

## EN BANC

[ A.M. No. RTJ-04-1881, October 14, 2004 ]

**EVER EMPORIUM, INC. COMPLAINANT, VS. JUDGE BONIFACIO SANZ MACEDA, EXECUTIVE JUDGE, RTC BRANCH 275, LAS PIÑAS CITY, AND ATTY. EDGAR ALLAN MORANTE, BRANCH CLERK OF COURT, RESPONDENTS.**

[A.M NO. RTJ-04-1882.]

**ATTY. RACQUEL CRISOLOGO- LARA, CLERK OF COURT VI, OFFICE OF THE CLERK OF COURT, RTC, LAS PIÑAS CITY, COMPLAINANT, VS. JUDGE BONIFACIO SANZ MACEDA, EXECUTIVE JUDGE, RTC BRANCH 275, LAS PIÑAS CITY, AND ATTY. EDGAR ALLAN MORANTE, BRANCH CLERK OF COURT, RESPONDENTS.**

### D E C I S I O N

**CALLEJO, SR., J.:**

The instant consolidated administrative cases involve Executive Judge Bonifacio Sanz Maceda and former Branch Clerk of Court Atty. Edgar Allan Morante, both of the Regional Trial Court (RTC), Branch 275, Las Piñas City, for gross violation of the Code of Judicial Conduct and for serious or grave misconduct prejudicial to the administration of justice.

In a Letter<sup>[1]</sup> dated September 3, 2001 addressed to the Chief Justice, Atty. Racquel Crisologo-Lara, Clerk of Court VI, Office of the Clerk of Court, RTC, Las Piñas City, narrated the following events that gave rise to the instant administrative matter:

At about 10:00 a.m. on August 15, 2001, respondent Morante approached Atty. Crisologo-Lara and requested that LRC Case No. LP-01-0070<sup>[2]</sup> be assigned to their branch. Respondent Morante apparently wanted to do a favor to his former law professor who was handling the said case. Atty. Crisologo-Lara directed him to consult the matter with the respondent judge. Respondent Morante later told her that he had already informed the respondent judge *via* telephone call and that the latter was agreeable to the arrangement. Atty. Crisologo-Lara then acquiesced to the request and the raffling of the cases then proceeded as scheduled.

At about 4:00 p.m. the next day, Atty. Crisologo-Lara went to the respondent judge's office and told him about the previous day's events. She added that she had only granted respondent Morante's request because the latter told him that he (the respondent judge) already knew about it, but that she could do no more of it in the future because of her "nervousness." The respondent judge informed her that he had learned about the matter only after the raffling of the cases.

At about 9:30 a.m. of August 17, 2001, respondent Morante informed Atty.

Crisologo-Lara that the respondent judge scolded him after she left his office the previous afternoon since the respondent judge apparently did not want her to know that he had "approved" the transfer of the case to his sala prior to the raffle. Respondent Morante requested Atty. Crisologo-Lara to say that it was all a misunderstanding, but she replied that she had only told the respondent judge the truth. About half an hour later, respondent Morante returned with a case folder, placed it on top of Atty. Crisologo-Lara's table and said, "Atty., eto ho ang sa inyo," to which the latter replied, "Anong sa inyo?" Respondent Morante answered, "Ihiningi kita sa Professor ko." Atty. Crisologo-Lara did not touch the folder and told respondent Morante that money did not play a role when cases were raffled to their branch. Respondent Morante took the folder back and left the office.

At about 11:00 a.m. on August 22, 2001, Atty. Crisologo-Lara told respondent Morante that she would request the respondent judge for her exclusion in future raffles of cases, as it was in conformity with a Supreme Court circular. She stated that she did not want the previous week's incident to be repeated, and would feel better if she no longer participated in the raffling of cases. She and respondent Morante then went to the respondent judge's chambers to tell the latter about the request, but as she started to speak, the respondent judge exploded and began shouting at her, told them to get out of his office and settle matters between themselves. The respondent judge used words like "punyeta" and "stupid."

At about 2:00 p.m. on August 28, 2001, Atty. Crisologo-Lara went to the respondent judge's chambers to apologize and related to him that respondent Morante's "favor" was the primary reason why she no longer wanted to participate in the raffle of cases. The respondent judge called respondent Morante and asked him about the matter and the latter admitted asking his professor for the "favor." Upon the respondent judge's prodding, respondent Morante revealed that the amount involved was P10,000.00. The respondent judge asked where the money was, and respondent Morante at first replied that he had returned it to his professor. He later on recanted this, and said that the money was given to him as commissioner's fee for the reception of evidence *ex parte*. Atty. Crisologo-Lara initially thought that she and the respondent judge had parted on an amicable note, but was bothered by the latter's final words: "he had thought that she was a hindrance and he knew how to eradicate hindrances."

