

EN BANC

[A.M. No. RTJ-16-2472 [Formerly OCA IPI No. 13-4141-RTJ), January 24, 2017]

**JUDGE MARTONINO R. MARCOS (RETIRED), COMPLAINANT, VS.
HON. PERLA V. CABRERA-FALLER, PRESIDING JUDGE, REGIONAL
TRIAL COURT, BRANCH 90, DASMARIÑAS CITY, CAVITE ,
RESPONDENT.**

DECISION

PER CURIAM:

Before the Court is an administrative complaint^[1] against Judge Perla V. Cabrera-Faller (*Judge Cabrera-Faller*) of the Regional Trial Court, Branch 90, Dasmariñas City, Cavite (*RTC*), filed by Martonino R. Marcos, a retired judge (*complainant*), for ignorance of the law, misconduct, violation of the anti-graft and corrupt practices act, and for knowingly rendering an unjust judgment/order.

The Antecedents

The controversy stemmed from the death of complainant's grandson, Marc Andrei Marcos (*Marc Andrei*), during the initiation rites of Lex Leonum Fraternitas (*Lex Leonum*) held on July 29, 2012 at the Veluz Farm, Dasmariñas City, Cavite.

A preliminary investigation was conducted and, thereafter, the Office of the City Prosecutor (*OCP*) issued its Resolution,^[2] dated May 8, 2013, recommending the prosecution of several members of Lex Leonum for Violation of Republic Act (*R.A.*) No. 8049, otherwise known as *The Anti Hazing Law*. In the same resolution, the OCP also recommended that Cornelio Marcelo (*Marcelo*), the person assigned to be the buddy or "angel" of Marc Andrei during the initiation rites, be discharged as a state witness pursuant to the provisions of Section 12 of R.A. No. 6981.^[3]

Thereafter, the Information^[4] for Violation of R.A. No. 8049 was filed against Jenno Antonio Villanueva (*Villanueva*), Emmanuel Jefferson Santiago, Richard Rosales (*Rosales*), Mohamad Fyzee Alim (*Alim*), Chino Daniel Amante (*Amante*), Julius Arsenio Alcancia, Edrich Gomez, Dexter Circa, Gian Angelo Veluz, Glenn Meduen, alias Tonton, alias Fidel, alias E.R., and alias Paulo, before the RTC. The case was docketed as Criminal Case No. 11862-13.

Finding probable cause to sustain the prosecution of the accused, Judge Cabrera-Faller issued the Order,^[5] dated June 3, 2013, directing the **issuance of a warrant of arrest** and, at the same time, the **archiving of the entire record of the case** until the arrest of the accused.

On June 13, 2013, acting on the Omnibus Motion filed by Rosales, Alim and Amante,

Judge Cabrera-Faller issued another Order^[6] directing the **recall of the warrants of arrest of the three accused** which she claimed were issued **inadvertently**.

On August 15, 2013, acting on the separate motions for the determination of probable cause and to withhold issuance of warrants of arrest^[7] and extremely urgent motion to quash warrant of arrest^[8] filed by the accused, Judge Cabrera-Faller issued the *Omnibus Order*,^[9] **quashing, lifting and setting aside the warrants for their arrest** and ultimately **dismissing the case against all of them for lack of probable cause**.

According to Judge Cabrera-Faller, she found no probable cause to indict the accused for violation of R.A. No. 8049 as the statement of Marcelo and those of the other accused "were not put in juxtaposition with each other for a clearer and sharper focus of their respective weight and substance."^[10] To her, "there were nagging questions left unanswered by the testimony of Marcelo and some improbabilities therein that boggle the mind and disturb the conscience into giving it absolute currency and credence."^[11] In her view, "the statement of Marcelo simply depicted the stages of initiation rites"^[12] and failed to show that the accused conspired to inflict fatal injuries on Marc Andrei.^[13] She found the statements of the prosecution witnesses, Marcelo Cabansag (*Cabansag*) and Jan Marcel V. Ragaza (*Ragaza*) either untruthful, immaterial and incompetent or brimming with flip flopping testimonies. She brushed aside the admission of the accused that initiation rites were indeed conducted on July 29, 2012 and that they were allegedly present in the different stages of the initiation rites, and simply believed the version of the accused that it was Marcelo, the recruiter and "angel" of Marc Andrei, who inflicted the fatal blows on him, causing his death. Thus, the decretal portion of the Omnibus Order reads:

IN VIEW OF THE FOREGOING, the court holds to **grant** the motions filed by the following accused, to wit:

- (a) The motion for determination of probable cause filed by the accused Gian Veluz and Edrich Gomez, which was received by this court on May 20, 2013;
- (b) The motion for determination of probable cause, filed by the accused Julius Arsenio A. Alcancia and Dexter S. Garcia;
- (c) The motion for the determination of probable cause, filed by the accused Mahammad Fyzee Alim, Richard Rosales and Chino Amante, which was received by this court on May 23, 2013; although a warrant was issued inadvertently against the accused on June 3, 2013, the same was lifted and recalled in view of the subject motion;
- (d) The motion for the determination of probable cause, filed by Emmanuel Jefferson A. Santiago, which was received by this court on May 29, 2013, although a warrant was issued inadvertently against the accused on June 3, 2013; the same was lifted and recalled in view of the subject motion; [and]

(e)The extremely urgent motion to quash the warrant of arrest, filed by the accused Jenno Antonio Villanueva on June 14, 2013.

ACCORDINGLY, the warrant for the arrest, dated June 3, 2013, is hereby quashed, lifted and set aside, and this case is hereby **DISMISSED** in so far as all the accused named in the information is concerned, for the reasons already afore-stated.

SO ORDERED. [Emphases supplied]

The order of dismissal prompted complainant to file this administrative case against Judge Cabrera-Faller. In his Letter-Complaint,^[14] he alleged, among others, that:

1. On June 3, 2013, the Hon. Perla V. Cabrera-Faller issued an Order in Crim. Case No. 11862-13 stating that "*Finding probable cause to sustain the prosecution of the above-named accused for the crime charged in the criminal information, let a warrant for their arrest be issued, in the meantime sent the entire record of this case to the ARCHIVES until the said accused shall have been arrested.*"

However, on June 13, 2013, the Hon. Perla V. Cabrera-Faller issued another order recalling the warrant against accused Emmanuel Jefferson A. Santiago because the same was allegedly INADVERTENTLY issued.

The actuations of the Hon. Perla V. Cabrera-Faller clearly demonstrate her incompetence and gross ignorance of the law and jurisprudence. Section 6, Rule 112 of the Rules of Court provides that "*the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest.*" When she issued the Order dated June 3, 2013, she certified that she personally evaluated the resolution of the prosecutor and its supporting evidence and ruled that there was probable cause so she directed the issuance of warrants of arrest against all the accused. When she subsequently held that the warrant of arrest was inadvertently issued against accused Emmanuel Jefferson A. Santiago, does this mean that she did not personally evaluate the records of the case before directing the issuance of a warrant of arrest against all the accused? Does this mean that the warrants of arrests issued against all the other accused were also INADVERTENTLY issued? Does this mean that the Order dated June 3, 2013 finding probable cause against all the other accused was likewise INADVERTENTLY issued considering the fact that the basis for the issuance of the warrants of arrest against all the accused is the said order dated June 3, 2013? A judge who issues a warrant of arrest INADVERTENTLY has no place in the judiciary because such actuation clearly shows her incompetence and gross ignorance of both substantive and procedural laws.

The Hon. Perla V. Cabrera-Faller could likewise not claim that the warrant of arrest was INADVERTENTLY issued because of the filing of the Omnibus Motion by accused Emmanuel Jefferson A. Santiago. It must be pointed out that when the Hon. Perla V. Cabrera-Faller issued the Order, dated June 3, 2013, finding probable cause against all the accused and directed the issuance of a warrant of arrest against all the accused, the said motion was already filed with the Honorable Court. Despite the fact that the said Omnibus Motion was already filed with the court, the Hon. Perla V. Cabrera-Faller still found probable cause and directed the issuance of warrants of arrests against all the accused in its Order dated June 3, 2013. Consequently, **it could not be said that the warrant of arrest issued against the accused was INADVERTENTLY issued. It could only be surmised that there are far more other reasons why the warrant of arrest was recalled but definitely not due to its alleged INADVERTENT issuance.** Unless, of course, the Hon. Perla V. Cabrera-Faller admits issuing the Order dated June 3, 2013 without evaluating the resolution of the public prosecutor and its supporting evidence.

