

## SECOND DIVISION

**[ A.M. NO. MTJ-07-1674 [FORMERLY OCA I.P.I. NO. 04-1550-MTJ], April 19, 2007 ]**

**REMBERTO C. KARA-AN, COMPLAINANT, VS. JUDGE FRANCISCO S. LINDO, METROPOLITAN TRIAL COURT, BRANCH 55, JUDGE EDISON F. QUINTIN, METROPOLITAN TRIAL COURT BRANCH 56; AND BRANCH CLERK OF COURT MA. FE BRENDA J. TRAVINO, RESPONDENTS.**

### R E S O L U T I O N

**TINGA, J.:**

This is an administrative complaint filed against respondents Judge Francisco S. Lindo (Judge Lindo), Presiding Judge of Metropolitan Trial Court (MeTC), Branch 55, Judge Edison F. Quintin (Judge Quintin), Presiding Judge of MeTC, Branch 56, and Fe Brenda J. Travino (Ms. Travino), Branch Clerk of Court of MeTC Branch 55, all of Malabon City, for Dishonesty; Gross Misconduct; Gross Ignorance of the Laws, Rules and Procedures; Violation of Section 3(e) of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act); Violation of Articles 171, 172, 206 and 220 of the Revised Penal Code; and Violations of the Code of Judicial Conduct, Canons of Judicial Ethics and the Code of Professional Responsibility in relation to Civil Case No. JL00-128 (the Civil Case) for damages entitled "*Remberto C. Kara-an v. Hector Villacorta, et al.*"

In a Complaint-Affidavit<sup>[1]</sup> dated 8 March 2004, complainant Remberto C. Kara-an alleges that respondent Judge Lindo issued an Order<sup>[2]</sup> dated 6 March 2002 voluntarily inhibiting himself from trying the Civil Case. On even date, the order of inhibition was transmitted to and was received by Branch 56, presided over by respondent Judge Quintin who was then the Executive Judge of Malabon MeTC.<sup>[3]</sup>

Complainant claims that although Judge Quintin's office received a copy of Judge Lindo's order of inhibition on the same date, Judge Quintin did not take any action thereon until 3 February 2004.<sup>[4]</sup> Complainant contends that Judge Quintin violated his constitutional right to a speedy disposition of his case within three (3) months from 6 March 2002, citing Section 16, Article III and Section 15 (1) of Article VIII of the 1987 Philippine Constitution.<sup>[5]</sup>

Complainant moreover alleges that Judge Lindo and Ms. Travino violated Articles 207 (malicious delay in the administration of justice) and 220 (illegal use of public funds or property) of the Revised Penal Code. He avers that it took Judge Lindo and Ms. Travino from 6 March 2002 to 28 January 2004 to transmit the records of the case from Branch 55 to Branch 56 upon Judge Lindo's inhibition.<sup>[6]</sup>

Complainant also assails the Order dated 6 March 2002 issued by Judge Lindo and

the Order dated 3 February 2004 issued by Judge Quintin for treating the motion to dismiss filed by the defendants in the Civil Case as a "pending incident" even if said motion does not contain any notice of hearing and is therefore a mere scrap of paper.<sup>[7]</sup>

Complainant alleges that when the respondent judges committed the illegal acts, they took advantage of their positions and illegally used public funds and properties which are intended only for lawful purposes.<sup>[8]</sup>

Complainant Kara-an thus charges the respondents with the following:

1. Violation of Article 171 (falsification by public officer, employee); Article 172 (use of falsified document); Article 206 (knowingly rendering an unjust interlocutory order or negligently rendering such interlocutory order); Article 207 (malicious delay in the administration of justice); Article 220 (illegal use of public funds or property), all penalized under the Revised Penal Code;
2. Dishonesty and violation of the Anti-Graft and Corrupt Practices Act (R.A. No. 3019);
3. Willful violation and/or gross ignorance of the law, rules and procedure;
4. Violation of Supreme Court rules, directives and circulars;
5. Untruthful statements in the narration of facts which violates the lawyer's oath;
6. Gross misconduct constituting violation of the Code of Judicial Conduct, Lawyer's Oath, Canons of Judicial Ethics, Code of Professional Responsibility and the Canons of Professional Ethics, such as:
  - a. Code of Judicial Conduct, Canon 1, Rule 1.01- A judge should be the embodiment of competence, integrity, probity and independence;
  - b. Code of Judicial Conduct, Canon 1, Rule 1.02- A judge should administer justice impartially;
  - c. Code of Judicial Conduct, Canon 2, Rule 2.01- A judge should at all times promote public confidence in the integrity and the impartiality of the judiciary;
  - d. Code of Judicial Conduct, Canon 2, Rule 2.03- A judge should not allow family, social or other relationships to influence judicial conduct or judgment;
  - e. Code of Judicial Conduct, Canon 3, Rule 3.09- A judge should organize and supervise the court personnel to ensure the prompt and efficient dispatch of business, and require at all

