

## SECOND DIVISION

**[ A.M. No. MTJ-03-1509 (A.M. OCA No. IPI 99-697-MTJ), September 23, 2003 ]**

**HELEN GAMBOA-MIJARES, COMPLAINANT, VS. JUDGE MANUEL Q. LIMSIACO, JR., MCTC, VALLADOLID, NEGROS OCCIDENTAL, RESPONDENT.**

### DECISION

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

The instant administrative complaint arose when Helen Gamboa-Mijares filed a sworn letter-complaint<sup>[1]</sup> charging Judge Manuel Q. Limsiaco, Jr., 4<sup>th</sup> Municipal Circuit Trial Court (MCTC), Valladolid-San Enrique-Pulupandan, Negros Occidental, with Gross Misconduct and Violation of Section 3(e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, relative to Criminal Cases Nos. RTC-1364, RTC-1367 and RTC-1343.<sup>[2]</sup>

The complainant is the complaining witness in the aforementioned criminal cases. She alleged, *inter alia*, that in May of 1998, respondent Judge Limsiaco issued orders releasing the accused William Uytiepo, Luis Egida and Silvestre Villanueva. On June 24, 1998, she went to the MCTC of Valladolid to request for copies of the bonds mentioned in the order of release. To her surprise, the court had no record of the bonds mentioned and even of the release order itself. She waited for the respondent judge who arrived at 12:00 noon with a certain Eulogio Villarma. The latter was introduced to her as a bondsman. When the complainant inquired about the irregularity she discovered, the respondent judge promised that the bail bonds would be ready in two weeks. He explained that the annotation on the title of the property used for the bonds was still being processed.

Two days later, or on June 26, 1998, the complainant had the accused Uytiepo, Egida and Villanueva arrested by Warrant Officer Mateo Cabus during a court hearing in Escalante, Negros Occidental. Since they were carrying with them machine copies (although unauthenticated) of the Orders of Release allegedly issued by the respondent judge, the accused were subsequently released. The complainant thereafter reported the matter to the Escalante Police Station, where a certification<sup>[3]</sup> was issued at her request. The complainant insisted that no order of release had been admitted before the RTC, San Carlos City, Branches 57 and 59 and that pending warrants of arrest for the accused were existing. This was confirmed by Prosecuting Fiscal Estefanio Libutan, Jr., who was present at the time. The complainant thus concluded that Police Officer Cabus was in cahoots with the accused.

On July 3, 1998, the complainant returned to Valladolid to complain to Judge Limsiaco about the irregularity and the unfairness he had caused. This time, Judge Limsiaco was at his residence in San Enrique and was preparing to leave for Bacolod

City with Villarma. The complainant rode with them and along the way, Villarma admitted that he allowed the use of his land title for a fee, depending on the amount of the bail bond. He further admitted that the Uytiepos were personal friends of his.

When the complainant mentioned that it was highly irregular for the respondent to issue orders of release before the bail bonds were actually accomplished, the latter replied, "court orders are flexible and as long as the accused appears in court for hearings, it is alright."<sup>[4]</sup>

On October 29, 1998, Judge Roberto S. Javellana of the RTC of San Carlos City, Branches 57 and 59, ordered the MCTC of Valladolid to forward the bail bonds, order of release and supporting papers for the accused Uytiepo in Criminal Cases Nos. RTC-1364, RTC-1367 and RTC-1343.<sup>[5]</sup>

On December 3, 1998, Clerk of Court Ignacio D. Denila of the MCTC of Valladolid responded with a letter-explanation that no bail bonds of the aforementioned criminal cases had passed through or were ever posted before his office and that he had no knowledge of the same. He advised the complainant to personally see the presiding judge regarding the matter.<sup>[6]</sup>

The complainant was able to secure a certified true copy of the land title used as property bail bond by the accused Uytiepo, under Transfer Certificate Title (TCT) No. 160427, registered in the name of Eulogio Villarma.<sup>[7]</sup> She attached the same to her complaint,<sup>[8]</sup> and pointed out that under the portion "Memorandum of Encumbrances," there were twenty-two entries, all for bailbonds, and all issued by the respondent judge.<sup>[9]</sup> The complainant alleged that it was clearly evident that the said land title was being used "commercially" by the owner, with the collaboration of the respondent judge. The complainant also pointed out that –

The total amount of bailbonds has summed up to P726,400.00 while the assessed value is only P650,000.00 on the tax declaration attached herewith. Is this proper and legal to have so many bail bonds on one land title?<sup>[10]</sup>

