

THIRD DIVISION

[A.M. No. RTJ-01-1639, November 29, 2002]

**CONCERNED CITIZEN OF MADDELA AND JUDITH B. ERMITANIO,
COMPLAINANTS, VS. JUDGE MA. THERESA DELA TORRE-YADAO,
REGIONAL TRIAL COURT, BRANCH 38, MADDELA, QUIRINO,
RESPONDENT.**

[A.M. NO. 00-9-427-RTC, NOVEMBER 29, 2002]

**JUDITH ERMITANIO, COMPLAINANT, VS. JUDGE MA. THERESA
DELA TORRE-YADAO, REGIONAL TRIAL COURT, BRANCH 38,
MADDELA, QUIRINO, RESPONDENT.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

The present administrative cases stemmed from two letter-complaints dated February 23, 2000 and March 1, 2000 filed respectively by a "concerned citizen of Maddela" and Judith B. Ermitanio against Judge Ma. Theresa dela Torre-Yadao,^[1] Regional Trial Court (RTC), Branch 38, Maddela, Quirino.

In the anonymous letter-complaint, respondent judge is being denounced for: (1) sleeping with a female employee in her chambers; (2) collecting gasoline allowance from politicians; (3) directing her court personnel to render services in her house at Quezon City; (4) buying narra logs from a litigant and storing them in her chambers; (5) bringing to her house books, furnishings and equipment intended for office use; and (6) reporting at her sala only three days a month.

In her letter-complaint, Judith Ermitanio alleged that despite the filing on March 18, 1999 of the Information in Criminal Case No. 38-034 for murder involving the death of her husband, respondent judge failed to issue the corresponding warrant of arrest against accused Michael Badangngayon and Peter Guinannoy. It was only on March 7, 2000, or after one (1) year, when respondent judge came to know that an administrative case had been filed against her, that she issued a warrant of arrest dated March 26, 1999.

In her comment on the anonymous letter, respondent judge denied the allegations therein for being false and without basis. She stated that the writer is actually Marilou Cabanatan, a court stenographer in her sala. Respondent judge explained that she sent Marilou memoranda and show-cause letters for her habitual absenteeism and tardiness, disobedience and neglect of duty. Obviously, the latter was motivated by ill will in resorting to an anonymous letter-complaint.

On the complaint of Judith Ermitanio, respondent judge explained that after the filing of the Information in Criminal Case No. 38-034, or on March 26, 1999, she issued the corresponding warrant of arrest against the accused, a copy of which was

received by the Maddela Police Station on the same day. Considering that the accused could not be apprehended, she issued an order on March 2, 2000 directing that the case be archived and that an alias warrant of arrest be issued. On March 8, 2000, the PNP of Maddela received a copy of the alias warrant. On March 15, 2000, respondent judge received a request for the issuance of an alias warrant of arrest from the Maddela Police Station, but she only noted it in view of the March 2, 2000 order.

Due to the seriousness of the allegations in the letter-complaints against respondent judge, the Office of the Court Administrator referred the matter to the National Bureau of Investigation (NBI) for a discreet investigation.

In his report dated September 18, 2000, NBI Special Investigator Gerard L. Butale stated that after conducting an investigation, he found that there is reason to believe that respondent judge committed the acts complained of. He, therefore, recommended that an administrative complaint for serious misconduct and gross inefficiency be filed against her.

In a Resolution dated July 11, 2001, this Court referred the case to Justice Eloy R. Bello, Jr. of the Court of Appeals for investigation, report and recommendation.

In his Report and Recommendation, Justice Bello stated that no evidence was presented to support the allegations in the anonymous letter-complaint dated February 23, 2000 against respondent judge. Hence, his Report and Recommendation deals mainly with the complaint of Judith Ermitanio, thus:

"Amidst the conflicting claims of the opposing parties and after a careful consideration and scrutiny of the evidence, particularly the testimonial evidence presented by both parties, this Court finds more reasons to believe the version of the complainant.

"If indeed, a warrant of arrest had been issued and was served on the PNP Maddela on the date being claimed by the respondent judge, the complainant would not have filed the present administrative case in the first place, since her only complaint is the non-issuance of a warrant of arrest in the case of her husband. If a warrant of arrest had been issued as early as 26 March 1999 and was received by the PNP Maddela on the same date, why was not the complainant told about the said warrant during the times she went to the court to follow up whether a warrant of arrest regarding her husband's case had already been issued? The testimony of Crisostomo Molina, one of the witnesses for the respondent judge, that the complainant never went to the court to follow up the case is not at all believable. That the complainant has been following up the case since April 1999 until March 2000 has been corroborated by the testimony of all the other witnesses for the complainant. Moreover, the fact that the complainant was able to write to Mayor Fred Lim and even went as far as the Supreme Court would show how persistent complainant is in fighting for the cause of her late husband. It would be highly improbable for the complainant not to have gone to the court to follow

"It has also been established that the complainant had been following up the warrant with the PNP Maddela and the Fiscal's Office. If a warrant had already been issued and served on the PNP Maddela, why did the latter

seem not to know about the said warrant when the complainant went to their office to follow up the case? If a warrant of arrest has already been issued and delivered to the PNP Maddela as early as 26 March 1999, we do not find any reason or motive on the part of the PNP Maddela, to hide the fact of the issuance of the said warrant from the complainant. Also, why was not Fiscal Orias informed about the said warrant when he also went to the court to follow up the case and why did he not see a copy of the said warrant in the records of the case when he inspected the said records?

"The logical conclusion that could be drawn from all these is that, maybe, there was no warrant of arrest issued on the date being claimed by the respondent judge, or a warrant of arrest had been issued by the respondent judge on the date being claimed by her, but the same was not timely served on the PNP Maddela.

"The document being presented by the respondent judge, purporting to be the warrant of arrest dated 26 March 1999, and which was received by the Maddela Police on the same date, deserves scant consideration since the due execution of the same is being refuted by the testimonies of the witnesses for the complainant.

"Although the respondent judge enjoys the presumption of regularity in the performance of her official duty, this presumption is not, however, conclusive. It is only a disputable presumption, meaning, it is satisfactory only if uncontradicted and may be overcome by other evidence to the contrary. The testimonies presented by the complainant dispelling the regularity of the issuance of the warrant of arrest are more than enough to dispute this legal presumption of regularity in the performance of official duties.

"According to the police, they have not received any warrant of arrest regarding the case of *People of Philippines vs. Michael Badangayon and Peter Guinannoy* until March 2000. P/Chief Insp. Bernardo Bauí testified that on 07 March 2000, a warrant of arrest dated 26 March 1999 was received by their office, particularly by SPO4 Librado Raquipiso. He further testified that on 14 March 2000, the respondent judge, together with her staff, went to the police station asking that another warrant of arrest dated 26 March 1999 be received by his office without indicating the date of receipt of the same. He claimed that he refused at first, but consented eventually since they have earlier received the same warrant of arrest on 07 March 2000 indicating the date of receipt, and so he called on SPO1 Honofre Reolalas to receive the same without indicating the same of receipt. The aforesaid testimony was further corroborated by the testimony of SPO1 Honofre Reolalas.

"What is more telling is the testimony given by Norman Ruabaro, one of the staff of the respondent judge working as docket clerk in Branch 38, RTC, Maddela. He attested to the fact that complainant has been following up her husband's case with the court monthly, dispelling Crisostomo Molina's testimony that the complainant never went to court to follow up the case. But that part of his testimony which is most damaging to the claims of respondent judge and which at the same time