

## EN BANC

**[ A.M. No. RTJ-99-1446, March 09, 2000 ]**

**CONCERNED EMPLOYEES OF THE RTC OF DAGUPAN CITY,  
COMPLAINANTS, VS. JUDGE ERNA FALLORAN-ALIPOSA, IN HER  
CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT,  
BRANCH 41, DAGUPAN CITY, RESPONDENT.**

### DECISION

#### PER CURIAM:

A letter dated March 26, 1999 was sent to the Chief Justice by the Concerned Court Employees of Dagupan City requesting for the re-assignment of Judge Silverio Q. Castillo and Judge Erna Falloran-Aliposa, allegedly two of the most corrupt Judges of Dagupan City whose acts of corruption range from appropriating exhibits and misappropriating funds of the City Government of Dagupan.<sup>[1]</sup> On April 15, 1999, the Chief justice indorsed said letter to Senior Deputy Court Administrator Reynaldo L. Suarez and directed the latter to conduct a discreet investigation on the alleged acts of corruption of the judges mentioned.

On June 4, 1999, Deputy Court Administrator Suarez conducted an investigation at the Integrated Bar of the Philippines Building in Dagupan City. Only the employees of Judge Erna Falloran-Aliposa gave their statements during the investigation, as the employees of Judge Castillo were not available for interview at that time and date. They, however, gave the assurance that they will file the appropriate administrative complaint against judge Castillo in due time.

Five employees of the Regional Trial Court of Dagupan City, Branch 41, namely: 1.] Gloria Ydia, Legal Researcher and Officer-in-Charge of the Office of the Branch Clerk of Court; 2.] Ever Mejia, Court Interpreter; 3.] Melinda Macaraeg, Court Stenographer; 4.] Evelyn Daroy; Court Stenographer; and 5.] Rosyla del Castillo, Clerk III, gave their sworn statements concerning the alleged corrupt practices of their Presiding judge, judge Erna Falloran-Aliposa.<sup>[2]</sup>

Ms. Gloria Ydia, Legal Researcher and Officer-in-Charge, imputed the following alleged corrupt practices of judge Aliposa:

- 1.] Vouchers in the amount of P62,000.00 for the payment by city government of office supplies and equipment , such as four (4) electric fans, as well as for the repair of typewriters, air conditioner, were prepared by respondent , but the supplies were not received by their office and the repair of typewriters and air conditioner were covered by fictitious receipts.
- 2.] Respondent judge demanded a percentage before allowing the withdrawal of cash bonds, as per information relayed to

- them by the litigants who were called by respondent in her chambers, and by the Cashier Erlinda Capitle.
- 3.] Respondent Judge called for party-litigants who were asked to go to the office as early as 6:00 a:m. and who gave her shrimps, crabs, mangoes, boneless bangus, carabeef and the like, which she brought to her house in Pasay City on Fridays.
  - 4.] Most cases are reviewed not on the merits but on the basis of the litigants' ability to pay. Highest bidders were often the winners. Among these successful litigants were the spouses Andal who, after going to respondent Judge's chambers, obtained a favorable judgment.
  - 5.] More often than not respondent judge's illegal transactions are done in her office since parties-litigants are allowed to freely enter her chambers. She sees to it that no members of her staff are present.
  - 6.] On the scheduled dialogue of the Chief Justice with the judges of Region I, respondent Judge instructed her staff to solicit P500.00 from the practicing lawyers to shoulder the expenses of the breakfast of the visitors. Accordingly, some lawyers appeared in her court and gave said amounts to her.
  - 7.] In one instance, respondent Judge, for a consideration, ordered the correction of an erroneously spelled name of an adopted child in the dispositive portion of the decision of the petition for adoption.

