

## FIRST DIVISION

**[ A.M. No. RTJ-02-1717 (Formerly AM OCA IPI No. 00-1107-RTJ), May 28, 2004 ]**

**FERMA PORTIC, COMPLAINANT, VS. JUDGE VICTORIA VILLALON-PORNILLOS, AS PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 10, MALOLOS, BULACAN, RESPONDENT.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This is a complaint for Abuse of Authority and Neglect of Duty filed by complainant Ferma Portic ("complainant") against respondent Judge Victoria Villalon-Pornillos ("respondent Judge") of the Regional Trial Court, Branch 10, Malolos, Bulacan ("Branch 10").

#### The Facts

Complainant is the defendant in Criminal Case No. 05-M-97 ("Case No. 05-M-97") for estafa pending in respondent Judge's sala with one Anastacia Cristobal ("Cristobal") as private complainant. During the trial, the National Bureau of Investigation ("NBI") examined a petty cash voucher<sup>[1]</sup> bearing Cristobal's signature to determine its authenticity. The NBI compared the signature with Cristobal's specimen signatures in other documents.<sup>[2]</sup> The NBI found Cristobal's signature in the voucher authentic but the prosecution, wanting a second opinion, moved for its examination by the Philippine National Police ("PNP") in Camp Olivas, San Fernando, Pampanga. Respondent Judge granted the prosecution's motion in the Order of 5 October 1998<sup>[3]</sup> ("5 October 1998 Order") requiring one Elladora Constantino, NBI Examiner III, to return to Branch 10 all the documents in the NBI's possession. Respondent Judge amended her Order by issuing the Order of 9 November 1998 ("9 November 1998 Order"). This amended Order required one Eliodoro M. Constantino of the NBI Questioned Documents Division to bring the documents to Branch 10, testify on his findings on the documents' examination, and afterwards deliver the documents to Camp Olivas.<sup>[4]</sup>

Branch 10 received the documents on 22 November 1998. However, Mario B. Lopez ("Lopez") and Glenn B. Umali ("Umali"), Acting Clerk of Court and Clerk, respectively, of Branch 10, released the original documents to Cristobal's cousin<sup>[5]</sup> who allegedly undertook to transmit them to Camp Olivas. The release of the original documents to Cristobal's cousin violated respondent Judge's 9 November 1998 Order. This prompted complainant to file administrative charges against Lopez and Umali,<sup>[6]</sup> which this Court referred to Executive Judge Danilo A. Manalastas ("Executive Judge Manalastas") of the Regional Trial Court, Malolos, Bulacan for

investigation, report, and recommendation. During the investigation, Lopez testified that respondent Judge approved the release of the documents.

Because of Lopez's testimony, complainant filed this case. Complainant alleges that respondent Judge had denied her motions for reinvestigation, reduction of bail, dismissal of Case No. 05-M-97 (demurrer to evidence) and voluntary inhibition. Complainant adds that she sought reconsideration of the Order dated 31 July 2000 ("31 July 2000 Order") denying her demurrer to evidence and that she also filed a supplementary motion for inhibition but respondent Judge failed to resolve these motions. Complainant also alleges that respondent Judge has unduly delayed the disposition of Case No. 05-M-97.

In her Comment dated 24 November 2000, respondent Judge denied complainant's allegations. Respondent Judge asserted that she never ordered Lopez or Umali to release the documents to any unauthorized party. Respondent Judge denied orally amending the 5 October 1998 and 9 November 1998 Orders. Respondent Judge disclosed that Lopez has a history of usurping her judicial functions<sup>[7]</sup> and his malfeasance in an election protest case prompted her to revoke his designation as Acting Clerk of Court of her sala. <sup>[8]</sup>

On the 31 July 2000 Order, respondent Judge stated that her finding of *prima facie* case against complainant was based on the facts and the applicable law. Respondent Judge explained that contrary to complainant's claim, she had acted on complainant's motion for reconsideration to the 31 July 2000 Order and on the supplemental motion for inhibition, which the Order of 13 November 2000 denied.

On complainant's allegation that she had unduly delayed the proceedings in Case No. 05-M-97, respondent Judge attributes any delay to complainant's numerous motions on which the prosecution had to be heard. Complainant also refused without justification to present her evidence after the prosecution had rested its case. In addition, the case was re-assigned four times to different prosecutors.<sup>[9]</sup>

In the Resolution of 5 August 2002, we referred this case to Associate Justice Rebecca De Guia-Salvador ("Justice Salvador") of the Court of Appeals for investigation, report and recommendation.

