

EN BANC

[A.M. No. P-02-1555, April 16, 2004]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
ATTY. EDGAR ALLAN C. MORANTE, CLERK OF COURT, REGIONAL
TRIAL COURT, LAS PIÑAS CITY, BRANCH 275, RESPONDENT.**

DECISION

PER CURIAM:

This case stemmed from an anonymous letter dated September 10, 2001 addressed to the Chief Justice from "CONCERNED LAW PRACTITIONERS."^[1] The letter brought to his attention the alleged corrupt acts/practices of respondent Edgar Allan Morante, Branch Clerk of Court of the Regional Trial Court, Las Piñas City, Branch 275. Attached to the letter was a news clipping that appeared in the September 10, 2001 issue of The Metro Daily Tribune, entitled "NBI Agents Nab Las Piñas Clerk of Court for Extort."^[2] The news item reported that the respondent "was caught by government agents in the act of receiving some P.2 million to fix a court decision."^[3]

In a First Indorsement dated September 24, 2001, the matter was referred to the Office of the Court Administrator (OCA) for appropriate action.^[4]

The OCA requested National Bureau of Investigation (NBI) Director Reynaldo G. Wycoco, through Special Action Unit Head Atty. Vicente de Guzman, for a copy of its investigation report and its annexes on the Morante extortion case, and to inform the said office whether the filing of administrative/criminal cases against the subject was recommended.^[5] On January 28, 2002, Deputy Court Administrator Christopher Lock submitted his memorandum on the matter to the Court.

The Court thereafter issued a Resolution dated February 19, 2002, re-docketing the instant case as A.M. No. P-02-1555,^[6] suspending the respondent effective immediately pending the investigation of the case, and referring the administrative matter to Justice Narciso Atienza, Consultant, Office of the Court Administrator, for investigation, report and recommendation.^[7]

Pursuant to the Court's resolution, Justice Atienza conducted a formal investigation of the case.^[8] In due course, the Investigating Justice submitted his report to the Court on January 15, 2003, finding the respondent guilty of grave and serious misconduct and recommending that the respondent be dismissed from the service with forfeiture of all benefits, with prejudice to his appointment in any branch of the government or its agencies or instrumentalities.

The Case for the Complainant^[9].

Tetsuo Momma, a Japanese citizen, was the president of the Montec International

Corporation with principal offices at Lot 2, Block 21, Phase III, Cavite Export Processing Zone Authority, Rosario, Cavite. He employed Jose "Joey" Olavere as his executive secretary, who also acted as his personal interpreter.

Luz Amper filed a criminal complaint against Momma, her former employer, for libel with the Las Piñas City Prosecutor. After the requisite preliminary investigation, an information for libel was filed against Momma on January 28, 2000 with the Regional Trial Court of Las Piñas City, docketed as Criminal Case No. 00-0117. The case was raffled to Branch 255 of the court, presided by Judge Ambrosio Alumbres whose pairing judge was Judge Bonifacio Sanz Maceda, the Presiding Judge of Branch 275 of the court. Momma posted a cash bail bond of P80,000. On March 29, 2000, the court issued a hold departure order against him.

In the meantime, Momma filed a petition for review of the resolution of the Las Piñas City Prosecutor finding probable cause for libel against him. On November 7, 2000, the Secretary of Justice issued a resolution granting Momma's petition for review, reversing the resolution of the City Prosecutor, and directed the latter to file a motion to withdraw the information, and to inform the Secretary of Justice of his action thereon within ten days from notice. Private complainant Luz Amper, through counsel, filed a motion for the reconsideration of the resolution of the Secretary of Justice, but the latter issued a Resolution on January 12, 2001 denying the said motion. She forthwith filed a petition for certiorari with the Court of Appeals (CA), entitled *Luz Amper v. Secretary of Justice*^[10] for the nullification of the said resolution. However, the CA did not issue any temporary restraining order against the respondents and thereafter dismissed the petition.

On December 1, 2000, Momma filed a letter-complaint with the Court against Judge Ambrosio Alumbres, alleging, *inter alia*, that the Judge pressured him into settling the libel case for P7,000,000. According to Momma, the Judge would even call his representative to his chambers in an effort to convince him to settle the case. When he refused, the Judge agreed to reduce the offer to P3,000,000.00. He also complained that the Judge was eager to issue warrants for his arrest although there were no valid reasons therefor. He asked the Court to help him have an impartial judge to decide the libel case.^[11]

On December 2, 2000, Olavere, in behalf of Momma, filed a motion with the RTC Branch 255, for the inhibition of the presiding judge.^[12] Acting on the complaint of Momma, the OCA wrote him on February 5, 2001, requesting that his complaint be executed under oath within ten days. Momma complied with the request.

