

SECOND DIVISION

[A.M. No. MTJ-04-1563 (Formerly A.M. OCA IPI No. 02-1207-MTJ), September 08, 2004]

LUCILA TAN, COMPLAINANT, VS. JUDGE MAXWEL S. ROSETE, RESPONDENT.

DECISION

PUNO, J.:

Lucila Tan filed the instant complaint against Judge Maxwel S. Rosete, former Acting Presiding Judge, Metropolitan Trial Court, Branch 58, San Juan, Metro Manila,^[1] for violation of Rule 140 of the Revised Rules of Court and the Anti-Graft and Corrupt Practices Act (Republic Act No. 3019).

The complaint alleged that Lucila Tan was the private complainant in Criminal Case No. 59440 and Criminal Case No. 66120, both entitled People of the Philippines vs. Alfonso Pe Sy and pending before Branch 58, Metropolitan Trial Court of San Juan, Metro Manila, then presided by respondent judge. Before the cases were decided, respondent judge allegedly sent a member of his staff to talk to complainant. They met at Sangkalan Restaurant along Scout Albano, near Timog Avenue in Quezon City. The staff member told her that respondent was asking for ₱150,000.00 in exchange for the non-dismissal of the cases. She was shown copies of respondent judge's Decisions in Criminal Cases Nos. 59440 and 66120, both still unsigned, dismissing the complaints against the accused. She was told that respondent judge would reverse the disposition of the cases as soon as she remits the amount demanded. The staff member allowed complainant to keep the copy of the draft decision in Criminal Case No. 59440. Complainant, however, did not accede to respondent's demand because she believed that she had a very strong case, well supported by evidence. The criminal cases were eventually dismissed by respondent judge.^[2]

Respondent judge, in his Comment, denied the allegations of complainant. He instead stated that it was complainant who attempted to bribe him in exchange for a favorable decision. She even tried to delay and to derail the promulgation of the decisions in Criminal Cases Nos. 59440 and 66120. Complainant also sought the intervention of then San Juan Mayor, Jinggoy Estrada, to obtain judgment in her favor. Mayor Estrada allegedly talked to him several times to ask him to help complainant. The former even called him over the phone when he was in New Zealand, persuading him to hold in abeyance the promulgation of the Decisions in said cases. But he politely declined, telling him that there was no sufficient evidence to convict the accused, and moreover, he had already turned over the Decisions to Judge Quilatan for promulgation. Respondent further stated that complainant kept bragging about her close relations with Mayor Estrada who was her neighbor in Greenhills, San Juan, and even insinuated that she could help him get appointed to a higher position provided he decides the suits in her favor. Respondent judge also

claimed that complainant offered to give cash for the downpayment of a car he was planning to buy. But he refused the offer. Finally, respondent judge denied that a member of his staff gave complainant a copy of his draft decision in Criminal Case No. 59440. He said that he had entrusted to Judge Quilatan his Decisions in Criminal Cases Nos. 59440 and 66120 before he left for New Zealand on study leave. Thus, he asserted that it was impossible for him to thereafter change the resolution of the cases and it was likewise impossible for any member of his staff to give complainant copies of said Decisions.^[3]

In a resolution dated December 2, 2002, the Court referred the complaint to the Executive Judge of the Regional Trial Court of Pasig City for investigation, report and recommendation.^[4]

First Vice Executive Judge Edwin A. Villasor conducted several hearings on the administrative case. Only complainant Lucila Tan testified for her side. She presented as documentary evidence the copy of the unsigned Decision in Criminal Case No. 59440 dated February 23, 2001 which was allegedly handed to her by a member of respondent judge's staff.^[5] Respondent judge, on the other hand, presented four (4) witnesses: Josefina Ramos, Rodolfo Cea (Buboy), Fernando B. Espuerta, and Joyce Trinidad Hernandez. His documentary evidence consists of the affidavits of his witnesses,^[6] copy of the Motion for Reconsideration in Criminal Case No. 59440,^[7] and various documents composed of the machine copy of the Order of Arrest in Criminal Case No. 117219, machine copy of the letter dated December 29, 1997, machine copy of Certification dated Nov 13, 2000, front and dorsal sides of Check No. QRH-0211804, Bank Statement dated March 31, 1998, Stop Payment Order dated April 6, 1998, Current Account Inquiry, and Transaction Record, which documents were allegedly given by complainant to respondent's witness, Fernando B. Espuerta.^[8]

The Investigating Judge summarized the testimonies of the witnesses as follows:

COMPLAINANT'S VERSION:

1. LUCILA TAN

Complainant Lucila Tan testified that she knew Respondent Judge because she had a case in Branch 58, MeTC, San Juan, Metro Manila. She alleged that, in September 1998, she filed two cases involving B.P. 22 and Other Deceits with the Prosecutor's Office in Pasig. After resolution, the cases were filed in the MeTC, San Juan. One case went to Branch 57 and the other one went to Branch 58, where Respondent Judge Rosete was the Presiding Judge. Judge Quilatan was the Presiding Judge of Branch 57. Upon advise of a friend, she moved for consolidation and the two cases were transferred to Judge Quilatan in Branch 57. Subsequently, in view of the Motion for Inhibition filed by Complainant's lawyer, Judge Quilatan inhibited himself and the two cases were transferred to the sala of Respondent Judge Rosete (**TSN, pp. 9-16, Hearing of March 3, 2003**). After several hearings, the Clerk of Court, named Joyce, called up the Complainant and advised her to talk to San Juan Mayor Jinggoy Estrada to seek for (*sic*) assistance. Joyce gave

her the phone number of the Office of the Mayor (**TSN, pages 17-18, Hearing of March 3, 2003**). Complainant then called up the Office of the Mayor but her call was intercepted by Josie, the Mayor's Secretary. When she told Josie why she called, the latter asked her if she wanted to meet the Judge and when Complainant answered in the affirmative, Josie made arrangements for Complainant to meet the Judge (**TSN, pages 19-21, Hearing of March 3, 2003**). Complainant called up the Office of the Mayor sometime in November or late October 2000 and she met the Judge on November 10. She, Josie and Respondent Judge met at the Cravings Restaurant in Wilson, San Juan (**TSN, page 22, Hearing of March 3, 2003**). During the meeting, Complainant "told the Judge regarding this matter, how this happened and that he will convince the Accused to pay me as soon as possible" (**TSN, page 23, Hearing of March 3, 2003**). When she went to the restroom for a few minutes, Respondent Judge and Josie were left alone. After she came back, they went home. On the way home, Josie told her to give something to [the] Judge, "*Sabi niya magbigay tayo ng kaunti para bumilis iyong kaso mo*" (**TSN, page 24, Hearing of March 3, 2003**). At first, Josie did not mention any amount but when the Complainant asked her how much, the former mentioned Fifty Thousand Pesos (P50,000.00). Complainant asked for a lesser amount, Twenty Thousand Pesos (P20,000.00) (**TSN, page 25, Hearing of March 3, 2003**). When Josie agreed, she sent the amount of P20,000.00 to Josie through her driver after two days (**TSN, pages 26-27, Hearing of March 3, 2003**). When Josie received the money, the Clerk of Court, Joyce, also called her (Complainant) on that date. The Clerk of Court asked her if she sent money. At first, Complainant denied it but the Clerk of Court said that Josie went there and there was money in the drawer (**TSN, pages 28-29, Hearing of March 3, 2003**). After that, several hearings were on-going, and before the resolution, Joyce called up the Complainant again around February 2001. Complainant was in Baguio when Joyce called saying that she had an important thing to tell to (*sic*) the Complainant. After Complainant got back to Manila, Joyce called her again and said that she will show Complainant something. When they were in Complainant's car in San Juan, Joyce showed Complainant two unsigned Decisions of the case[s]. After reading the Decisions, Complainant saw that the cases were dismissed and that it will be dismissed if she will not accede to Joyce's request (**TSN, pages 30-33, Hearing of March 3, 2003**). Complainant claimed that Joyce asked for Php 150,000.00 for each case. "*Sabi niya it [was] for Judge daw, kailangan daw ni Judge because he is leaving at that time*" (**TSN, page 34, Hearing of March 3, 2003**). Complainant identified the copy of the Decision in Criminal Case No. 59440 for Other Deceits, dated 23 February 2001, which was marked as Exhibit "A" for the Complainant (**TSN, pages 35-38, Hearing of March 3, 2003**). Complainant further alleged "*Sabi niya, if I will accede to that request of P150,000.00 for each case then they will (sic) going to reverse the Decision*" and "*Si Judge daw*" will reverse the Decision. Complainant met with Joyce around February 2001