Very clearly, the Hon. Perla V. Cabrera-Faller manifested her incompetence and/or gross ignorance of the law by issuing the Order, dated June 13, 2013. She was probably swayed by reasons not based on the law but probably for some other reasons to the great damage and prejudice of the relatives of Marc Andrei Marcos whose life was lost at such a very young age.

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2. On August 15, 2013, Hon. Perla V. Cabrera-Faller again issued an Omnibus Order in Criminal Case No. 11862-13 quashing, lifting and setting aside the warrant of arrest, dated June 3, 2013, and **dismissing** the case against all the accused in Criminal Case No. 11862-13. In issuing the said Omnibus Order, the Hon. Perla V. Cabrera-Faller again demonstrated her incompetence and/or gross ignorance of the law as well as manifest biased in favor of the accused in the said case.

In dismissing the case against the accused, the Hon. Perla V. Cabrera-Faller ruled in its Findings and Conclusions that Marcelo's statement and the statements of the accused were not put in juxtaposition with each other for a clearer and sharper focus of their respective weight and substance. She then further held that the information in Criminal Case No. 11862-13 was filed by the Office of the City Prosecutor of Dasmariñas City only on the basis of the lone statement of Cornelio Marcelo, without any corroborating testimony and that the Office of the City Prosecutor of Dasmariñas City, Cavite, was swayed by public pulse, considering the media mileage caused by the incident. **These rulings of the Hon. Perla V. Cabrera-Faller are based solely on her own conjectures and pre determined decision to dismiss the case as clearly shown by the fact that she recalled the warrants of arrests she**

earlier directed to be issued even without conducting hearings and without waiting for any comment from the public and private prosecutors.

A perusal of the Resolution, dated March 1, 2013, will readily show that the counter-affidavits of the accused who submitted their counter-affidavits were duly considered in the issuance of the resolution. In fact, a summary of their allegations were even put in the body of the said Resolution. While the Office of the City Prosecutor of Dasmariñas City, Cavite, might not have presented the resolution in the format desired by the Hon. Perla V. Cabrera-Faller, it does not mean that the Office of the City Prosecutor did not weigh the substance of the statements of the accused and the witnesses presented for purposes of determining probable cause. The ruling of the Hon. Perla V. Cabrera-Faller that the information in the case was filed by the Office of the City Prosecutor only on the basis of the statement of Cornelio Marcelo, without any corroborating testimony, likewise shows her incompetence and manifests biased in favor of the accused. **The statement of Cornelio Marcelo was corroborated by the statements of Manuel Adrian Cabansag and Jan Marcel V. Ragasa.** A perusal of the statements of the said neophytes clearly shows that they were subjected to hazing, together with the late Marc Andrei Marcos and other neophytes, at the Veluz Farm in Dasmariñas City, Cavite, by the members of the Lex Leonum Fraternity. **The fact of hazing at the Veluz Farm was likewise corroborated by statements of Rene Andaya and Roger Atienza, farm overseers at the Veluz Farm.** Consequently, the **sweeping ruling by the Hon. Perla V. Cabrera-Faller that the information was filed only on the basis of the statement of Cornelio Marcelo, without corroborating testimony, and that the Office of the City Prosecutor was swayed by public pulse is absolutely false and without any basis.**

In dismissing the case, the Hon. Perla V. Cabrera-Faller likewise held that the statement of Marcelo merely depicted the stages of the initiation rites. However, *she conceded that there were physical infliction of the neophytes but further ruled that the statement did not as much show that the accused conspired to inflict fatal injuries on this particular neophyte, Andrei Marcos, and further ruled that conspiracy was not even established. She further ruled that the story of Marcelo that the neophytes were subjected to excessive beating with paddles and belts during the initiation rites is incredible and uncorroborated.* These **rulings of the Hon. Perla V. Cabrera-Faller show her incompetence and gross ignorance as a judge.** Contrary to said rulings of the Hon. Perla V. Cabrera-Faller, the statement of Cornelio Marcelo did not just depict the stages of initiation rites but detailed what was actually done to Marc Andrei Marcos and other neophytes during the initiation rites which resulted to the death of the late Marc Andrei Marcos. This was corroborated by the statement of Manuel Adrian Cabansag and Jan Marcel V. Ragasa. Cornelio Marcelo stated that Marc Andrei Marcos