

FIRST DIVISION

[A.M. No. RTJ-91-744, August 01, 2002]

LEOPOLDO E. SAN BUENAVENTURA, COMPLAINANT, VS. JUDGE ANGEL S. MALAYA, AS JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 22, NAGA CITY AND ATTY. OMAR M. C. ALAM, RESPONDENTS.

R E S O L U T I O N

KAPUNAN, J.:

Complainant Atty. Leopoldo San Buenaventura charges respondent Atty. Omar M.C. Alam with bribing respondent Judge Angel S. Malaya of the Regional Trial Court (RTC) of Naga City, Branch 22 in order to secure a favorable order. Also charged by complaint of receiving bribe money was Judge Milagros Caguioa of the Pasig RTC, Branch 165 but the complaint was dismissed as against her in view of her retirement prior to the filing of complaint.^[1]

From the pleadings and the Investigating Justice's Report appears the following antecedents:

The administrative complaint stems from two related cases. The first is Civil Case No. R-570, entitled "Irene P. Mariano (now Irene P. Relucio), plaintiff, vs. Francisco M. Bautista, defendant," pending before respondent Judge Malaya. The second is Special Proceeding No. 8872, captioned "In the Matter of the Allowance of the Will of Irene Pena Relucio, Rolando S. Relucio, applicant, vs. Jose P. Mariano and Erlinda Mariano Villanueva, oppositors," assigned to then Judge Caguioa.

Complainant was the former counsel of Jose Mariano and Erlinda Mariano-Villanueva in Civil Case No. R-570. Complainant's clients were legal representatives appointed by the court in said case with the power to administer the property of the estate of the original plaintiff, Irene P. Mariano. On the other hand, respondent Atty. Alam was the collaborating counsel for the defendant, Francisco Bautista in the same civil case. He was also the collaborating counsel for Jose Mariano and Erlinda Mariano-Villanueva in SP No. 8872. After the money judgment in favor of Francisco Bautista was fully satisfied, respondent lawyer was retained as collaborating counsel for Jose Mariano and Erlinda Mariano Villanueva in Civil Case No. R-570.

On January 29, 1990, complainant, in behalf of his clients, filed a motion in Civil Case No. R-570 to withdraw the balance of the proceeds of the auction sale and the consigned rentals to pay the estate and real estate taxes. Respondent Judge Malaya denied the motion in view of a temporary restraining order issued by the Court of Appeals in CA-G.R. SP No. 19533. Complainant did not move for the reconsideration of the order denying the motion, purportedly because the denial was sufficiently grounded on the law and the facts.

Meanwhile, in SP No. 8872, upon motion of respondent Atty. Alam, counsel for the heirs of the deceased Jose Mariano, Judge Caguioa appointed Danilo David S.

Mariano as special administrator of the estate of the late Irene Pena Mariano (Relucio), per Order dated February 27, 1990.

On May 29, 1990, respondent Atty. Alam, representing the heirs of Jose P. Mariano and the special administrator, filed a motion in Civil Case No. R-570 for the reconsideration of the Order dated February 27, 1990. He pointed out that the motion to withdraw the balance of the proceeds was filed by complainant Atty. San Buenaventura; that Atty. San Buenaventura is no longer the counsel for Erlinda Marinao-Villanueva and that the new attorney-in-fact interposes no objection to the motion for reconsideration. He also stressed that while the temporary restraining order issued by the Court of Appeals in CA-G.R. No. 19533 was broad in scope, the writ of preliminary injunction issued by the appellate court was limited to "enjoining the public respondent from enforcing the writ of possession affecting the subject property covered by TCT No. 20201 and the private respondent from disposing it." He added that the matter of withdrawing the balance of the proceeds of the sale and consigned rentals is outside the prohibition of the injunctive writ.

Finding the motion meritorious, respondent Judge Malaya issued an Order dated June 4, 1990 granting the motion for reconsideration thus allowing special administrator Danilo David S. Mariano to withdraw the balance of the proceeds of the auction sale deposited with the Clerk of Court, Naga City:

WHEREFORE, the Court hereby directs as follows:

- a) On the motion to pay realty taxes due the City Government of Naga the special administrator Danilo David S. Mariano is authorized to withdraw from the auction sale balance deposited with the Clerk of Court, RTC Naga the sum of P95,941.31 to pay the said realty tax on subject property for the years 1981-1989. The Clerk of Court is hereby instructed that 50% of P47, 870.00 of said amount be paid in check payable to the "city government of Naga City" care of the City Treasurer, with the balance to the said estate of Macario Mariano care of said special administrator;
- b) On the motion for reconsideration of the Order of this Court dated February 27, 1990, the said Order is hereby RECONSIDERED. The said Estate, thru said special administrator Danilo David S. Mariano is hereby authorized to withdraw whatever money/ies held in deposit by the Clerk of Court, RTC Naga, representing the balance of auctional minus the realty tax payment and other service fees due said Office allowable by law;
- c) x x x.

