

SECOND DIVISION

[A.M. No. MTJ-01-1356, April 16, 2001]

LUCITA E. BIBOSO, COMPLAINANT, VS. JUDGE OSMUNDO M. VILLANUEVA, PRESIDING JUDGE OF THE FOURTH MUNICIPAL CIRCUIT TRIAL COURT, BAGUMBAYAN-ESPERANZA, SULTAN KUDARAT PROVINCE, RESPONDENT.

DECISION

MENDOZA, J.:

This is an administrative complaint for sexual harassment against respondent Judge Osmundo Villanueva of the Fourth Municipal Circuit Trial Court, Bagumbayan-Esperanza, Sultan Kudarat.

Complainant Lucita E. Biboso, 33, claimed that at around 11 o'clock in the morning of August 20, 1996, she went to see respondent at the MCTC in Esperanza, Sultan Kudarat to "follow up" her case (Civil Case No. 71). Complainant made the following account of how she was allegedly molested by respondent:

. . . [Judge Osmundo M. Villanueva] invited me to get inside his chamber for personal conference. When we were already inside his office, he locked the room. To my surprise he immediately embraced and kissed me, hugged me and hurriedly removed my blouse he took advantage of caressing my breasts and began unzipping my pants. Shocked and helpless during that time, I cried and cried and cannot resist from his sexual advances . . . being weak against [his] male strength. So what I did was to evade his sexual advances and immediately run outside of his chamber and went home.^[1] Complainant said that she was again molested by respondent on September 4, 1996 inside the latter's chamber in Esperanza, Sultan Kudarat. According to complainant, she went to see respondent because he allegedly told her that she had to sign some papers in "connection with the issuance of a warrant of arrest."^[2] In his Answer^[3] to the complaint, respondent denied having made any sexual advances against complainant at any time. He claimed that complainant and her father-in-law, Cipriano Biboso, trumped up charges against him because he had dismissed two cases (Civil Case No. 71 entitled "Lucita Biboso v. Haide^[4] Navarra" and Criminal Case No. 1662-B entitled "Cipriano Biboso v. Heide Navarra") filed by complainant and her father-in-law. He contended that he could not have sexually molested complainant on August 20, 1996 in Esperanza because he was in Lebak, Sultan Kudarat from August 19-23, 1996, discharging his duties as Acting Presiding Judge of the First Municipal Circuit Trial Court for Lebak-Kalamansig, Sultan Kudarat.

To support his alibi, respondent submitted several documents, namely: copies of the transcript of stenographic notes, dated August 20, 1996, of the preliminary investigation of complainant in Criminal Case No. 2033-L, conducted in Lebak (Exh. 8); the complaints in Criminal Case Nos. 2033-L and 2034-L, both entitled "People v.

Eric Camporedondo and Christopher Camporedondo," received and notarized by him on August 20, 1996, also in Lebak (Exhs. 10 and 11); the itinerary of his travels and the corresponding disbursement voucher prepared by the Clerk of Court of the MCTC of Lebak-Kalamansig showing that he was in Lebak from August 19-23, 1996 (Exhs. 5 and 6); and a certification, dated May 25, 1998, by the Clerk of Court of the MCTC of Lebak-Kalamansig stating therein that respondent judge was in Lebak from August 19-23, 1996 (Exh. 7). As to the second incident of sexual harassment which allegedly took place on September 4, 1996, respondent stated that such could not have been committed as there was no session in Esperanza on that date.

The case was referred to the Executive Judge of the Regional Trial Court, Isulan, Sultan Kudarat for investigation, report, and recommendation. During the investigation, complainant and her sister-in-law, Lorna Biboso, testified, while respondent, in addition to himself, presented as his witnesses SPO4 Rogelio Venus, Romeo Chiva, process server of MCTC, Bagumbayan-Esperanza, and Virginia Dumaguing, Clerk of Court, MCTC, Lebak-Kalamansig.

In his report, dated February 5, 2001, Executive Judge German M. Malcampo found complainant's claim of sexual harassment to be unsubstantiated due to material inconsistencies between complainant's affidavit-complaint and her testimony during the investigation of the case. Nevertheless, in view of his finding that respondent gave assistance to complainant's father-in-law in filing a case in his sala, Judge Malcampo recommended that respondent be reprimanded and ordered to pay a fine in the amount of P20,000.00.

The recommendation is well taken. Indeed, the evidence presented during the investigation of the case fails to show that respondent sexually harassed complainant. Contrary to her statement in her affidavit-complaint that respondent judge sexually molested her on August 20, 1996 inside his chamber in Esperanza, Sultan Kudarat, complainant testified during the investigation of this case that their meeting actually took place on August 27, 1996 in the courthouse in Bagumbayan, Sultan Kudarat, during which respondent merely shook her hand, thus:

ATTY. JABIDO, JR.