(**TSN, page 39, Hearing of March 3, 2003**). Complainant further claimed that Joyce told her to go to Mayor because he is a friend of the Judge. Complainant went again to the Office of the Mayor to seek the Mayor's help and she met the Mayor at his Office in San Juan. The Mayor called up the Judge but he was not around so the Clerk of Court, Joyce, was called. Joyce went to the Office of the Mayor and when she arrived, she said that the Judge was out of the country (**TSN, pages 40-41, Hearing of March 3, 2003**). The Mayor asked for the phone number of Respondent Judge Rosete, which Joyce gave. Mayor Estrada was able to get in touch with the Judge. While the Mayor was talking in (*sic*) the phone with the Judge, Complainant was in front of the Mayor (TSN, pages 42-43, Hearing of March 3, 2003). Complainant heard the Mayor "because his voice is very loud." He said, "*Judge, Saan ka? Sabi niya New Zealand. When were you coming back? I do not know what is the answer and then he said, you help my friend naswindler siya, pabilisin mo ang kaso niya para matapos na kasi matagal na iyan*" (**TSN, page 43, Hearing of March 23, 2003**). After that they left the Office of the Mayor and Complainant was not able to approach Mayor Estrada again. Since the Complainant was still carrying the Decision, and being afraid that it will be promulgated already, she sought the advi[c]e of her friends. The Complainant showed the decision to the Prosecutor in San Juan at that time (**TSN, pages 44-45, Hearing of March 3, 2003**). The Prosecutor told the Complainant that she is going to meet with the Judge when he comes back from New Zealand. Complainant testified that, sometime in April, in Sangkalan, Quezon City, a night life restaurant, she met Respondent Judge Rosete. She was with two (2) Prosecutors. When she arrived at Sangkalan at about 8:30 in the evening, Judge Rosete was already in the company of several men whom she got to know as Fernan and Buboy (**TSN, pages 46-48, Hearing of March 3, 2003**). After eating and drinking, the Complainant left at around 10:30 in the evening. While they were inside, Complainant claimed that she did not say anything at all and it was the Prosecutor who talked in her behalf. She was the one who paid all the bills which amounted to Six Thousand Pesos (P6,000.00). When Complainant left, only they, three (3) girls, left while the Judge and his company were still there drinking. While Complainant was waiting for her car outside, a man came over from behind (**TSN, pages 49-50, Hearing of March 3, 2003**). Complainant did not know him but she asked the Prosecutor later after the man left. The Complainant said that the man asked if he could have an advance, which she understood as a payment, and she told the Prosecutor. Complainant heard the Prosecutor say that she already talked to the Judge. The man left and went back inside the restaurant (**TSN, page 51, Hearing of March 3, 2003**). Complainant said that when she did not give the money she was still scared because there will already be a promulgation and she did not know whether it will be in her behalf (*sic*) or not. Complainant did not give anything aside from the P20,000.00 because her case was very strong and she had all the papers and evidence and that she promised them that she will give them after

she was (*sic*) able to collect all the debts. Complainant did not know the actual date of the promulgation but somebody from the Office of Respondent Judge called her up in her house and told her not to go to the promulgation. When Complainant asked why, "*Sabi niya baka mapaiyak daw ako kasi alam na daw nila ang decision. Sabi niya ako na lang ang magdedeliver ng case ng promulgation.*" She received the decision when she sent her driver to pick it up. The caller said that the decision was unfavorable to her (**TSN, pages 52-55, Hearing of March 3, 2003**).

RESPONDENT'S VERSION:

1. JOSEFINA RAMOS

She testified that she was the Private Secretary of Mayor Jinggoy Estrada, the former Mayor of San Juan, Metro Manila, since he was Vice Mayor of San Juan. In 2000 and 2001, she was already the Secretary of Mayor Jinggoy (**TSN, page 7, Hearing of September 9, 2003**). She met Lucila Tan when the latter went to the Mayor's Office together with Tita Pat, the sister of President Estrada, but she could no longer remember the year. Lucila Tan went to the Office, together with Tita Pat, and they were seeking the help of Mayor Jinggoy because they have a case. She did not know the case because they were talking to Mayor Jinggoy. She could no longer remember how many times Lucila Tan went to the Office of Mayor Jinggoy Estrada. She did not know what Lucila Tan wanted from Mayor Jinggoy Estrada or how close Lucila Tan was to him (**TSN, pages 8-11, Hearing of September 9, 2003**). She denied that she met Lucila Tan at the Cravings Restaurant and that she suggested to Lucila Tan to give Fifty Thousand Pesos (₱50,000.00) to Judge Rosete to speed up or facilitate her cases but that Lucila Tan agreed for only Twenty Thousand Pesos (₱20,000.00). She claimed that she did not know what Lucila Tan was talking about regarding the money. There was no occasion that she suggested or even intimated to Lucila Tan the idea of giving money to Judge Rosete. She denied that she met with Lucila Tan and Respondent Judge at Cravings Restaurant along Wilson Street in San Juan, Metro Manila. She identified her Sworn Statement, subscribed on February 5, 2003, which was marked as Exhibit "1" (**TSN, pages 12-16, Hearing of September 9, 2003**). She denied that Lucila Tan gave anything to her (**TSN, page 17, Hearing of September 9, 2003**).

2. RODOLFO CEA

He testified that his acquaintances usually call him "Buboy" and for about two years or more he had no occupation. Two years before, he was a Clerk III at Metropolitan Trial Court, Branch 58, San Juan. He knows Lucila Tan because, when he "was still working as Clerk in San Juan, she approached me and asked if I can introduce her to Judge Rosete and eventually asked for a favorable decision against her case." He could not remember anymore when that was because