁴ (*false in one thing, false in everything*).

6. Besides even if required, the non-attachment of Verification in the answer is merely a procedural lapse and does not impair the proper administration of justice as it is mandated that the issues should be decided based on the merits of each case and not on mere technicalities per *Dr. Malixi et al., v. Dr. Baltazar*⁵ to wit:

Again, granting arguendo that there was *non-compliance with the verification requirement, the rule is that courts should not be so strict about procedural lapses which do not really impair the proper administration of justice. After all, the higher objective of procedural rule is to ensure that the substantive rights of the parties are protected. Litigations should, as much as possible, be decided on the merits and not on technicalities. Every party-litigant must be afforded ample opportunity for the proper and just determination of his case, free from the unacceptable plea of technicalities.* (Underlining & Emphasis Ours)

7. Also in relation with Section 5, Rule XVI⁶ it is explicit that *xxx the proceedings are summary in nature and shall not be bound by the rules on evidence, xxx xxx*. The word "shall" in ordinary meaning pursuant to the rules in legal hermeneutics signifies a mandatory command.

8. But for the sake of ending this childish observations of MARVIN and his counsel, respondent is submitting his **Verification**⁷ as over and above compliance with Section 8, Rule XVI of Provincial Ordinance No. 2020-17.

9. Anent to the issue that the Answer was allegedly filed out of time, it is clear that MARVIN other than his bare allegation, failed to present any evidence to prove that respondent's answer was filed outside the reglementary period and according to the rules *complainants bear the burden of proving the allegations in their*

⁴ *Musahamat Workers Labor Union-1-Alu v. Musahamat Farms Inc. Farm 1*, G.R. no. 240184, July 6, 2022

⁵ G.R. No. 208224, November 22, 2017

⁶ *Ibid.* See Item 2

⁷ **Annex "2"** – Verification of Angel A. Sia Jr.

complaints by substantial evidence⁸ not respondent. Therefore, the legal maxim *Ei Incumbit Probatio Qui Dicit, Non Qui Negat*⁹ (Proof lies on his who asserts not on him who denies) connotes application to MARVIN than respondent that admits non-submission of proof. Ergo, HEARSAY!

10. Other allegations are a mere rehash of MARVIN's unfounded complaint wanting proof of the allegation against respondent which was already rebutted in his Answer other than MARVIN's admission that indeed he filed a complaint before the Office of the Ombudsman for the same charge for his Complaint dated 7 February 2024 and before the Office of the Sangguniang Panlalawigan for the Province of Leyte for the same charge for his Complaint dated 19 August 2024 glaring from the difference of dates which was subscribed to by his very own counsel, Atty. Ferdinand Arthur B. Diaz, a clear case of forum shopping per *Quiambao et al., v. Sumbilla et al.*¹⁰ that warrant outright dismissal of this instant case:

The elements of forum shopping have been discussed by the Court in several cases. In San Juan v. Arambulo, Sr., the Court held:

*Forum shopping is the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment. **A party violates the rule against forum shopping if the elements of litis pendentia are present; or if a final judgment in one case would amount to res judicata in the other.***

*There is forum shopping when the following elements are present: "(a) **identity of parties, or at least such parties as represent the same interests in both actions;** (b) **identity of rights asserted and relief prayed for, the relief being founded on the same facts;** and (c) **the identity of the two preceding particulars, is such that any judgment rendered in the other action will, regardless of which party is successful, amount to res judicata in the action under consideration; said requisites [are] also constitutive of the requisites for auter action pendant or lis pendens.***

⁸ *Ibid.* See Footnote 1

⁹ *Acabal v. Acabal*, G.R. no. 148376, March 31, 2005

¹⁰ G.R. no. 192901, February 1, 2023 and *Quiambao v. Sumbilla et al.*, G.R. no. 192903 citing *San Juan v. Arambulo, Sr.*, 514 Phil. 112 (2005) and *Dy v. Mandy Commodities Co., Inc.*, 611 Phil. 74 (2009)

*Meanwhile, in Dy v. Mandy Commodities Co., Inc., the Court discussed the purpose of the rule on forum shopping: Forum shopping is a deplorable practice of litigants consisting of resorting to two different fora for the purpose of obtaining the same relief, **to increase the chances of obtaining a favorable judgment.** What is pivotal to the determination of whether forum shopping exists or not is **the vexation caused to the courts and the party-litigants by a person who asks appellate courts and/or administrative entities to rule on the same related causes and/or to grant the same or substantially the same relief, in the process creating the possibility of conflicting decisions by the different courts or fora upon the same issues.***

*The grave evil sought to be avoided by the rule against forum shopping is the **rendition by two competent tribunals of two separate and contradictory decisions.** **Unscrupulous party litigants, taking advantage of a variety of competent tribunals, may repeatedly try their luck in several different fora until a favorable result is reached.** To avoid the resultant confusion, this Court adheres strictly to the rules against forum shopping, and any violation of these rules results in the dismissal of a case. x x x*

11. Despite the glaring forum shopping committed by MARVIN and his counsel, they insist in wickedly making an ugly “*palusot*” for lack of better term to justify their admission of forum shopping by throwing the Honorable Sangguniang Panlalawigan for the Province of Leyte under the bus as the proponent of the filing of **another action** involving the same set of facts and circumstances and yet they did not show any decency by even submitting that so-called “*directive*” coming from this Honorable Office other than they bare allegations. What clearly apparent is that there are Two (2) complaints lodge in different quasi-judicial bodies.

