

## EN BANC

**[ A.M. No. CA-04-36 (A.M. OCA-IPI No. 01-30-CA-J), February 18, 2004 ]**

**SEVERO A. CORDERO, COMPLAINANT, VS. JUSTICE JUAN Q. ENRIQUEZ, COURT OF APPEALS, RESPONDENT.**

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

**YNARES-SATIAGO, J.:**

In an Affidavit-Complaint<sup>[1]</sup> dated September 11, 2000, complainant Severo A. Cordero charged then Presiding Judge Juan Q. Enriquez<sup>[2]</sup> of the Regional Trial Court of Quezon City, Branch 92, with gross ignorance of the law, gross incompetence and partiality to a party litigant.

In the aforesaid complaint, complainant averred that he was the plaintiff in Civil Case No. Q-98-35160 entitled, "*Severo A. Cordero, Plaintiff versus Gilbert A. Villota, Defendant*," for breach of contract and damages with preliminary attachment filed with respondent's court. It appears that plaintiff extended to defendant a loan in the amount of P180,000.00, secured by a Chattel Mortgage on defendant's taxi-cab. However, defendant failed to surrender to plaintiff the certificate of registration and official receipt of registration of the vehicle. Meanwhile, it was agreed that defendant shall continue to operate the vehicle as a taxi-cab and remit to plaintiff the daily earnings therefrom as payment for the loan. Defendant breached his obligation, which compelled plaintiff to file the said complaint.

After trial, respondent rendered judgment on September 15, 1999, to wit:

WHEREFORE, judgment is hereby rendered, as follows:

The Writ of Preliminary Attachment is hereby ordered recalled and the vehicle subject of this case be delivered immediately to the defendant;

Ordering the defendant to deliver the original Certificate of Registration and Official Receipt of the subject vehicle to the plaintiff.

Ordering the defendant to pay the P400.00 (four hundred pesos) daily earnings to the plaintiff from the time the subject vehicle is actually delivered to him except on color coding days, holidays and Sundays.

Ordering both parties to religiously comply with the written terms of the Deed of Chattel Mortgage up to March 19, 2001.

SO ORDERED.

Complainant filed a Motion for Reconsideration, which was denied on December 28, 1999.<sup>[3]</sup> A notice of appeal was filed on January 11, 2000, which was approved on January 12, 2000.<sup>[4]</sup> Two days after the grant of the notice of appeal, respondent judge set the notice of appeal for hearing.

Gilbert Villota, the defendant in Civil Case No. Q-98-35160, filed a motion to discharge attachment which was denied on June 6, 2000,<sup>[5]</sup> on the ground that respondent judge had already lost jurisdiction over the case upon the perfection of the plaintiff's appeal and the expiration of time for the defendant to appeal.

On June 2, 2000, complainant filed a motion<sup>[6]</sup> to sell at public auction the attached taxi-cab of the defendant Gilbert Villota and to deposit the proceeds of the sale with the court pending the final resolution of Civil Case No. Q-98-35160. The motion was denied.

A motion for reconsideration<sup>[7]</sup> was filed by complainant which was set for hearing on July 14, 2000. However, the hearing was reset on August 25, 2000,<sup>[8]</sup> because respondent was not available. Complainant learned later on that respondent judge has been appointed Associate Justice of the Court of Appeals.

Complainant Severo A. Cordero charges respondent judge with the following:

13.1 – He refused to award damages to me despite the fact that material and relevant evidence was presented in support of the same;

13.2 – While the period for the payment of the principal obligation appearing in the chattel mortgage, subject of the case, is fixed in February 2000, Judge Enriquez unlawfully stretched the same to March 19, 2001.

13.3 – He still entertained the defendant's "Motion to Discharge Attachment" despite the clear provision of the rules that he has no more jurisdiction to act on the same. It was only due to my timely and vigorous objection that said motion was denied;

13.4 – He had already approved the Notice of Appeal and ordered the forwarding of the records of the case to the Court of Appeals on January 12, 2000, and yet he countermanded that for no valid reason by setting the Notice of Appeal for hearing; and,

13.5 – He refused to act on my "Motion" to sell the attached taxi cab although the same was properly set for hearing and the same is meritorious and allowed under the rules of court. And neither did he cause the immediate forwarding of the records to the Court of Appeals. Thus maliciously stalling the proceedings<sup>[9]</sup>

In his comment, respondent judge averred that he did not award damages to the complainant in Civil Case No. Q-98-35160 because neither party in the said case was entitled to such award. Since both parties were in default and *in pari delicto*, each one bears the respective damages sustained; that he extended the original