At about 9:30 a.m. on August 30, 2001, the respondent judge called Atty. Crisologo-Lara from his house and told her to prepare a memorandum regarding the unloading of cases to newly created branches. She started to ask him if she could base her report from June 30, 2001, but the respondent judge shouted at her, and told her not to throw any problem back at him.

Atty. Crisologo-Lara added that she had written the letter in compliance with the directive of the Chief Justice, and "not as a formal lodging of [a] complaint against anybody."<sup>[3]</sup>

The respondent judge denied these allegations in his Comment<sup>[4]</sup> dated September 26, 2001. He claimed that respondent Morante made no such call to him, and insisted that he would not have agreed to such an irregular assignment of LRC Case No. LP-01-0070. He maintained that he kept his staff at arm's length, and would

immediately have lambasted respondent Morante if he had ever made such a request. He further narrated as follows:

What I recall is that Atty. Lara came to tell me in [the] Chambers that Atty. Morante asked her a favor to raffle the aforesaid case to my sala but she refused. My immediate response was "good" and that she was correct in refusing because I can never tolerate the fixing of the raffle of cases. I thus instructed her not to entertain in the future any request by anyone to fix the raffle because she can be sure I can never allow it.

While it is true that I scolded Atty. Morante after Atty. Lara left my office, it is NOT TRUE I told Atty. Morante I did not want Atty. Lara to know that I approved of Atty. Morante's asking for that case prior to that raffle.

The truth is that I was furious when I scolded Atty. Morante who denied Atty. Lara's allegation. He explained that Atty. Lara may be sowing intrigues to discredit him. Atty. Morante stated [that] he never asked Atty. Lara to fix any case to my sala. He related that after the LRC Case was raffled to my sala, Atty. Lara hinted to him to give her money for allegedly fixing the case to my sala.

Atty. Morante told me that he was surprised because he never asked for that case and that raffle on August 15 was conducted in due course. The representatives of the other salas who attended the raffle attested to that as shown by their signatures on the minutes of the raffle.

But in order not to embarrass Atty. Lara, Atty. Morante offered to waive in her favor the designation as commissioner to receive evidence since the case is *ex-parte*. That way Atty. Lara could deal directly with the petitioner's counsel who happens to be his professor for any commissioner's fee. Atty. Morante denied offering money, much less P10,000, to Atty. Lara.<sup>[5]</sup>

The respondent judge admitted that Atty. Crisologo-Lara came to see him in his chambers on August 22, 2001, and that respondent Morante was, likewise, present. She also asked to be excluded from the raffle of cases in the future, considering that according to a Supreme Court circular, she is not required to participate therein. Her insistence prompted the respondent judge to raise his voice and say to her, "*Ang tagal-tagal mo nang nagra-raffle, ngayon ka pa magpapa-exclude. Nang-iinsulto ka ba?*" He added, "*Kung may problema kayong dalawa, ayusin ninyong dalawa sa labas at huwag 'nyo ako idamay sa problema ninyo.*"<sup>[6]</sup> According to the respondent judge, he never insulted Atty. Crisologo-Lara, let alone utter invectives at her.

Respondent Morante, likewise, denied the allegations against him.<sup>[7]</sup> According to the respondent:

... The regularity of the raffle is evidenced by the Minutes of the proceedings duly signed by aforesaid personalities, Atty. Lara herself included, and the Affidavit of the Stenographer who assisted in the raffle, Mrs. Leticia Agbayani (Annexes A, and B). The raffle was conducted on the lawyer's table w[h]ere I was seated opposite Atty. Lara, while on my right side was Ms. Agbayani, the stenographer. Atty. Lara was flanked by

(sic) both sides by Mr. Pacquing and Atty. Bato. At the juncture of the raffle, the remaining cases to be raffled were two (2) civil cases and two (2) LRC cases. Atty. Lara got four (4) pieces of paper and wrote therein the numbers of those cases, as indicated in the list of cases, to wit: numbers 43, 44, 45 and 46, respectively. She then personally rolled all of these pieces of paper, then shuffled them on the table and then took them in her hands and shook them further. The representative of Branch 255 took two pieces, Branch 254 took one, and Branch 275 took one, as instructed by Atty. Lara in accordance with the ratio of distribution of cases. Branch 255 got cases numbered as nos. 43 and 45, Branch 253 got no. 44 and Branch 275 got no. 46. Number 46 is LRC Case No. 01-0070 entitled "In re: Ex-parte Petition for Issuance of Writ of Possession, Allied Banking Corporation, petitioner." The raffle was then reviewed by Atty. Bato who recapitulated the results of the raffle. The raffle was then concluded.<sup>[8]</sup>

Respondent Morante alleged that the raffle was done in the courtroom of Branch 275 in the presence of many people, most of whom were newspaper representatives waiting for the next raffle of publications. As such, the raffling of LRC Case No. 01-0070 could not have been rigged as alleged by Atty. Crisologo-Lara. He stressed that the regularity of the conduct of the raffle was duly supported by evidence prepared by Atty. Crisologo-Lara herself, such as the minutes of the raffle<sup>[9]</sup> and the transmittal of the cases. Respondent Morante further narrated as follows:

On August 28, 2001, Atty. Lara went to the chambers of Judge Maceda. It is not true that her primary reason for her "hesitance" to join the raffle was due to the so-called "favor." The real reason was because of the previous memorandum issued by Judge Maceda making drastic reforms in the manner of the raffle of cases and publications (Copies of which are attached as H and I). Said Memorandum clipped Atty. Lara's powers considering that in the past she was the one who personally conducted the raffle of publications not in open court but in her office only. And in the raffle of cases, it was only pieces of paper that was used and not bingo paraphernalia and it was Atty. Lara who personally distributed the pieces of paper. That practice of Atty. Lara was set aside by Judge Maceda in Memorandum No. 04-2001 directing that the raffle of cases be done in open court personally by the Executive Judge with the use of bingo paraphernalia pursuant to existing Supreme [Court] Circulars (Annex J).

It is true that Judge Maceda called me inside the chambers while Atty. Lara was there, but it was not because of the alleged "favor" and I have no idea w[h]ere Atty. Lara got the figure of P10,000.00 Judge Maceda did not, in any portion of our conversation, ask about the alleged money simply because there was no such conversation.<sup>[10]</sup>

Thereafter, in a Letter-Complaint dated October 3, 2001, Atty. Dale Michael T. Villaflor, counsel for complainant Ever Emporium Inc., charged the respondents with gross violation of the Code of Judicial Conduct and serious or grave misconduct prejudicial to the proper administration of justice.

According to the complainant, it commenced an action for Annulment of Foreclosure

Proceedings and Damages with Prayer for Temporary Restraining Order and/or Writ of Preliminary Injunction<sup>[11]</sup> before the RTC of Las Piñas City against Allied Banking Corporation, Sheriff Antolin L. Obsequio, Jr., and the Register of Deeds of Las Piñas City on February 4, 2000. The said case was docketed as Civil Case No. LP 00-0023 and was raffled to Branch 254, presided by Judge Manuel V. Fernandez, Jr. After hearing, the complainant's application for a Writ of Preliminary Injunction was granted by the trial court in an Order<sup>[12]</sup> dated March 28, 2000. In a desperate move, Allied Bank filed an *Ex-Parte* Petition for Issuance of Writ of Possession<sup>[13]</sup> before the RTC of Las Piñas City, docketed as LRC No. 01-0070.

According to the complainant, the respondent judge issued a Writ of Possession in favor of Allied Bank in an Order<sup>[14]</sup> dated September 27, 2001 despite full knowledge of the existence of the writ of preliminary injunction previously issued against the latter. Such act, according to the complainant, showed the respondent judge's gross disrespect and disregard for a lawful writ issued by a competent court.

On September 28, 2001, the complainant filed an Urgent Motion for Reconsideration with Motion to Quash Writ of Possession<sup>[15]</sup> which was set for hearing at 8:30 a.m. of October 1, 2001. On even date, Allied Bank filed an Urgent *Ex-Parte* Motion to Allow Force Opening of Padlocked Premises<sup>[16]</sup> before the respondent judge's court. Despite the pendency of this motion and only a few hours upon receipt thereof, the respondent issued an Order<sup>[17]</sup> granting the same on September 28, 2001. According to the complainant, the litigious nature of such motion and the respondent judge's failure to require it to file its comment thereon demonstrates the latter's undue inclination to favor Allied Bank. The complainant further pointed out that even prior to the issuance of the break-open order, Allied Bank had already taken steps to mobilize police officers, giving the impression that the motion for the issuance of the break-open order was already a "done deal."<sup>[18]</sup>

It was further averred that during the hearing of October 1, 2001, the complainant's Urgent Motion for Reconsideration was sought to be withdrawn, the same having been rendered moot and academic with the consequent implementation of the writ of possession. However, the respondent judge denied the said motion to withdraw and instead ordered Allied Bank to comment on the motion for reconsideration. It was pointed out that such motion to withdraw was clearly non-litigious and could have been acted upon immediately; as such, the respondent's actuations displayed his partiality, an "apparent attempt to thwart Ever Emporium's attempt to seek immediate legal remedies before a higher court."<sup>[19]</sup>

The letter-complaint, likewise, made reference to the letter of Atty. Crisologo-Lara in this manner:

Gleaned from the letter of Atty. Lara, Atty. Morante approached and requested the former to have said case assigned to the sala of Judge Maceda. Atty. Morante even bragged [about] the fact that Judge Maceda knew and consented to such request. Atty. Morante even tried to bribe Atty. Lara obviously for having the case assigned to their Court.

Judge Maceda, by taking undue interest in the case and by agreeing and consenting to the illegal and anomalous request of Atty. Morante, has