time the observance of high standards of public service and fidelity;

f. Compliance with the Code of Judicial Conduct;

g. Lawyer's Oath;

h. Code of Professional Responsibility, Canon 1, Rule 1.01- A lawyer should not engage in unlawful, dishonest, immoral or deceitful conduct;

i. Code of Professional Responsibility, Canon 1, Rule 10.01- A lawyer shall not do any falsehood nor consent to the doing of any, nor shall he mislead, or allow the Court to be misled by any artifice;

j. Code of Professional Responsibility, Canon 10, Rule 10.03-A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice;

k. Canons of Judicial Ethics (Administrative Order No. 162) Canon 3- Avoidance of Impropriety;

l. Canons of Judicial Ethics (Administrative Order No. 162) Canon 22 — Infractions of Law;

m. Canons of Judicial Ethics (Administrative Order No. 162) Canon 30- Social Relations; and

n. Canons of Judicial Ethics (Administrative Order No. 162) Canon 31- Summary of Judicial Obligations.

7. Violation of Republic Act No. 3019, Sec. 3 (e) — " xxx causing undue injury to any party (complainant), or giving any private party (the defendants in the Civil Case) any unwarranted benefits, advantage or preference in the discharge of respondent's official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence."<sup>[9]</sup>

Complainant prays that judgment be rendered against respondents ordering their disbarment and dismissal from public service.<sup>[10]</sup>

In his Comment<sup>[11]</sup> dated 12 April 2004, Judge Lindo avers that simultaneous with the filing of the instant complaint, complainant filed with the Office of the City Prosecutor of Malabon a complaint alleging violation by the respondents of Articles 171, 172, 206, 207 and 220 of the Revised Penal Code arising from Judge Lindo's disposition of the Civil Case.<sup>[12]</sup>

Judge Lindo next states that complainant had previously filed on 26 February 2002 an administrative complaint against Judge Lindo, Ms. Travino and Deputy Sheriff Ruben C. Tan for their acts performed in connection with the Civil Case. The case,

docketed as A.M. OCA I.P.I.-02-5203-MTJ, was dismissed by the Second Division of the Court on 8 September 2003.<sup>[13]</sup>

Judge Lindo avers that such acts amount to willful and deliberate forum shopping which is a ground for the summary dismissal of the instant complaint with prejudice. He also asserts that such acts constitute direct contempt and calls for administrative sanction.<sup>[14]</sup> Judge Lindo contends that complainant is a losing and disgruntled litigant, acting as counsel for himself, who filed the instant unfounded and malicious case and the criminal cases before the prosecution office to put him to shame, public ridicule or contempt.

With regard to the charge of making untruthful statements in violation of Article 171 (falsification by public officer) of the Revised Penal Code, Judge Lindo contends, in refutation, that he cannot find any order or orders issued by him that violate said provision.<sup>[15]</sup>

Concerning the charge of violation of Article 172 (falsification by private individual and use of falsified documents) of the RPC, Judge Lindo asserts that the charge is not only preposterous but also without sense. Judge Lindo also denies giving unwarranted benefits or causing injury to any person. He likewise claims that the orders he issued in the Civil Case were in accord with law and procedure.<sup>[16]</sup>

Further, Judge Lindo argues that he cannot be faulted for the delayed transmittal of the records of the Civil Case. He points to the Court's Circular No. 10, dated 22 May 1987 which states that "with respect to multiple sala courts, only the order of inhibition shall be forwarded to the Executive Judge for appropriate action. The records of the case shall be kept in the docket of the court concerned while awaiting instruction and/or action of the Executive Judge thereon."<sup>[17]</sup>