SO ORDERED. ^[2]

Complainant alleges that in consideration of said Order, respondent Judge Malaya of received bribe money in the amount of P60,000.00 from respondent Atty. Alam. In his letter-complaint dated September 27, 1991, Atty. San Buenaventura charged:

1. JUDGE MILAGROS V. CAGUIOA, Presiding Judge, Regional Trial Court, National Capital Judicial Region, Branch 165, Pasig, Metro Manila, for receiving bribe money in the amount of FIFTY THOUSAND (P50,000.00) PESOS from DANILO DAVID S. MARIANO and ATTY. OMAR M.C. ALAM as evidenced by handwritten

and typewritten reports, Annexes "A" and "B", of DAVID S. MARIANO in liquidating the P337,000.00 balance of the auction money paid for the real estate properties of the Estate of Dona Irene P. Mariano-Relucio, the probate proceedings (IN THE MATTER OF THE ALLOWANCE OF THE WILL OF IRENE P. RELUCIO - SP. PROC. NO. 8872) which is pending in her sala. The said FIFTY THOUSAND (P50,000.00) bribe money was given to the said Judge upon the instruction by and thru ATTY. OMAR M.C. ALAM, counsel of the administrator DANILO DAVID S. MARIANO and with the latter's consent and approval, apparently in exchange for her ORDER, Annex "C" appointing accused DANILO DAVID S. MARIANO, as Special Administrator of the said estate, despite lack of qualifications as such and in the absence of due notice and court hearing in gross violation of the Rules of Court and applicable jurisprudence, and to the prejudice and disadvantage of the other heirs and the creditors of the estate.

2. JUDGE ANGEL S. MALAYA, Presiding Judge of the Regional Trial Court, Branch 22, Fifth Judicial Region, Naga City, for RECEIVING bribe money in the amount of SIXTY THOUSAND (P60,000.00), from Danilo David S. Mariano, but actually and personally handed to him by Ms. LYDIA GAYA, upon his instruction, in two letter envelopes, P50,000.00 for Judge Malaya and the other P10,000.00 for the Executive Judge (Nepomuceno) as alleged by Judge Malaya, and, ORDERING, Annexes "D" and "E", without due notice and proper hearing, the released of the P337,709.51, deposited in court (under his sala), to the accused Administrator, instead of paying the said amount directly to the City Treasurer of Naga for real estate taxes due the estate, as moved and prayed for, in a motion Annex "G" filed, by the undersigned complainant, thereby causing undue injury to the other heirs of the decedent and the creditors of the estate, including the government for non-payment of taxes and GIVING the administrator and his relatives and their lawyer unwarranted benefit, advantage and preference in the discharge of his judicial function through manifest partiality and evident bad faith.
3. ATTY. OMAR M.C. ALAM, as officer of the court, in persuading, inducing or influencing the aforementioned judges to issue Orders that are grossly violative of the Rules of Court and existing jurisprudence and in actually and personally GIVING the bribe money of FIFTY THOUSAND (P50,000.00) PESOS to JUDGE MILAGROS V. CAGUIOA and SIXTY THOUSAND (P60,000.00) PESOS to JUDGE ANGEL S. MALAYA.^[3]

Attached to the complaint is Annex "A"^[4] which appears to be a list of expenses, handwritten, unsigned and stating:

- 50,000 - Judge Malaya S.O.P.
- 10,000 - Judge Nepomuceno S.O.P
- 15,000 - Processing
fees/Sheriff/Transportation/Freight
of Furnitures Fixtures From OLV
House
- 50,000 - Judge Caguioa S.O.P.
- 10,000 - BIR (Atty. Tomas Cariño)
- 10,000 - Casureco/Fire Dept For
Installation of
Electricity

5,000 - City Engineer's Office
150,000 -

Annex "B," consisting of one page, is a typewritten breakdown of the proceeds from the auction sale. Under the heading "LEGAL/EXPENSES" the amount of P50,000.00 appears before the entry "Judge Malaya's S.OP," thus:

LIQUIDATION OF
PROCEEDS
FROM AUCTION
SALE

P 337,709.51 - AMOUNT OF PROCEEDS

EXPENSES:

