

FIRST DIVISION

[A.M. No. MTJ-93-759, September 05, 1997]

**EMILIANO VELUZ, COMPLAINANT VS. JUDGE RAUL V. BABARAN,
RESPONDENT.**

R E S O L U T I O N

HERMOSISIMA, JR., J.:

This is an administrative complaint, filed by Emiliano Veluz Against Judge Raul V. Babaran, former Presiding Judge of the Municipal Trial Court of Diffun, Quirino, which seeks the judge's dismissal from the service and his disbarment, upon the allegation that respondent judge acted with grave abuse of authority and/or ignorance of the law when he cited complainant for direct contempt of court through an order, dated November 21, 1992,^[1] resulting in complainant's arrest and incarceration.

Complainant Emiliano Veluz claimed ownership of an agricultural land, situated at La Paz, Saguday, Quirino, on the strength of TCT No. 6101 in his name. In August, 1992, he had the property fenced allegedly to keep it from trespassers. As a consequence of the fencing, one Cristeta Pastor and others instituted on September 12, 1992 an action for forcible entry and detainer against Veluz, docketed as Civil Case No. 307, before the Municipal Trial Court of Diffun, Quirino, then presided over by respondent, claiming ownership of the land in question, per TCT No. T-3920, which indicates that the land is situated in Luttuad, Quirino. At the hearing held on November 17, 1992, complainant challenged the jurisdiction of the court contending that the said land is within the territorial limits of Saguday, Quirino, an adjacent town. To resolve the issue of territorial jurisdiction, respondent ordered the relocation and ocular inspection of the land with the technical assistance of the Provincial Environment and Natural Resources Office (PENRO), Bureau of Lands and Register of Deeds. Ocular inspection was set on November 21, 1992. Complainant's counsel, Atty. Quirico Pilotin, when signifying that he could not attend, was directed to send a representative.

At about 10:00 o'clock A.M. of November 21, 1992, respondent judge and Atty. Ernesto Salun-at, counsel for Cristeta Pastor, arrived in the land, and soon after, met Emiliano Veluz.. Respondent asked complainant whether his lawyer sent a representative. The latter, not caring to answer, turned around instead, took a long bolo, and rushed towards respondent and Atty. Salun-at. Respondent and Atty. Salun-at both cautioned complainant to stop approaching them and to drop his weapon. Complainant, however, went on, retorting that he was not afraid of them. Realizing at this point the firm resolve of the complainant to fight it out, respondent judge ran away for safety. Atty. Salun-at and his driver followed suit. And while the three(3) of them were fleeing, complainant continued to hurl threatening remarks at them. When they were finally out of the property in question, SPO3 Jovino Navalta and some court employees arrived. SPO3 Navalta wanted to arrest complainant but

respondent dissuaded him from doing so because complainant was armed and he had companions who could harm him. They all turned back and left without any relocation and ocular inspection effected. On the same day, respondent issued an order citing complainant for contempt acts disrespectful towards the court and for disrupting its proceedings. On November 23, 1992, seven (7) policemen went inside the disputed land and arrested complainant by authority of a warrant for his arrest issued by respondent. Complainant was put in jail and remained thereat until December 3, 1992.

Complainant charged that respondent committed grave abuse of authority, prompted by vengeance if not gross ignorance of the law, when he issued his November 21, 1992 order, holding him liable for contempt of court and directing his incarceration until further orders from the court. Complainant argued that even assuming that he committed disrespectful conduct that would merit his conviction for direct contempt, respondent judge had no power to order his indefinite incarceration because he could only fine complainant with ten (10) pesos or order him imprisoned for one (1) day or both in his sound discretion.

Complainant also charged respondent judge with partiality in not similarly citing Atty. Salun-at for contempt notwithstanding the fact that the latter had a handgun tucked at his waist displaying it in full view of the judge and that Atty. Salun-at shouted threatening words at complainant in the respondent judge's presence.

In his Comment,^[2] respondent justified his disputed order, stressing that "the acts and behavior displayed by herein complainant during the aborted ocular inspection/survey and the spectacle of a judge fleeing a scared cat from the bolo-wielding complainant, in the presence of others, so violated the authority of the court, rendering it so helpless, utterly embarrassed and degraded."^[3] Respondent claimed that said acts and behavior, contemptible as they are, deserve to be summarily punished by the court if only to uphold the court's authority and majesty. Respondent did not order complainant's immediate release for fear that complainant might continue to obstruct court proceedings.

Respondent describes a figment of complainant's imagination the allegation that Atty. Ernesto Salun-at had a gun tucked in his waist, the fact being that Atty. Salun-at did not have a gun.

By its resolution, dated July 12, 1993,^[4] this court referred this case to Executive Judge Gregorio A. Buenavista of the Regional Trial Court of Cabarroquis, Quirino for investigation, report and recommendation. This case was eventually assigned to Judge Wilfredo P. Ambrosio of the Regional Trial Court, Branch 32, Cabarroquis, Quezon, who took over the case from Judge Carlos T. Aggabao, the latter, having retired of March 31, 1995.

The investigating judge made the following conclusions and recommendations:

After examining and evaluating the evidence presented before us, we honestly believe that the complaint should be dismissed for want of basis and merit. The claim of complainant that respondent was not a fair judge because he did not cite Atty. Salun-at for contempt is utterly absurd. The act of Atty. Salun-at in having a handgun tucked on his waist and