The complainant further disclosed that the accused Uytiepo, Egida, and Villanueva who were ordered released in May 1998 had their bonds annotated only six months later, as evidenced by entries made in the TCT.<sup>[11]</sup>

Finally, the complainant alleged that the respondent judge extorted money from an accused in a criminal case in exchange for the issuance of an order of provisional release. According to her letter, sometime in September 1998, the complainant sought the assistance of the NBI. She was informed that a similar case had been investigated and that the accused in the said case, a certain Eladio Misterio, was arrested and detained in the Bacolod City Jail because the RTC of Bacolod City did not honor the order of release which had been issued by the respondent judge. While in prison, Misterio wrote a Letter dated September 25, 1998 to the respondent judge about rescinding their "transaction" and taking back the P40,000 he paid for the Order of Provisional Release because he was in prison anyway. A machine copy of Misterio's handwritten letter was supplied to the complainant. Atty. Ed Caratao of the NBI allowed the complainant to use the letter as part of her present complaint.<sup>[12]</sup>

In a First Indorsement dated May 21, 1999, the Office of the Court Administrator (OCA) required the respondent judge to file his Comment on the sworn letter-complaint.<sup>[13]</sup> In a First Tracer dated August 7, 2000, the OCA, in view of the respondent's failure to comply with the earlier order, directed the respondent to submit the required Comment within five days from receipt; otherwise, the case would be submitted for the Court's consideration.<sup>[14]</sup>

In his Comment dated September 23, 2000, the respondent judge apologized for being unable to file the same on time, reasoning that he was then concentrating on his workload as MCTC judge. According to him, the criminal bail bonds that emanated from his court were all issued in accordance with law. In fact, Judge Javellana of the RTC of San Carlos City did not cancel the bail bond posted for Uytiepo and his "poor laborers." To further support his claim, the respondent judge attached an affidavit executed by William M. Uytiepo dated September 22, 2000<sup>[15]</sup> where the affiant denied any irregularity in the issuance of the bail bond. Uytiepo stated that he and his co-accused personally appeared before the respondent judge before the release papers were issued, and further explained, thus:

All said criminal bail bond[s] were duly annotated in the title of our bondsman Eulogio Villarma. As a matter of fact, the total amount of bail bond annotated at said title amounted only to P574,200.00 and not P726,400.00 as computed by said Helen Gamboa-Mijares. The total market value of said title is P1,627,043.01 and the assessed value is P650,820.00 as of 1998, a xerox copy of which is hereto attached as Annex "A." The Province of Negros Occidental and all the Municipalities therein are now increasing the assessment of all land which will amount to almost double of their previous assessment for the purpose of increasing the land tax collection of the government and also due to the increase in the value of the land.<sup>[16]</sup>

Reiterating the contents of Uytiepo's affidavit, the respondent judge explained that there were other accused in criminal cases whose bail bonds were annotated in TCT No. 160427 but had long been dismissed; it just so happened that the said dismissals were not annotated in the title.<sup>[17]</sup> The respondent attached the respective orders of dismissal in two criminal cases<sup>[18]</sup> where the said title was used as property bail. The bail bonds in the said criminal cases<sup>[19]</sup> amounted to P36,000, and if deducted from the amount of P574,200 would result to only P538,200, an amount much lower than its assessed value of P650,820.<sup>[20]</sup>

Villarma, the bondsman and owner of the property, also executed an Affidavit dated August 28, 2000<sup>[21]</sup> stating that he was not "using his title commercially or for a fee" but only to help people who are victims of injustices, like Uytiepo and his laborers, who, according to him, were unjustifiably accused by the complainant without any legal and factual ground. He also averred that he did not give money to the respondent judge in connection with the bail bonds on his titled property, viz:

... I know Judge Manuel Q. Limsiaco, Jr., personally for a long time and I know him to be honest, helpful, a simple person and could not be corrupt. His wife owns fishpond, sugarland and riceland in the town of San Enrique, Negros Occidental and other towns. His son is a doctor, an

internal medicine specialist and still single. It would be unfair and unjust for Judge Manuel Q. Limsiaco, Jr. to be accused by this Helen Gamboa-Mijares of Gross Misconduct and Violation of the Anti-Graft and Corrupt Practices Act because I have helped her enemies, William M. Uytiepo and his poor laborers by using my title in order that they will not be languishing in jail while the criminal cases of Theft is being tried in court. The sugarcanes involved in this case is owned by William M. Uytiepo and I firmly believe that these cases will soon be dismissed in due time by the court. As a matter of fact, Helen Gamboa-Mijares is asking me not to post my property as bail bond for William M. Uytiepo and his laborers. But I pity William M. Uytiepo and his poor laborers who are the victims of injustices and illegal criminal prosecution by this Helen Gamboa-Mijares....<sup>[22]</sup>

