

FIRST DIVISION

**[A.M. NO. RTJ-02-1692 (FORMERLY A.M. OCA IPI
NP. 01-1175-RTJ), January 17, 2005]**

**FRANCISCO C. TAGUINOD AND ANDRES R. CABANLONG,
COMPLAINANTS, VS. JUDGE FE ALBANO MADRID OF THE
REGIONAL TRIAL COURT, BRANCH 21, SANTIAGO CITY,
RESPONDENT.**

DECISION

CARPIO, J.:

The Case

This is an administrative complaint by Francisco C. Taguinod and Andres R. Cabanlong ("complainants") against respondent Judge Fe Albano Madrid ("respondent Judge"), Executive Judge,^[1] Regional Trial Court, Santiago City, Isabela ("RTC Santiago City") for irregularities in the distribution of judicial notices for publication.

The Facts

Complainant Francisco C. Taguinod ("complainant Taguinod") is the publisher and editor of *City Star*, a local newspaper based in Santiago City, Isabela. Complainant Andres R. Cabanlong ("complainant Cabanlong"), is the liaison officer and attorney-in-fact of *Valley Times*, also a local newspaper based in Ilagan, Isabela. In a Complaint dated 29 January 1998 ("Complaint") addressed to the Office of the Court Administrator ("OCA"), complainant Taguinod and Ferdinand Bascos ("Bascos"), then *Valley Times'* publisher, alleged that:

(1) Respondent Judge never notified them of any raffle of judicial notices for publication;

(2) "[P]ublishable legal and judicial notices are syphoned (sic) to the *Philippine Recorder, Tambuli* and other out of town newspapers" with no actual circulation in the Isabela and Quirino provinces;

(3) The *Philippine Recorder, Tambuli* and other out of town newspapers publish judicial notices in supplemental pages (e.g. 2-A, 3-A etc.) indicating that these were belatedly printed and were not circulated; and

(4) Some court personnel in the RTC Santiago City demand "grease money" from publishers for the publication of judicial notices.^[2]

In her Indorsement dated 5 June 1998 ("Indorsement"), respondent Judge alleged that:

- (1) *Valley Times*, *City Star*, and *Philippine Recorder* are the only local newspapers accredited to publish judicial notices from the RTC Santiago City;
- (2) Since the *Valley Times* did not send representatives to her office, she instructed Rolando Tomas ("Deputy Sheriff Tomas"), Deputy Sheriff of RTC Santiago City to "apportion legal publications equally" between *City Star* and *Philippine Recorder*;
- (3) Although *Philippine Recorder's* main office is in Manila, it is still qualified to publish legal notices from her court as it also maintains an office in Santiago City;
- (4) She was not aware of *Philippine Recorder's* practice of publishing legal notices in supplemental pages but promised that she "will call the newspaper's attention to it";
- (5) The "sheriffs and other personnel" of her court deny ever having demanded "grease money" from any newspaper for the publication of legal notices; and
- (6) She had invited complainant Taguinod and Bascos to see her regarding their claims but they failed to do so.^[3]

In their letter dated 15 June 1998 ("15 June 1998 Letter"), complainants maintained that "there were demands for grease money" and that "there were publications in newspapers which were not authorized to publish." As for their failure to honor respondent Judge's invitation to see her, complainants claimed that respondent Judge's invitation was "not the proper procedure" as they had filed their complaint with the OCA not to mention that they were at odds with respondent Judge's staff.^[4]

The Court required respondent Judge to Comment on the 15 June 1998 Letter. In her letter dated 7 May 2001, respondent Judge acknowledged that the procedure she followed in the publication of judicial notices "[wa]s not strictly in accordance with P[residential] D[ecree No.] 1079." However, respondent Judge justified her action by the fact that there were only two qualified local newspapers and this was the procedure followed since her appointment as RTC Judge of Santiago City. Respondent Judge further disclosed that she commenced distributing judicial notices personally by raffle after the filing of the Complaint. Respondent Judge added that "she would be happy to know" the names of the unaccredited newspapers that published legal notices. Respondent Judge also wanted to know the names of the RTC Santiago City personnel who demanded "grease money" so they could be "made accountable for their actions."^[5]

The Court referred this case to the OCA for investigation, report, and recommendation by any of its consultants.^[6]

During the investigation conducted by OCA consultant Romulo S. Quimbo, complainant Taguinod disclosed that before filing the Complaint, he had written respondent Judge on 12 September 1996 and 6 September 1997 regarding the matters raised in the Complaint.^[7] He also stated in those letters that Deputy Sheriff Tomas was distributing legal notices for publication to local newspapers which charged higher fees. Respondent Judge did not reply to his letters.^[8]

On cross-examination, complainant Taguinod admitted that before 1998, Deputy Sheriff Tomas distributed legal notices to *City Star* for publication. Complainant Taguinod added, however, that in exchange for some of the legal notices, Deputy Sheriff Tomas demanded and received 10% "discounts."^[9] Complainant Taguinod presented copies of checks he issued from March to November 1996 payable to "Cash" or "R.Tomas/Rolly Tomas."^[10] Deputy Sheriff Tomas encashed all the checks except one.^[11] On *Philippine Recorder's* lack of qualification to publish, complainant Taguinod presented a copy of its editorial box indicating that its main office is at No. 1124 P. Zapanta St., Singalong, Manila.^[12]