WHEREFORE, it is respectfully moved that the Honorable Sangguniang Panlalawigan for the Province of Leyte **STRIKE OUT COMPLAINANT’S REPLY** and **NOTES** Respondent’s Rejoinder to **DISMISS** on the ground of forum shopping.

Respondent prays for such other relief and remedies as may be just and equitable under the premises.

RESPECTFULLY SUBMITTED. Tacloban City, 25 October 2024.

LEO S. GIRON & ASSOCIATES LAW FIRM

[SY - AMBIDA - GERONG - CAMAGTING - ORTIZ - PERU - TISMO]

Counsel for Respondent

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0917-322-0753

by:

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Tacloban City

MARVIN T. MARTICIO

Complainant

1145 Guindapunan St., District II, La Paz, Leyte

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on Provl. Ord. No. 2020-17 "Revised Internal Rules of the Sangguniang
Panlalawigan of Leyte"

5. Abuse of authority;
6. Unauthorized absence for 15 consecutive days, in the case of municipal mayors and municipal vice mayors, and unjustifiable absences for four consecutive sessions, in the case of members of the Sangguniang Bayan;
7. Application for, or acquisition of, foreign citizenship or residence or the status of an immigrant of another country; and
8. Such other grounds as may be provided in Republic Act 7160 otherwise known as the Local Government Code of 1991; Republic Act No. 6713 also known as Code of Conduct and Ethical Standards for Public Officials and Employees; Republic Act No. 3019, the Anti-Graft and Corrupt Practices Act; Administrative Code of 1987; the Revised Penal Code and all other applicable general and special laws.

An elective municipal official may only be removed from office on the grounds enumerated above by order of the proper court.

Section 8. How Initiated. The prosecution of administrative disciplinary cases falling within the original jurisdiction of the Sangguniang Panlalawigan shall be initiated by filing a **verified or sworn** written complaint against any elective municipal or city official directly with the Sangguniang Panlalawigan, through the Office of the Secretary to the Sangguniang Panlalawigan. The complaint must be in such number of copies as there are respondents plus fifteen (15) hard copies for the Sangguniang Panlalawigan members and for the Sangguniang Panlalawigan's files and electronic copies of all materials they are submitting. Moreover, the complainant shall also furnish a copy of the complaint to the Provincial Governor's Office and the Department of Interior and Local Government (DILG) Provincial Office.

Section 9. 90-day Ban on Investigation. No complaint shall be investigated within ninety (90) days immediately prior to any local election.

Section 10. Form of Complaint. No complaint against any local elective official shall be given due course unless the same is in writing and verified or under oath. The complaint shall be drawn in clear, simple, and concise language and in methodical manner as to apprise the respondent of the nature of the charge against him/her and to enable him or her to prepare his or her defense, and must be accompanied by the judicial affidavits of the complainant and of his or her witnesses. The party filing the complaint shall be called the Complainant while the official against whom the complaint is filed shall be called the Respondent.

The complaint shall also contain the following:

1. Full name and address of the complainant;
2. Full name and address of the respondent as well as his or her position and office;

-over-

Republic of the Philippines)
 City of Tacloban

) ss

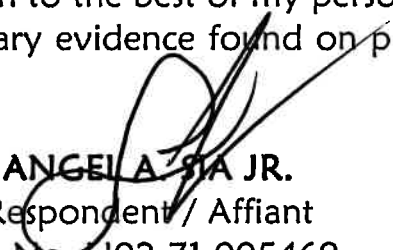
VERIFICATION

I, **ANGEL A. SIA JR.**, after having been sworn to law, under oath depose and state: THAT---

I am the respondent in the administrative case entitled Marvin T. Marticio v. Hon. Angel Aras Sia Jr. for Grave Misconduct and Neglect of Duty; I have caused the Verified Answer and its attachment found on the records in this case at the Blue Ribbon Committee of the Office of the Sagguniang Panlalawigan for the Province of Leyte to be prepared and filed thereat; I have read and fully understood all the allegations therein contained and that the same are all true and correct according to my own personal knowledge and belief, and based on genuine and authentic documents.

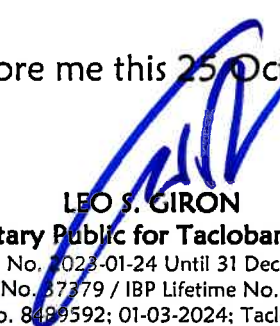
I did not file the Answer on record to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and the factual allegations contained therein have evidentiary support as identified, marked and attached documentary evidence found on the records of this case that will likewise have evidentiary support after reasonable opportunity for discovery.

Further, I signify that my signature shall serve as certification of the truthfulness of the allegation to the best of my personal knowledge based on the attached documentary evidence found on public record as stated therein.


ANGEL A. SIA JR.
 Respondent / Affiant
 DL No. H02-71-005469

SUBSCRIBED AND SWORN to before me this 25 October 2024 at Tacloban City, Philippines.

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 Book No. J
 SERIES OF 2024


LEO S. GIRON
 Notary Public for Tacloban City
 NC No. 2023-01-24 Until 31 Dec 2024
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 PTR No. 8499592; 01-03-2024; Tacloban City
 MCLE Compliance No. VIII-0000748; 11-07-22
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