Anent the allegations of the complainant concerning the case of Eladio Misterio before the NBI, the respondent vehemently denied the same. The respondent judge attached an affidavit executed by Misterio,<sup>[23]</sup> where the latter stated that the machine copy of the Letter dated September 25, 1998, was never actually sent to the respondent judge. The amount of P40,000 was apparently given to Villarma for the payment of land taxes and the processing of the annotation of the encumbrance in the Office of the Register of Deeds. Misterio also stated that since he had already destroyed the original copy of the aforementioned letter, he was very much surprised how Atty. Ed Caratao was able to secure a machine copy of the same, and thereafter use it against the respondent judge without the writer's knowledge and consent.<sup>[24]</sup>

Pursuant to the recommendation of the OCA dated January 8, 2002<sup>[25]</sup> and the Resolution of this Court dated February 18, 2002,<sup>[26]</sup> the instant case was referred to Executive Judge Henry J. Trocino of the RTC of Bago City, Branch 62, for investigation, report and recommendation.

The Executive Judge after due hearing, submitted his report and recommendation on September 6, 2002, to wit:

Respondent judge, however, failed to observe the provision of Sec. 16 (2<sup>nd</sup> paragraph), Rule 114 of the 1985 Rules of Criminal Procedure (now Sec. 19, Rule 114 of the Revised Rules of Criminal Procedure), which states that when bail is filed with a court other than where the case is pending, the judge who accepted the bail shall forward it, together with the order of release and other supporting papers, to the court where the case is pending, which may, for good reason, require a different one to be filed.

Respondent failed to forward the bails, orders of release and other supporting papers, relative to Crim. Case Nos. 1364, 1367 and 1343 to RTC, Branch 57 where said criminal cases were pending thus prompting Judge Roberto S. Javellana of said court to issue an order dated October 29, 1998 ordering the respondent to forward the bailbond (sic), order of release and other supporting documents to his court.

Had respondent transmitted the documents, or copies thereof,

immediately or within reasonable time after its approval, Judge Javellana, could have, without delay, examined and determined the propriety (or impropriety) of the bonds and other supporting documents. On the part of the complainant, she could have readily known that the accused were already released on bail and thus she could not have gone anymore to MCTC-Valladolid just to secure copies of the bonds and release orders. Perhaps, had complainant been informed earlier of the existence of the bonds and orders of release she could not have filed the present complaint.

It is to be noted that of the eight bailbonds (sic) of William Uytiepo which were approved by the respondent, only three (3) were not transmitted to RTC, Branch 57 on time.

Respondent's failure to forward to RTC Branch 57 the bails, orders of release and other supporting papers in Crim. Case Nos. 1364, 1367 and 1343 immediately or within reasonable time after its approval constitutes simple negligence for which said respondent should be held accountable.

...

In view of the foregoing, it is recommended:

1. That respondent judge be declared guilty of simple negligence for failure to forward to RTC Branch 57 the bails, orders of release and other supporting papers in Crim. Case Nos. RTC-1364, 1367 and 1343 immediately or within reasonable time after its approval for which said respondent be ordered to pay a fine of Three Thousand Pesos (P3,000) with the warning that a repetition of a similar offense will be dealt with more severely.
2. That the charge for violation of Sec. 3 (e) of R.A. 3019 relative to Crim. Case Nos. RTC-1364, 1367 and 1343 be dismissed for lack of merit.
3. That complainant's other claims/charges (a) that respondent judge ordered the release of Eladio Misterio even if no bail has been posted and (b) that respondent judge collaborated with the bondsman in using the property of the latter for bailbonds (sic), for a fee (commercially), be dismissed for lack of merit.<sup>[27]</sup>

The Court does not fully agree with the Executive Judge.

Although the respondent claimed that he issued an order on May 4, 1998, requiring the accused or his bondsman to register the bond and annotate the lien at the back of the title within ten days from the issuance of the said order,<sup>[28]</sup> and declared that the criminal bail bonds he issued were "all proper, regular and in accordance with law,"<sup>[29]</sup> a careful perusal of the records reveals otherwise.

The respondent judge issued the release orders to the accused on April 20, 1998, May 4, 1998 and May 21, 1998, respectively. The accused must have received the release orders even before June 26, 1998, because upon their arrest on the said