

## THIRD DIVISION

**[ A.M. No. RTJ-03-1792 [Formerly OCA I.P.I. No. 02-1421-RTJ], March 10, 2004 ]**

**EMILIANA M. GARCIA, COMPLAINANT, VS. JUDGE FLORENCIO P. BUESER, REGIONAL TRIAL COURT, BRANCH 33, SINILOAN, LAGUNA, RESPONDENT.**

### DECISION

**VITUG, J.:**

In a verified complaint, dated 25 February 2002, Emiliana M. Garcia has charged Judge Florencio Bueser of the Regional Trial Court, Branch 33, of Siniloan, Laguna, with "Ignorance of [the] Law, Manifest Bias, Tampering, and Disrespect for and Refusal to Obey the Supreme Court."

Complainant found herself the widow of Francisco Lanting, a policeman, who, on 17 December 2001, was shot several times in the town of Siniloan, Laguna. A criminal complaint for murder, docketed Criminal Case No. 5696, was filed against Mayor Felix Carpio and Vice-Mayor Judeo Carpio of Mabitac, Laguna, and one Jose Era. The case was raffled to the *sala* of respondent Judge Florencio Bueser. After their arraignment, the three accused filed a motion to admit bail. Hearings were conducted thereon. On 21 April 2001, the prosecution moved for a change of venue due to threats on the life of the witnesses. On 24 May 2001, Judge Bueser issued an order denying the motion to fix bail on the basis of his finding that the evidence of guilt was strong. On 25 May 2001, the accused filed a motion for reconsideration of the order.

In the *interregnum*, or on 27 June 2001, the Supreme Court issued a resolution granting the petition for a change of venue and directed respondent Judge to transfer the records of the case to the Calamba City Regional Trial Court. Instead of complying with the directive of the Court, Judge Bueser issued an order on 21 August 2001 fixing bail for the accused. The order, according to herein complainant, was antedated "06 August 2001" by respondent in order to make it appear that he had signed the issuance before receiving the Supreme Court resolution on 07 August 2001. Complainant stated that the accused were freed without a release order from the Calamba City Regional Trial Court.

In his comment, Judge Bueser explained that the assailed order was dated "06 August 2001" because he, at the time, really had intended to release it on that day but he was able to issue the order on 21 August 2001 only after having been through with some revisions thereon. Judge Bueser claimed that shortly after a motion was filed for the reconsideration of the order which had denied the application for bail, he received two menacing undated and unsigned letters. He added that, almost every night thereafter, he would receive phone calls from strangers who threatened him and his family with death. According to respondent

Judge, he thought of just letting another judge decide the matter but that, after consultation with some friends, fear for his safety and that of his family got the better of him and he finally decided to rule on the motion. On the allegation that the prosecution had not been furnished with a copy of the subject order, respondent Judge said that a copy was personally served, on 22 August 2001, to the prosecution.

On 16 November 2002, the Court referred the complaint to the Court of Appeals for its investigation, report and recommendation. The case was assigned to Associate Justice Bernardo P. Abesamis, and hearings thereon were conducted on 31 March 2001, 01 April 2001 and 02 April 2001. During the hearings, Atty. Nelson Loyola represented complainant while Attys. Federico A. Bellosillo and Atty. Ildefonso B. Malveda appeared for Judge Bueser.

On 21 July 2003, the Investigating Justice submitted to the Court his report which, in part, read:

"From the facts stipulated at the scheduled hearings in this case, it shows that the motion for reconsideration was deemed submitted on June 4, 2001. The assailed Order dated August 6, 2001 was alleged to have been antedated to date before receipt of the Resolution which granted the change of venue of the criminal case on August 7, 2001. The alleged antedating is denied by the respondent and asserted that there was a delay in the release of the Order due to revisions and/or corrections made therein and his having conferred with other judges whether to release the Order or not. On the other hand, complainant had not presented any evidence to substantiate the alleged antedating of the order.

"However, having released respondent's assailed Order despite receipt of the Supreme Court's Resolution dated June 27, 2001, is a manifestation of his defiance of the order of the superior court which makes him liable for misconduct and violation of the Code of Judicial Conduct.

"x x x

x x x

x x x

"The charge for alleged partiality for having granted the motion for reconsideration on the petition for bail where the accused did not present any evidence/witness is belied by the discussion contained in the Order dated August 6, 2001. The matter falls within the ambit of exercise of judicial appreciation of evidences presented by parties to the case. The complainant correctly applies for the appropriate judicial remedy when they filed a Motion for Reconsideration of the Order dated August 6, 2001. (*Exhibit 'N,' complaint*). The charge should therefore not be favorably considered for lack of sufficient basis."

On the basis of the results of the investigations and his findings, the Investigating Justice concluded:

"ACCORDINGLY it is respectfully recommended that respondent judge be held liable for GROSS MISCONDUCT and violation of the Code of Judicial Conduct and a FINE amounting to TWENTY THOUSAND PESOS (P20,000.00) be imposed upon him with STERN WARNING that a