

## **EN BANC**

**[ A.M. No. RTJ-06-1982 (Formerly A.M. No. 05-12-757-RTC), December 14, 2007 ]**

**SHERLITA O. TAN, COMPLAINANT, VS. JUDGE REXEL M. PACURIBOT, REGIONAL TRIAL COURT, BRANCH 27, GINGOOG CITY, RESPONDENT.**

**[A.M. NO. RTJ-06-1983 (FORMERLY A.M. NO. 05-12-757-RTC)]**

**JOHANNA M. VILLAFRANCE, COMPLAINANT, VS. JUDGE REXEL M. PACURIBOT, REGIONAL TRIAL COURT, BRANCH 27, GINGOOG CITY, RESPONDENT.**

**ANONYMOUS LETTER-WRITERS, COMPLAINANT, VS. JUDGE REXEL M. PACURIBOT, REGIONAL TRIAL COURT, BRANCH 27, GINGOOG CITY, RESPONDENT.**

## **D E C I S I O N**

### **PER CURIAM**

These consolidated-complaints filed against Executive Judge Rexel M. Pacuribot (Judge Pacuribot) of the Regional Trial Court (RTC) of Gingoog City, Branch 27, consist of the following:

1. Affidavit-Complaint<sup>[1]</sup> dated 4 December 2005 filed by Sherlita O. Tan (Ms. Tan), Court Stenographer of RTC, Branch 27, Gingoog City, and affidavit-complaint<sup>[2]</sup> dated 20 December 2005 filed by Johanna M. Villafranca (Ms. Villafranca), Clerk II, Gingoog City Parole and Probation Office, charging Judge Pacuribot with sexual harassment;
2. Letter<sup>[3]</sup> dated 4 April 2005 from "concerned citizens," asking for the relief of Judge Pacuribot on the grounds that he has been terrorizing and harassing most of the employees, both casual and contractual, of the Hall of Justice of Gingoog City; and
3. An undated letter<sup>[4]</sup> from "concerned citizens" also asking the Office of the Court Administrator (OCA) to investigate the illicit relationship of Judge Pacuribot and a certain Sheryl Gamulo. They informed the OCA that Sheryl Gamulo bore two acknowledged children of Judge Pacuribot, the eldest of whom named Rexell Pacuribot was born on 15 October 2004, and the second child was born on 2 September 2005, both at Maternity Hospital, Cagayan de Oro City.

On 14 December 2005, OCA issued a Memorandum<sup>[5]</sup> recommending that:

1. The complaint of Ms. Sherlita Tan be referred to the Committee on Decorum and Investigation of the Regional Trial Court of Gingoog City for investigation;
2. the complaint of Ms. Johanna M. Villafrancia be docketed as a regular administrative matter
3. Judge Pacuribot be required to comment on the complaint of Ms. Villafranca; and
4. Judge Pacurribot be suspended immediately until further orders from this Court.<sup>[6]</sup>

On 7 March 2006, we issued a resolution amending Section 8 of A.M. No. 03-03-13-SC, approving all the other recommendations of OCA and suspending Judge Pacuribot, thus:

With respect to all the other recommendations of the OCA, finding them to be in accord with existing laws, the same are hereby APPROVED. In particular, Judge Rexel Pacuribot is immediately SUSPENDED until further notice from this Court. He is likewise DIRECTED to comment on the complaints of Mesdames Tan and Villafranca within ten days. The complaint, however, of Ms. Sherlita Tan should be docketed as a regular administrative matter to be consolidated with that of Ms. Johanna M. Villafranca's for proper disposition in line with the foregoing discussions.

<sup>[7]</sup>

On 25 October 2006, the court referred the case to Justice Teresita Dy-Liacco Flores of the Court of Appeals, Cagayan De Oro City Station, for investigation, report and recommendation within 90 days from notice thereof.

On 8 October 2007, Investigating Justice Dy Liacco Flores submitted her Report<sup>[8]</sup> with the following findings:

### **Tan's story**

Ms. Tan's nightmare as an underling of respondent judge started on 20 October 2004 – a Wednesday. Having officially filed a half-day leave, she went to Cagayan de Oro City to attend a wedding ceremony at six o'clock in the evening at Pryce Plaza Hotel. She stood as one of the principal sponsors to a couple named Kimberly Castillon and Thomas Elliot. At around 8:00 o'clock in the evening, while relishing the "gala" portion during the wedding reception (when the newly weds dance and guests pin peso bills on their attire), she received from [Judge Pacuribot] a call through her mobile phone, asking when is she going back to Gingoog City. She said she intends to go back right after the wedding reception. [Judge Pacuribot] offered to bring her to Agora Bus Terminal but she politely refused the offer saying that she will just take a taxi in going there. Taking her answer as declining his offer, he ordered her to come out, displaying short temper, saying he was already waiting outside the hotel. To hint at urgency, he told her that he just slipped out from the Masonic Meeting he was attending and will immediately return to it right after he will have shuttled her there. Aware that he has the tendency to

humiliate anyone in public when he is angry, she decided to abruptly leave the wedding reception and comply.

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Coming out into the lobby of the hotel, Ms. Tan saw respondent judge [Judge Pacuribot] inside his car, alone. When she came near, he opened the car door for her and she took her seat. Then, angrily he asked: "What took you so long?" She kept mum. She saw in between their seats his clutch bag with his short firearm. That sight frightened her although she was consoled by the thought that she would soon get rid of him at the bus terminal. Pryce Plaza Hotel to the bus terminal would be about twenty (20) minutes ride, traffic considered.