Finally, Judge Lindo states that complainant should have resorted to judicial review of the orders instead of filing the instant complaint which is not a substitute for such review.<sup>[18]</sup>

By way of a 2nd Indorsement<sup>[19]</sup> dated 14 April 2004, Judge Quintin contends that complainant's charges stem from two (2) acts attributed to him, viz: (1) his alleged failure, as Executive Judge of MeTC, to timely act on the order of inhibition; and (2) his issuance of an Order dated 3 February 2004 setting the Civil Case for further proceedings, as there was a pending motion to dismiss filed by defendants which had not been acted upon by Judge Lindo.<sup>[20]</sup>

Judge Quintin states that although the order of inhibition had been received by his office on 6 March 2002, the same did not reach his personal attention until Judge Lindo asked him to duly act on it. Since the order could not be located, Judge Quintin requested the transmittal of the records of the Civil Case. Upon receipt of the records on 28 January 2004, he issued the assailed Order dated 3 February 2004.<sup>[21]</sup>

Judge Quintin claims that he had no alternative but to set the Civil Case for hearing to tackle the pending motion to dismiss. Judge Quintin maintains that even if the notice in the motion is defective for failing to state the date of hearing, the defect is

cured by the court's cognizance thereof and by the fact that the adverse party had been notified of the existence of the pleading.<sup>[22]</sup>

Lastly, Judge Quintin submits that there is no probable cause against him for malicious delay in the administration of justice. For delay to be malicious, there must be a deliberate intent to inflict damage on the complainant and there is none shown in this case.<sup>[23]</sup> Judge Quintin thus prays that the instant complaint be dismissed for lack of merit.

For her part, Ms. Travino categorically denies all the accusations against her. She claims that the charges were intended to harass her as the first administrative complaint had been dismissed by

the Court.<sup>[24]</sup> Ms. Travino also stresses that she is not guilty of delay in the transmittal of the records of the Civil Case. She had merely relied on the Circular which states that only the order of inhibition should be transmitted to the Executive Judge.<sup>[25]</sup>

Thereafter, complainant filed his Reply and five (5) more supplemental replies reiterating his previous submissions.

Records show that the case started when complainant, as attorney-in-fact for Teofila Beduya Cinco, filed a claim for survivorship with the Philippine Veterans Affairs Office (PVAO). Because of the alleged delay in the processing of Cinco's claim, complainant filed a case against Hector Villacorta, Ferdinand Paler and John Does, with the Office of the Deputy Ombudsman for the Military, for violation of R.A. No. 3019 and R.A. No. 6713. In August 2000, the Ombudsman dismissed the complaint for lack of probable cause.

As a result, complainant filed the Civil Case against Villacorta and Paler of the PVAO and Alan Cañares, Rudiger Falcis II and Orlando Casimiro of the Office of the Deputy Ombudsman for the military. The case was raffled to Branch 55 of the MeTC of Malabon presided over by Judge Lindo. Summonses issued by said court were served only on Cañares, Falcis II and Casimiro. The other two defendants connected with the PVAO could not be served. Then, Cañares, Falcis II and Casimiro filed a motion to dismiss for lack of cause of action. The motion was set for hearing by Judge Lindo on 1 March 2002 but complainant filed an ex-parte motion for inhibition. Judge Lindo issued the assailed Order dated 6 March 2002 voluntarily inhibiting himself from hearing the Civil Case. The order of inhibition was sent to and received by Branch 56 presided over by Judge Quintin. However, it appears that Judge Quintin did not act on it until 3 February 2004, when he issued the Order of even date noting the inhibition and setting the motion to dismiss for hearing on 5 March 2004.<sup>[26]</sup>

In its Report<sup>[27]</sup> dated 30 June 2004, the Office of the Court Administrator (OCA) recommended that the instant case be re-docketed as an administrative matter and that Judge Quintin be fined in the amount of P5,000.00 for his delayed action on the order of inhibition. With respect to Judge Lindo, the OCA recommended that he be reprimanded as his failure to devise an efficient recording and filing system in his sala contributed to the undue delayed action on his inhibition. The OCA likewise recommended that Ms. Travino be fined for her failure to report the inactive status