[Counsel for complainant]

Q Mrs. Biboso, your complaint is for sexual harassment allegedly committed upon you by respondent Judge Osmundo Villanueva. To begin with, when did this incident of sexual harassment occur?

A August 27.

Q What year?

A 1996, sir.

Q Where did the incident occur?

A At Bagumbayan.

Q Are you referring to Bagumbayan in Sultan Kudarat province?

A Yes, sir.

Q Will you please describe to us how the incident occurred?

A In the Municipal Trial Court of Bagumbayan Judge Villanueva called me in his office. When I entered in his

office he asked me why my appearance is always "nakasimangot."

Q Did you make any answer to that question of Judge Villanueva?

A Yes, sir.

Q What did you tell Judge Villanueva, if any?

A I told Judge Villanueva that, "Sir, I have a problem."

Q Please continue your narration Mrs. Biboso.

A I told him that I have a problem in connection with my land. He told me, "Tell me your problem and I am willing to help you."

Q What else? Was there anything else that happened?

A Then he held my hand.

Q Which hand did he hold?

A It was my left hand that was held by him, sir.

Q Can you demonstrate to us, you yourself as Judge Villanueva and myself to take your place?

ATTY. JABIDO:

Your Honor, the witness is demonstrating that with her right hand, she held my left hand with her four (4) fingers pressing my palm and the thumb on the upper part of my hand.

Q Did anything else happen after that?

A I went back to my chair and sat down.

Q From that point, Mrs. Biboso, did anything else happen?

A No more, sir.

Q So, what did you do after that?

A I went out.

[ATTY. CORDERO]

Q How did Judge Villanueva [take] hold of your hand when you were facing each other in between the table?

A He stretched his hand and shook my hand.

Q And that was all?

A And then, he said, "I will help you with your problem."^[5]

When confronted with the inconsistency between what she stated in her affidavit and her testimony during the investigation, complainant admitted that what she had stated in her affidavit regarding the incident on August 20, 1996 was not true. She claimed that the discrepancy was due to the fact that she was confused ("*hindi pa naka-isip*") at the time she executed the affidavit. She insisted, however, that the alleged incident on September 4, 1996 did take place.^[6] We find her explanation to be inadequate. Considering the nature of the alteration involved, pertaining as it does to the time, place, and manner of commission of the alleged first incident of sexual harassment, it is more likely that, confronted with the numerous and unimpeachable documentary evidence presented by respondent which showed that he was not in Esperanza, Sultan Kudarat on August 20, 1996, where the alleged first incident of sexual harassment took place, complainant was forced to change her story. In any event, the incident which she said allegedly took place on August 27,

1996 between her and respondent in the municipal courthouse in Bagumbayan, Sultan Kudarat does not constitute sexual harassment for, as she herself stated, respondent merely shook her hand.

As for their September 4, 1996 meeting, it appears that complainant went to see respondent not at the latter's initiative but because she wanted to seek advice in filing an estafa case against Heidi Navarra. As respondent testified:

ATTY. CORDERO, JR.:

[Counsel for respondent]

Q Going back to the second part of the complaint, that on September 4, 1996, you sexually molested or sexually harassed the complainant in the same manner as what have been done to her allegedly on August 20, 1996. What can you say to that?

A That is not true. I have not molested her.

Q What is the truth?

A On September 4, she came in the office and asked me about the filing of that case of estafa against Navarra.

Q Meaning, she was legally consulting the court or seeking advice on that proposed criminal case that was filed?

A She asked me on what to do.

Q Who was interested in the filing of the estafa case?

A She was the one together with the father-in-law.

Q What was your advice on September 4, 1996, on that consultation?

A I told her that it is the father-in-law who should be the one to file the complaint.

Q Did she do that?

A On the following day, she returned together with the father-in-law.

Q And what was the conversation between you and her father-in-law?

A Well, if that property is registered [in his name], he should be the party to file the case and he told me that although that land belongs to his daughter-in-law, he is still the registered owner.

Q As you said it was rather Lucita Biboso [who] claims the land but the title is not registered in her name so you advised her that it was her father-in-law who should do the filing?

A Yes, sir.

INVESTIGATING JUDGE:

Q And that was the reason why she appeared on the following day, September 5, 1996, together with her father-in-law, Cipriano Biboso?

A They appeared in Court and they requested that I will help them execute the affidavit so that they will not be investigated anymore.

Q That was September 5, 1996?

A Yes, sir.

Q Was the affidavit prepared?

A Yes.