**Ms. Ever Mejia, Court Interpreter, alleged that -**

- 1.] ....Respondent Judge Aliposa acts as the commissioner in all *ex parte* proceedings because of the fees which she collects. Depending upon the party's capabilities to pay, the commissioner's fees range from P1,500.00 to P2,000.00. All must be paid in cash and handed to her before she conducts the proceedings. No money, no *ex parte* proceedings. *Ex parte* proceedings of at least three (3) to four (4) cases must be scheduled every week. She calls rich litigants every now and then to deliver anything for her depending on their capacity, e.g., from the Indian owner of Maya Emporium, she demanded a cassette recorder as well as clothes and clothing material from the Chinese owner of 'Ong King Kiam', who had cases in her court. In the case of *Apolonia Air Philippines v. Spouses Claro Andal*, defendants gave her the sum of P22,000.00 and won.
- 2.] ....In the case of Vice-Mayor Teodoro Manaois, respondent Judge demanded P80,000.00. After the said amount was delivered to her, the Vice Mayor won in the said case.
- 3.] ....When the pictures taken during the IBP Oath-taking, right after the dialogue with the Chief justice, were developed, judge Aliposa instructed Mejia to look for the photographer to get the pictures taken so she would monopolize the sale thereof. These pictures, if bought from the photographer cost P25.00 but judge Aliposa sold them for P50.00 instructing her staff to do the selling of the photographs. They, however, have no knowledge as to whether the photographer was actually paid for them.
- 4.] ....Judge Aliposa is very suspicious. She does not want her

staff to talk to lawyers and litigants. If she catches any one talking with them, she immediately suspects that said person is 'selling' the case.

- 5.] ....The telephone which was provided by the local government is being used personally by respondent Judge. Even during extreme emergencies respondent Judge would not allow her staff to use it and the same is padlocked inside her room.
- 6.] ....The private complainant in the case of *People v. Luis Montilla* is always inside the chambers of respondent judge.
- 7.] ....Respondent judge prohibited lawyers and litigants from entering her chambers except when they had something to give her.
- 8.] ....Respondent Judge reports for work at 11:00 a.m. on Mondays and would leave at 10:00 a.m. during Fridays.
- 9.] ....Respondent Judge asked for an allocation of P64,000.00 from the 1998 City Budget. Under the budget, she declared that their typewriters and air conditioners needed repairs. No repairs were, however, made as they defrayed the repair of the typewriters. The office supplies given by the local government never reached their office and was converted by respondent Judge into cash. They buy their own supplies.

**Ms. Melinda Macaraeg, Court Stenographer III, averred that:**

- 1.] ....Respondent instructed her to ask the party, before the *ex-parte* presentation of evidence, whether he had money, and then respondent collected P1,500.00 from the party, *i.e.*, P1,000.00 for her and P500.00 for the stenographer, but respondent only gave P200.00 to P300.00 to the stenographer, and if the party had no money, respondent would postpone the *ex-parte* presentation of evidence;
- 2.] ....In the case of *PCI v. Alex Viray*, there was no stenographer who took down the proceedings during the *ex-parte* presentation of evidence and when said case was appealed by defendant, respondent required the stenographers to prepare the transcript of stenographic notes, which they refused because they did not take down notes, but Flory Fabia, another stenographer, prepare the transcript of stenographic notes which were merely patterned after a similar *replevin* case; and
- 3.] ....Respondent had the telephone installed inside her chambers and did not allow the members of her staff to use the same; that respondent made it appear that all her calls were official, which she charged against the funds of the city government.

**Ms. Rosyla del Castillo,. Clerk III (in charge of criminal cases), charged that:**

- 1.] ....Respondent would talk to the person following up motions for withdrawal of cash bonds or reduction of bail bonds before acting on the same;
- 2.] ....Respondent instructed her to remove an Order in two cases and she replaced it with another one;
- 3.] ....Respondent instructed her, on two occasions, to tell the parties following up the dismissal of a case and reduction

- of bail bond to give money for ice cream;
- 4.] ....Respondent antedated some orders which took her a Long time to prepare; and
  - 5.] ....Respondent would not issue orders in favor of a party unless something is given to her.

**Ms. Evelyn Daroy, Court Stenographer III, stated that:**

- 1.] ....Respondent asked her to antedate a decision in a case which the former was not able to render within three (3) months;
- 2.] ....Respondent asked her to tell Flory Fabia, another court stenographer, to collect her (stenographer's) attorney's fees from a lawyer; and
- 3.] ....Respondent asked them to solicit gifts, in cash or in kind, from lawyers on the occasion of her birthday.

Owing to the seriousness of the charges, the gravity of which Deputy Court Administrator Suarez averred he never encountered in his long years of service with the office of the Court Administrator (OCA), he recommended that: 1.] respondent judge be required to comment on the statements of the five (5) employees of the RTC, Branch 41, Dagupan City; 2.] the case be immediately referred to an Associate Justice of the Court of Appeals for investigation, report and recommendation; and 3.] respondent Judge be immediately suspended pending the investigation of the case to prevent any retaliatory acts against the court personnel.