Unfortunately, [Judge Pacuribot] had other ideas. Along the way to the bus terminal, he drove in to what looked like a compound. She unexpectedly saw that his car entered a small garage, and when it stopped, the roll down shutter quickly locked up from behind. She was brought not to the bus terminal but to a motel whose name she came to recognize only after the incident as the City Lodge Motel in Carmen, Cagayan de Oro City. She felt deceived. Knowing the implications, she protested: "Why did you bring me here, sir? Didn't I tell you that I will just take a taxicab to the Agora Terminal?" He rudely told her: "Shut up! As if you are still a virgin!" Respondent judge [Judge Pacuribot] then directed her to get down the car. Timorously, she obeyed. As soon as she went down his car, she looked for a possible exit and found none. All she saw was a door which opened. He ushered her into the room, walking closely from behind her. He locked the door.

Ms. Tan, scared and confused, walked to the comfort room, where she pretended to relieve herself. There, she again looked for a possible exit. Again, she found none. After a short while, she heard [Judge Pacuribot] asking: "What are you doing there? What's taking you so long?" Remembering, that he has a gun, she came out of the comfort room. To her dismay, she found him nude in bed and fear overcame her more.

[Judge Pacuribot] ordered Ms. Tan to undress. Her reluctance made her move slowly. He let out more impatience asking: "What's taking you so long to undress? Excite me!" She refused at first, but he became furious. At that moment too, she saw his gun on what seemed to her was headboard of the bed. Frightened, she undressed, retaining her bra and panty. He asked her to kiss him and she obeyed half-heartedly. While she was kissing his neck, he expressed dissatisfaction by asking: "You don't know how to kiss! How do you do it with Ramon? Get into sex right away without any preliminaries?" Ramon is her husband. She was quiet.

[Judge Pacuribot] ordered her to lie down on the bed. She yielded out of fear. He pulled her bra and panty, kissed her neck and lips, and sucked her tongue and breasts. Minutes after, he inserted his penis to her vagina. While he did a push and pull motion, she was complaining: "You are so rude, Sir! We work in the same office yet you disgrace me!" He

told her angrily: "Shut up! Concentrate! See! It's softening...." She recalled that he tried several times to stiffen his penis but he seemingly has some erection problem. At his attempt for coitus, she felt the penetration was just slight. Later, he was getting exhausted and was breathing hard. He would rest each time he failed to have full enjoyment. While he rested, she would ask him to let her go, but angrily he refused. Instead, he would forcibly ride on top of her again and make more attempts at coitus until he finally gave up. He said to her: "It won't stiffen because I have been forbidden to eat many kinds of food such as meat which gives energy."

After a while, Ms. Tan saw [Judge Pacuribot] got up from bed, took his gun, and peeped through the window of the motel. This time, she once again implored him, "Sir, I'll just take a taxi to Agora." He answered: "I'll bring you there." At the time, she was so confused that she cannot recall whether he made payment in the motel. She could not concentrate anymore.

The two left the motel in his car. However, instead of conducting her to the bus terminal, again [Judge Pacuribot] brought Ms. Tan to another place . . . this time to Discovery Hotel adjacent to Limketkai Center, Cagayan de Oro City. When she protested, he told her that it would be safer for her to sleep there instead of traveling alone. It was around 10 o'clock in the evening. Still unrelieved of her fright which Ms. Tan calls "shock," or "rattled," she failed to ask for help, nor did she think of escaping. She was not even able to call her husband. She was even wondering whether anyone will help her if the judge will do anything to her. After he partially settled the room's bill, he warned her not to leave until his return the following morning saying he was returning to the Masonic Conference. After he left, she asked a bellboy if she could leave, but the bellboy told her that she should first settle the hotel bill before she can check out. Unfortunately, she had no money enough to pay the balance of the hotel bill. Meantime, through his cell phone, he kept calling her that night and threatening her to watch out in the office if she would disobey. She was crying in the hotel. She was terrified of what he will do to her and her family, and what reaction her husband would make once he learns of what happened to her. She was scared that her husband might kill [Judge Pacuribot] and her husband would be harmed in turn.

At around 7 a.m. of the following morning, [Judge Pacuribot] arrived. He came panting and rested in bed while Ms. Tan just stood by. She saw him put his gun near the bed. She recounted the events that happened after, as follows:

Q: What did he do, if any?

A: He ordered me again saying: "Make Love to me!"

Q: What was your reaction, if any?

A: I refused.

Q: What was his reaction, if any?

A: He angrily shouted at me: "My goodness! Why are you so slow? As if you are a virgin!"

Q: What did you feel, if any?

A: I was terrified of him.

Q: What did you do, if any?

A: I was forced to go near him, kissed his neck, but [I] stopped.

Q: Why did you stop?

A: I was disgusted with what I was doing and with him.

Q: What was his reaction, if any?

A: He angrily told me: "You don't know how to make love! How do you do it with Ramon? You simply have sex without foreplay? *Kayati ba sab?*"

Q: What was your reaction, if any?

A: I felt helpless and kept quiet.

Q: What happened next, if any?

A: He ordered me saying: "Suck it!"

Q: What did he want you to suck on him?

A: His penis.

Q: What did you do, if any?

A: I refused.

Q: What was his reaction, if any?

A: He got angry, pulled my hair and pushed my face to his penis saying: "suck it! Let it in till deep your throat! Let my penis reach your throat!"

Q: What did you do, if any?

A: I gasped for breath so that when I opened my mouth, his penis entered my mouth.

Q: What happened next, if any?

A: He tightened his hold on me so I was forced to suck his penis afraid that he might break my neck.

Q: What happened next, if any?

A: His penis reached my throat and I felt nauseated so I ran to the bathroom and vomited.

Q: What happened next, if any?

A: I stayed in the bathroom for a while because I was not feeling well.

Q: What was his reaction, if any?

A: He angrily ordered me to go to him and lie beside him and I