On March 12, 2001, the State Prosecutor filed a motion with the trial court in Criminal Case No. 00-0117 for the withdrawal of the information, conformably with the resolution of the Secretary of Justice, and the lifting of the hold departure order. Momma, through his counsel Atty. Roberto Garay, filed a motion on April 17, 2001 for the release of his cash bail bond in the amount of P80,000. Because the private complainant was not notified of the hearing of the public prosecutor's motion on May 2, 2001, the court reset the hearing to May 16, 2001, and then reset it anew to June 25, 2001.

On June 3, 2001, Judge Ambrosio Alumbres, Presiding Judge of Branch 255, retired from office. Executive Judge Manuel Fernandez designated Judge Bonifacio Sanz

Maceda, the pairing Judge of Branch 255, as Acting Presiding Judge thereof.

Judge Maceda at times required Ms. Joselita P. Macaldo, Officer-In-Charge (OIC) of the Office of the Deputy Clerk of Court of Branch 255, to make a case summary or a preliminary statement of pending incidents thereon before resolving the same. She also prepared drafts of orders for Judge Maceda's approval and signature, and the latter would either approve the draft and sign the same, or revise it, in which case, the order would be typewritten in Branch 255. Macaldo would then affix her initials below the typewritten name of Judge Maceda before the latter signed the Order.

On June 25, 2001, Momma filed a motion for the lifting of the hold departure order. The said motion was set for hearing on July 2, 2001. Conchita Blanza, Stenographer, Branch 255, RTC, Las Pinas, recorded the proceedings of the hearing. Judge Maceda issued an Order stating that the pending incidents had been submitted for the resolution of the court. On July 3, 2001 OIC Macaldo transmitted the records of Criminal Case No. 00-0117 to respondent Atty. Edgar Allan C. Morante, who was the Deputy Clerk of Court of Branch 255, for the resolution by Judge Maceda of the pending incidents.

Olavere and Momma's counsel, Atty. Garay, followed up the case with the respondent several times for the early resolution of the pending incidents therein. According to Olavere and Momma, the ninety-day period for the resolution thereof had long since elapsed.

On August 20, 2001, Atty. Garay arrived in the house of Olavere, and informed the latter that the respondent had a message: if Olavere wanted a favorable decision in the libel case against Momma, he, Olavere, would have to talk with the respondent to make "arrangements" with the Judge. Olavere forthwith saw the respondent in the latter's office at the Justice Hall in Las Piñas City. The respondent told Olavere that he, the respondent, could have the case against Momma dismissed by Judge Maceda if Momma was willing to come across with P250,000.

When Olavere relayed the respondent's message to Momma, the latter replied that he would have to see the order of dismissal first. Olavere, in turn, relayed Momma's message to the respondent, and the latter told Olavere that Momma would have to pay P50,000 in exchange for an unsigned copy of the order of dismissal of the court. The balance of P200,000 would then be paid to the respondent upon delivery to Olavere of the order of dismissal bearing the signature of Judge Maceda. Olavere informed Momma of the respondent's message. The two agreed to report the matter to the NBI, so that the respondent could be apprehended in *flagrante delicto*.

On August 27, 2001, Momma arrived at the NBI where he executed a complaint-affidavit against the respondent for robbery/extortion. The said affidavit was subscribed and sworn to before Atty. Timoteo Pineda, Jr., the Executive Officer of the Special Action Unit of the NBI. In the said complaint-affidavit, Momma alleged, *inter alia*, that the respondent had requested him to produce P250,000 in exchange for the court's favorable decision in the libel case.^[13] It was also alleged that Momma and Olavere agreed to give P50,000 in consideration for the unsigned order dismissing Criminal Case No. 00-0117.

At about 11:00 a.m. on August 28, 2001, Olavere saw the respondent in his office at the second floor of the Justice Hall in Las Piñas City. The other court personnel

were then having lunch. Olavere gave the P50,000 to the respondent who then gave Olavere an unsigned copy^[14] of the Order dated July 19, 2001 granting the motion to withdraw information filed by the State Prosecutor, Momma's motion for the release of his cash bond, as well as the lifting of the hold departure order. The respondent told Olavere that he would call him as soon as the order had already been signed by Judge Maceda. In the afternoon of the same day, Olavere proceeded to the Special Action Unit of the NBI and gave a sworn statement to Senior Agent Nelson Pacada, alleging, *inter alia*, that the respondent had demanded P250,000 in exchange for the order of dismissal of the libel case against Momma, and that he, Olavere, had already given P50,000 to the respondent earlier that morning in exchange for an unsigned order of the dismissal of the libel case, the balance payable to the respondent upon delivery by him of the order of dismissal duly signed by Judge Maceda.^[15] Olavere gave the NBI the unsigned Order he earlier received from the respondent.^[16]

Momma and NBI Agent Pineda decided to conduct an entrapment operation against the respondent at his office. Momma gave four P500 bills to Pineda bearing Serial Numbers RU582077, RU582078, SW730103 and TX016250 for the operation.^[17] Pineda requested NBI Forensic Chemist, Felicisima Francisco, to subject the four bills contained in the white envelope to fluorescent powder markings.^[18] Francisco also dusted the white envelope with fluorescent powder. She then returned the bills and the white envelope to Pineda. The latter, in turn, placed the four P500 bills on top of other peso bills amounting to P198,000. Since the bills were so bulky, Pineda placed the P200,000 in a brown envelope and sealed the same. The forensic chemist, however, did not dust the envelope with fluorescent powder.