For her part, respondent Judge testified that while she did not reply to the 12 September 1996 and 6 September 1997 letters of complainant Taguinod, she did investigate his claim regarding the overcharging of publication fees but found this baseless. Respondent Judge also claimed that when she found out that *City Star* was unaccredited, she issued an Order on 16 September 1996 ("16 September 1996 Order") requiring *City Star* (and all other newspapers in the Quirino province and in Santiago City) to submit documents for accreditation. After *City Star* complied, she accredited it on 12 November 1997.^[13]

Respondent Judge testified that she delegated the task of distributing judicial notices to Deputy Sheriff Tomas because it was a mere administrative duty and she did not think that any of the local newspapers would complain. Respondent Judge disclosed that she started distributing judicial notices personally by raffle only in June 1998 because it was at that time that she received a copy of Circular No. 5-98 ("Circular 5-98") requiring Executive Judges to comply strictly with Presidential Decree No. 1079 ("PD 1079"). However, when confronted with a copy of her 16 September 1996 Order where she cited PD 1079, respondent Judge backtracked and claimed, this time, that while she was aware of PD 1079 before 1998, she did not "memorize each and every word of the law."^[14]

Respondent Judge testified that she confronted Deputy Sheriff Tomas on complainant Taguinod's claim that he (Deputy Sheriff Tomas) demanded "discounts." Deputy Sheriff Tomas denied complainant Taguinod's claim. Respondent Judge declared that she was inclined to believe Deputy Sheriff Tomas considering that complainant Taguinod did not furnish her copies of the checks he presented during the investigation. Respondent Judge denied having received any monetary consideration from any publisher for the publication of legal notices.^[15]

Respondent Judge also testified that she found no reason to confirm *Philippine Recorder's* alleged lack of qualification to publish legal notices from her court because even before she assumed office it was already publishing articles and, at any rate, "*City Star* has no right to complain against a newspaper who (sic) is accredited." However, respondent Judge claimed that she did investigate *Philippine Recorder's* alleged practice of printing judicial notices in supplemental pages and, having found merit in such claim, promptly disqualified it.^[16]

The Clerk of Court of RTC Santiago City also testified and attested to the correctness of that court's records for the distribution of judicial notices among *Valley Times*, *City Star*, *Philippine Recorder*, and *Isabela Profile* from 1998 to 2001.^[17]

After the investigation, *Valley Times* withdrew its complaint against respondent Judge because she had, in the meantime, allowed it to participate in the raffle of legal notices and disqualified *Philippine Recorder*.

The OCA's Recommendation

In its Report dated 25 March 2002 ("Report"), the OCA finds respondent Judge liable for non-compliance with PD 1079 and Circular 5-98. The OCA recommends that a fine equivalent to her one-month salary be imposed on respondent Judge. The OCA also recommends that Deputy Sheriff Tomas be investigated for "his receipt of the amounts stated in the checks which complainant Taguinod presented [during the investigation]." The Report reads:

Carefully going over the evidence of the parties, it appears that respondent was remiss in the performance of her duties. She admitted that she knew of P.D. 1079 which provided for the procedure to be followed in the distribution of judicial notices to be published to [sic] the different publications but she insisted in delegating the authority to distribute to her sheriff. Her belief, that because there were only two newspapers which were publishing such notices when she assumed office as Regional Trial [Court] Judge, it would be enough if the items to be published were justly apportioned between them, was clearly unjustified. Unwittingly perhaps she failed to realize that unscrupulous subordinates could take advantage of such authority by having favorites and discriminating against others.

Thus it appears that in the years 1996 to 1997 when the distribution was not controlled by her, complaints were heard from those who felt discriminated against. This could have been avoided had respondent strictly followed the procedure laid down in the presidential issuance.

Complainant[s] had reason to complain to respondent about the inequality of the distribution and the demands for "discounts" allegedly being committed by her subalterns. That respondent failed to give heed to the repeated letters of complainant [Taguinod] seeking a more equitable treatment form (sic) the sheriff was clearly a gross failure to fulfill her duties as executive judge. By taking the statements of her subordinates at face value which she admits she did, was not in keeping with the conduct demanded by her high office (sic).

It is clear that because respondent's subordinates were demanding exorbitant "discounts" respondent (sic) was forced to bring the matter to the attention of the Court Administrator and even the Chief Justice.

Respondent took no action against the Philippine Recorder simply because she relied on what was stated in the paper itself that it had provincial offices, one of which was Isabela (sic). But had she read carefully the provisions of P.D. 1079, which states that "the province or city where the publication's principal office is located shall be considered the place where it is edited and published", she would listened (sic) to complaints (sic) of the present complainant[s] and would have disqualified the said newspaper immediately because from its editorial