I TAXES

- P47,870 - OR No. 6354241 - Paid to City

Government for Real
Property Taxes

II
LEGAL/EXPENSES

P 25,000 - Administrator's Bond
50,000 - Judge Malaya's S. OP.
10,000 - Judge Nepomuceno's S. OP.
50,000 - Atty. Omar Alam
15,000 - Processing S.OP/Sheriff's fee/ Freight of
fixtures, etc.
P150,000

xxx

Appended as Annex "H"^[5] to the complaint is the Affidavit of one Ms. Lydia Gaya detailing the circumstances of the alleged bribery:

1. In the morning of June 4, 1990, I was with Atty. Omar M.C. Alam inside the chamber of Judge Angel S. Malaya after the hearing of the Motion for Reconsideration filed by Atty. Alam in the sala of the said judge;
2. On that occasion and inside the chamber of the said judge, Atty. Omar M.C. Alam offered an amount to Judge Angel S. Malaya on a "package deal" for him to grant the Motion for Reconsideration filed by the former in order to withdraw the balance of the proceeds coming from the money judgment on the auctioned property owned by the estate;
3. On June 5, 1990, Atty. Omar M.C. Alam left for Manila leaving me a verbal instruction to follow up the Order from Judge Malaya;
4. After receiving a copy of the Order granting the Motion for Reconsideration, I brought it to the Clerk of Court for the preparation of the voucher, after which the voucher was forwarded to the Executive Judge, Judge Nepomuceno, for his signature who suspended the release of the voucher without the Certificate of the Finality of the Judgment;

5. Because of that requirement, I went back to the chamber of Judge Malaya informing him about it, and he told me that it is not necessary because it was just a carry over of the previous withdrawal of the money judgment paid to Mr. Francisco Bautista and told me that he will make some arrangement with Judge Nepomuceno;
6. That is where I asked him already how much was the commitment of Atty. Omar M.C. Alam and he answered that it was FIFTY THOUSAND (P50,000.00) PESOS for him and another TEN THOUSAND (P 10,000.00) PESOS for Judge Nepomuceno, and Judge Angel S. Malaya demanded a partial payment of TEN THOUSAND (P10,000.00) PESOS for he needed to be sent to Manila for his children for tuition fees;
7. The day after Danilo S. Mariano gave me an envelope containing money which I personally handed to Judge Angel S. Malaya in the presence of the wife of Danilo David S. Mariano and him inside the chamber;
8. I waited for Judge Malaya inside his chamber and after a while he returned and gave me the voucher already signed by Judge Nepomuceno and I gave the same to the clerk of court who forwarded the same to the Provincial Capitol;
9. After a few days, the check in the name of the Clerk of Court of Camarines Sur was forwarded to her office who endorsed the same and instructed one of her subordinates to encash the said check in the amount of THREE HUNDRED THIRTY SEVEN THOUSAND SEVEN HUNDRED NINE PESOS and FIFTY ONE CENTAVOS (P337,709.51) PESOS while I and Danilo David S. Mariano were waiting inside the office of the said Clerk of Court;
10. After lunch the said subordinate of the Clerk of Court arrived with the money and turned it over to the Clerk of Court who took from that money FORTY SEVEN THOUSAND EIGHT HUNDRED SEVENTY (P47,870.00) PESOS pertaining to taxes due to the City government of Naga as per Order of Judge Angel S. Malaya;
11. The entire balance was handed by the Clerk of Court to the Administrator of the Estate, Danilo David S. Mariano who proceeded with me to Bank of Philippine Islands, Naga City and opened an account under his name and thereafter we went home;
12. The next day at about 9:30 a.m., Danilo David S. Mariano came to my pad requesting me to accompany him to go to the bank to withdraw some money as his commitment to Judge Malaya;
13. After he withdrew the money from Bank of Philippine Islands, Naga City Branch, I and Danilo David S. Mariano went straight to the sala of Judge Malaya and on the stairs up to the said office, Danilo David S. Mariano handed to me two envelopes containing money and instructed me to give the same to Judge Angel S. Malaya which I handed down to the said judge in his presence without opening the envelopes, and thereafter, we immediately left for home;
14. In the morning of April 10, 1991, I went to the sala of Judge Angel S. Malaya to show to him an affidavit executed by Danilo David S. Mariano denying the handing out the money to the said judge; who, upon seeing the affidavit, asked me to request Atty. Leopoldo E. San Buenaventura for a conference at Hotel Mirabella at Naga City;
15. told Atty. Leopoldo E. San Buenaventura who was then attending to a case in the sala of Judge Julian Ocampo in an adjoining building, who acceded to such request and we followed Judge Angel S. Malaya to the said Hotel Mirabella a little later after attending the said hearing;
16. The three of us, Judge Malaya, Atty. San Buenaventura and I joined in one table at the second floor of said hotel and took our merienda;