In the meantime, Olavere was able to talk with the respondent over the telephone a couple of times. They agreed that Olavere would deliver the balance of P200,000 to the respondent at his office in the morning of August 31, 2001. In exchange, the respondent would give Olavere the order dismissing the case bearing the signature of Judge Maceda.

On August 29, 2001, Judge Maceda signed an Order granting the Motion to Withdraw Information, the State Prosecutor's Motion to Lift Hold Departure Order, as well as Momma's motion for the release of his cash bond of P80,000. The respondent affixed his initials on the order below the typewritten name of Judge Maceda.^[19] Instead of returning the records of Criminal Case No. 00-0117 to Branch 255 of the RTC for the release of the said order, the respondent kept the said records, including the order of Judge Maceda, and waited Olavere to return with the P200,000.

When Olavere informed Pineda that the respondent had agreed to a meeting in the morning on August 31, 2001 for the payoff, Pineda called the other NBI agents to a pre-entrapment conference and agreed on the mechanics of the operation. Olavere and Pineda agreed that they would proceed to the office of the respondent; Olavere would carry the brown envelope containing the P200,000, while the NBI agents would position themselves strategically nearby. Immediately after delivering the envelope with the money to the respondent, Olavere will give the pre-arranged signal. The NBI agents would then enter the office of the respondent, take him into custody and confiscate from him the P200,000.

Shortly before noon of August 31, 2001, Olavere and NBI Agents Timoteo Pineda, Jr. Marlon Toledo, Joel Toresa, and Dante Sonbar arrived at the second floor of the Justice Hall in La Piñas City. Judge Maceda was absent because he was ill. The agents strategically positioned themselves outside the office of the respondent, while Olavere, with the brown envelope containing P200,000, proceeded to the latter's office. The respondent met Olavere outside the office and brought him inside. The respondent then gave Olavere a copy of the Order in the libel case signed by Judge Maceda, dated August 29, 2001.^[20] Olavere handed over to the respondent the brown envelope containing the P200,000 and gave the pre-arranged signal to the NBI agents who were waiting outside. Instead of opening the envelope and counting the money contained therein, the respondent placed the envelope on top of his table.

When the NBI agents heard Olavere's pre-arranged signal, they entered the office of the respondent. They saw the brown envelope containing the P200,000 on the respondent's table. They took custody of the respondent and the brown envelope, including the money inside. The NBI agents informed the respondent of his constitutional rights and brought him to the NBI headquarters in Taft Avenue, Manila, where he was placed under arrest.^[21] The chemist was unable to examine the brown envelope which contained the bribe money because the NBI agents failed to deliver the same to her.

Olavere gave a sworn statement to NBI Agent Toledo.^[22] The NBI agents executed their joint affidavit of the respondent's arrest.^[23] On the same date, the NBI Director transmitted to Inquest Prosecutor Roberto D. Lao of the Department of Justice the complaint of Momma and Olavere charging the respondent of violating Section 3(b) in relation to paragraph (c) of Republic Act No. 3019.^[24] The respondent submitted his counter-affidavit^[25] and rejoinder^[26] during the preliminary investigation. The respondent was later charged of violating Rep. Act No. 3019 in an Information filed with the RTC of Las Piñas City, docketed as Criminal Case No. 02-0317.

The Case for the Respondent^[27]

The respondent vehemently denied the charges hurled against him. He adopted the counter-affidavit he submitted to the Inquest Prosecutor as his testimony on direct examination before the Investigating Justice. His version of the incident is as follows:

When Judge Bonifacio Sanz Maceda of RTC, Branch 275 took over the numerous cases pending before the sala of Judge Alumbres after the latter retired as Presiding Judge of RTC, Branch 255, an inventory of cases revealed that there were 143 cases with pending incidents; 91 cases submitted for decision which were already beyond the reglementary period for issuing an order, resolution or decision, and 891 other pending cases. The office was deluged by calls from party litigants, their representatives, as well as their respective counsels, who were eager to follow up the status of their respective cases and seek the speedy resolution thereof. One case being followed up with unusual persistence was the criminal case for libel against Momma. The respondent met Atty. Roberto Garay during the third or fourth week of June 2001 when the latter followed up the resolution of the pending