In a Resolution dated June 22, 1999<sup>[3]</sup> the Court *En Banc* adopted the Deputy Court Administrator's recommendations and referred the matter to Appellate Court Associate Justice Marina Buzon for investigation. Report and recommendation thereon within ninety (90) days from receipt thereof.<sup>[4]</sup>

The Investigating Justice, acting accordingly, conducted the investigation and thereafter submitted her report and recommendation. In her Report dated January 12, 2000, Justice Buzon stated that:

In their memorandum, complainants confined their discussion on the alleged corrupt practices of respondent in demanding money from Leo Tandoc in connection with the case of his brother and from Atty. Mario Cera after the *ex-parte* presentation of evidence and who likewise gave P500.00 for the snacks of judges during the dialogue with the Chief Justice, as well as respondent's claim that the telephone calls of her son, Jason, were official in order to be able to charge the same against the funds of the city government.

1.....Leo Tandoc testified that on August 3, 1993, respondent demanded P5,000.00 from him in order that his brother, Orlando, a detention prisoner, would not stay longer in jail, and that he gave the money to respondent the following day. It appears that a demurrer to evidence was filed by the counsel of Orlando Tandoc, who was prosecuted for theft, in view of the insufficiency of the evidence against him. In an order dated August 3, 1998, respondent dismissed the case against Orlando Tandoc on the ground that the evidence of the prosecution was insufficient to sustain a conviction. However, said Order did not contain a directive to the Jail Warden to release Orlando Tandoc from detention, unless he is

being held for another lawful cause. Upon clarificatory questions by the undersigned Investigator, respondent admitted that she does not state in the order granting demurrer to evidence that the accused, who is a detention prisoner, be released unless held in confinement for another lawful cause, and that the defense counsel has to file a motion for the release of the accused. It is elementary that upon acquittal of a detention prisoner or the dismissal of the case against him by way of demurrer to evidence, he is entitled to be released from detention in connection with said particular case, considering that there is no more reason to deprive him of his liberty. A judge need not wait for a motion to be filed by the defense counsel praying for the release of the detention prisoner, especially considering that an order granting demurrer to evidence is not promulgated in open court and it might take some time before the defense counsel could receive a copy thereof through the mails. Notwithstanding a judgment of acquittal or dismissal of the criminal case, the Jail Warden will not release a detention prisoner without an order of release from the court which ordered the latter's detention. In view thereof, the order directing the release from detention of an accused upon his acquittal or dismissal of the case against him is usually included in the dispositive portion of the decision or order, a copy of which is furnished the Jail Warden.

The admission by respondent that it is not her policy to incorporate in the order granting demurrer to evidence and dismissing the case against the accused, who is a detention prisoner, that the latter be released unless held for another lawful cause, and that she only issued the order of release upon the filing of a motion to that effect does not speak well of respondent who has been a judge since 1992 and is also a professor handling Criminal Law Review. The fact that respondent delayed the issuance of the order of release of Orlando Tandoc supports the claim of Leo Tandoc that she demanded money from him, which he was forced to give, in order that his brother, Orlando, would not stay longer in jail.

On the other hand, the inconsistencies pointed out by respondent in the testimony of Leo Tandoc and the allegations in his affidavit as to when he learned of the Order dated August 3, 1998, *i.e.*, whether before or after Flory Fabia informed him that respondent wanted to see him, and as to whether he was alone or with Flory Fabia when he went to branch 41 on August 3, 1998, are insubstantial and do not affect his credibility. It must be remembered that Leo Tandoc executed his affidavit and gave his testimony one year after the incident complained of. Moreover, respondent did not present Flory Fabia as a witness to refute Leo Tandoc's testimony that she told him to see respondent and accompanied him to respondent's chambers.

Anent respondent's claim that no one among the complainants testified that they saw Leo Tandoc enter her chambers on August 3, and 4, 1998, suffice it to say that respondent has not shown that complainants already knew Leo Tandoc at that time or that they were aware of the purpose of his visit.

2. Atty. Mario Cera affirmed that on March 25, 1999, he was approached