### **The Investigating Justice's Findings**

In her Report ("Report") dated 4 March 2003, Justice Salvador recommended the dismissal of the complaint for lack of merit. The Report reads in pertinent parts:

Anent the charge of abuse of authority which purportedly underlied the denial of complainant's motions for reinvestigation, reduction of bail and demurrer to evidence, respondent Judge acted clearly within the judicial capacity inherent in her position. Long and well-settled is the rule that, when required to exercise his judgment or discretion, a judicial officer is not liable as long as he acts in good faith; bad faith is, therefore, the source of liability. In the absence of any showing of fraud, dishonesty or corruption as in the case at bench, the acts of a judge in his official capacity does not amount to misconduct even if such acts are erroneous. Moreover, the law provides ample judicial remedies against errors or

irregularities committed by a trial court in the exercise of its jurisdiction. The ordinary remedies include a motion for reconsideration and appeal, while the extraordinary remedies are, *inter alia*, the special civil actions of certiorari, prohibition or mandamus, a motion for inhibition, or a petition for change of venue, as the case may be.

With her resolution of complainant's motion for reconsideration and voluntary inhibition on November 13, 2000, there is, on the other hand, no more cause to hold respondent Judge liable for the charge of neglect of duty and/or delaying the trial of Criminal Case No. 05-M-97. Significantly, whatever exceptions complainant harbored against said order had already been effectively rendered moot and academic when respondent Judge issued the Order dated June 6, 2000, voluntarily inhibiting herself from further hearing and resolving the case. By refusing to present her evidence and repeatedly moving for deferment of the scheduled trial in the case, complainant was, moreover, partly responsible for the delay she now gratuitously imputes against respondent Judge.

Neither can respondent Judge be held liable for partiality in supposedly allowing the documents questioned in the case to be entrusted to Max Cristobal, a relative of the private complainant in Criminal Case No. 05-M-97. As admitted by complainant in her affidavit dated December 5, 2002 and during the hearing of January 7, 2003, she had no personal knowledge of the truth or falsity of the charge except thru xxx testimony elicited from Mario Lopez during the hearing conducted on August 31, 2000 in Adm. Matter No. [P-01-1452]xxxx

As the sole evidence relied upon on so grave a charge against respondent Judge, however, [Lopez's] testimony hardly inspires credence. Aside from the fact that the declaration was not even corroborated by Glenn Umali, the witness' co-respondent in Adm. Matter No. [P-01-1452] who, contrariwise, named him as the one who turned over the questioned documents to Max Cristobal, Mario Lopez also contradicted himself [during the investigation] xxxx

Viewed in the light of the October 29, 2002 affidavit executed by his co-employees to the effect that respondent Judge has never amended any previously issued Order except in writing and the latter's categorical denial of knowledge and approval [of the documents' release], the ineluctable conclusion which could be drawn in the premises is that, in excess of the directive contained in respondent Judge's Order dated October 5, 1998, Mario Lopez unilaterally decided to entrust the questioned documents to Max Cristobal. As former Acting Branch Clerk of Court of respondent Judge's sala, Mario Lopez's propensity therefore has been more than amply demonstrated in similar incidents in at least two cases pending before Branch 10 of the Regional Trial Court of Malolos, Bulacan, viz: (a) Civil Case No. 35-M-92, entitled "Julian Francisco vs. Sps. Pelagio and Gregoria Francisco"; and, (b) EPC No. 11-M-98, entitled "Lorna Silverio vs. Jaime Viceo." That Mario Lopez's attempt at self-exculpation by implicating respondent Judge could also be retaliatory is indicated by the open censure he was subjected in the aforesaid cases as

well as the latter's revocation of his appointment as Acting Branch Clerk of Court of her sala.<sup>[10]</sup>

### **The Ruling of the Court**

The Report is well-taken.

Administrative charges against members of the judiciary must be supported at least by substantial evidence.<sup>[11]</sup> Failure to do so will result in the dismissal of the complaint for lack of merit.<sup>[12]</sup>

Here, complainant has presented no credible proof to support her charges against respondent Judge. On her claim that respondent Judge ordered the unauthorized release of the documents in question, complainant's sole evidence is the following testimony of Lopez in A.M. No. P-01-1452:

COURT [EXECUTIVE JUDGE DANILO A. MANALASTAS]

xxx [D]espite your knowledge that Max Cristobal was interested in the outcome of the action and most likely, a sympathizer of Anastacia Cristobal, you entrusted to him the original copies of the questioned documents?

xxxx

MARIO LOPEZ

Yes, Your Honor.

COURT

Why?

MARIO LOPEZ

Considering that it was the prosecution that was requesting for that second opinion, considering that it was the prosecution that was requesting for the said documents to be further re-examined, we entrusted the documents to Max Cristobal with his own undertaking indicated at the dorsal side of the xerox copies of the documents transmitted by the NBI, Your Honor.

COURT

Nevertheless and because of your knowledge of the interest of Max Cristobal in the outcome of this action, you knew very well and it could not have escaped your cognizance of the fact that by entrusting these questioned documents to him, that will give him an opportunity to either switch these with other documents or do something that may adversely affect the interest of the accused, Mrs. Portic considering that there was already a prior finding by the NBI regarding these questioned documents favorable to Mrs. Portic?

MARIO LOPEZ

After all, Your Honor, the documents that were brought by Mr. Cristobal were the documents being presented by the prosecution, Your Honor.