

## EN BANC

[ A.M. No. RTJ-99-1448, April 06, 2000 ]

**SAPHIA M. MAGARANG, COMPLAINANT, VS. JUDGE GALDINO B. JARDIN, SR., RESPONDENT.**

### DECISION

#### PER CURIAM:

The case is an administrative complaint filed by complainant Saphia M. Magarang on January 06, 1999, with the Court Administrator, Supreme Court charging respondent Judge Galdino B. Jardin, Sr., Regional Trial Court, Branch 05, Butuan City with corruption, incompetence ignorance of the law, and grave abuse of discretion. The complaint was subscribed under oath before a notary public.<sup>[1]</sup>

On February 04, 1999, Court Administrator Alfredo L. Benipayo referred the complaint to respondent judge, requiring him to answer within ten (10) days from receipt.<sup>[2]</sup> On March 10, 1999, respondent Judge submitted his answer to the complaint. He denied the charges against him as false and fabricated.<sup>[3]</sup>

On June 23, 1999, the Court referred the case to Court of Appeals Associate Justice Delilah Vidallon-Magtolis, for investigation, report and recommendation.<sup>[4]</sup>

Justice Magtolis scheduled the case for hearings in September and October, 1999. Except for the main parties who were required to appear in person, the investigator allowed the testimonies of witnesses residing in Butuan City to be taken through deposition.<sup>[5]</sup>

The facts may be related as follows:

On July 22, 1998, the President of the Philippines appointed complainant's husband, Nuruddin-Ali M. Magarang, Director III for Caraga of the Department of Transportation and Communication (DOTC) vice, Alexander Mama-O.<sup>[6]</sup> On July 30, 1998 he took his oath of office before Secretary Vicente C. Rivera, Jr.

On August 6, 1998, Alexander P. Mama-O filed with the Regional Trial Court, Butuan City, assigned to Branch 05 a petition for *quo warranto* with injunction, damages, attorney's fees and temporary restraining order, questioning the appointment of Magarang.<sup>[7]</sup>

On August 10, 1998, respondent judge issued a temporary restraining order (TRO), good for seventy-two (72) hours, enjoining Nuruddin Magarang from assuming the office of Director III. On August 13, 1998, respondent judge extended the TRO for seventeen (17) days.

After the hearing of the application for preliminary injunction on August 28, 1998, complainant went to the house of respondent judge to request the latter to fairly decide the application for injunction and to deny the preliminary injunction. Respondent judge expressed his willingness to help complainant, but said that he had to return the P200,000.00 he received from petitioner Mama-O. The complainant committed herself to pay the said amount to respondent judge at a later date, to which respondent judge replied "*O sige, tingnan natin bukas.* "

The next day, August 29, 1998, respondent judge granted a writ of preliminary injunction against Nuruddin Magarang, enjoining the latter from entering the DOTC office at Capitol Drive, Butuan City and from further assuming the Office of director III until further orders from the court.<sup>[8]</sup> On September 7, 1998 Nuruddin Magarang's lawyer filed a motion for reconsideration of the order granting preliminary injunction.<sup>[9]</sup>

During the pendency of the motion for reconsideration, on October 1, 1998, complainant went to respondent judge's office at the Butuan Hall of Justice. She handed him P80,000.00 and committed to give P200,000.00 later, in exchange for a favorable action on her husband's motion for reconsideration. Respondent judge asked the complainant when she could give the P200,000.00, and further instructed her to return the following day.

Complainant returned the next day, October 2, 1998, a Friday. Respondent judge told her that he had yet to finish his "decision" on the motion for reconsideration, and told complainant to come back in the afternoon. At around 4:00 p. m. of that same day, respondent judge told complainant that he might not be able to finish the "decision" as no one was willing to report on a Saturday to type it. Complainant then offered that if respondent judge could convince one of his staff to do the typing on a Saturday, she would be the one to pay for his overtime work. Respondent judge acceded and told complainant to make the request directly to the employee concerned. Complainant then asked a lady staff member who expressed willingness to work, but respondent judge did not want her to do the job. The lady staff member told respondent judge that she could do it, and then the two (2) talked in the Visayan dialect which complainant did not understand. After that conversation, respondent judge told the complainant to return the following day, October 3, 1998, a Saturday.

The next day (October 3, 1998), complainant returned to the Hall of Justice but the security guard told her to wait downstairs. She saw respondent judge before noon, and the latter said he would just take his lunch. At about 3:00 p. m., respondent judge's secretary came to tell the complainant that copy of the resolution of the motion for reconsideration had been delivered to her counsel. Complainant proceeded to the house of her lawyer, Atty. Dollfuss Go who showed her a resolution dated October 3, 1998 denying the motion for reconsideration.<sup>[10]</sup>

On November 3, 1998, complainant went to respondent judge's office to recover the P80,000.00 she gave him. A heated argument ensued between complainant and respondent judge, with the latter uttering unsavory words tending to malign complainant's marital fidelity. Angered, complainant poked her index finger at respondent judge's mouth to stop him from further hurling invectives at her. Respondent judge, bit complainant's finger, causing her to forcibly pull it off, which

paused respondent judge's tooth to falloff.

On November 11, 1998, the Solicitor General filed a motion for reconsideration of the August 29 and October 3, 1998 orders (granting the preliminary mandatory injunction and denying the motion for reconsideration, respectively);<sup>[11]</sup> however, on December 9, 1998, respondent judge denied the motion.<sup>[12]</sup>

The Solicitor General thereafter filed with the Court of Appeals a petition to annul the August 29 and October 3, 1998 orders of respondent judge in Spl. Civil Case No. 887. On March 24, 1999, the Court of Appeals promulgated a decision nullifying, and setting aside the orders of respondent judge in Spl. Civil Case No. 887.<sup>[13]</sup>

On his part, respondent judge denied receiving P80,000.00 from the complainant, or that there was a commitment for her to give him P200,000.00 in consideration of the denial of the application for writ of preliminary injunction. To prove his good moral character, respondent judge presented several citations/awards given by private organizations, viz:

1. Concerned Media, Inc. - a plaque for "Golden Leadership National Award" on March 7, 1999;
2. Jesus Nazareno Parish of Cagayan de Oro City-plaque of recognition for diplomatic and dedicated service as President of the Parish Pastoral Council: Development of Filipino Youth- a letter informing that the respondent has been selected to receive the Dakilang Haligi ng Tahanan Award" on June 29, 1999. (Pls. Note: a Sponsorship Agreement is attached to the letter, asking the supposed awardee to sign a sponsorship agreement for the price P50,000.00);
3. Philippine Experimental Educational Research Society, Inc., with address at 451-A Republic Supermarket Bldg., Rizal Ave. cor. Soler St., Sta. Cruz, Manila- letter dated May 3, 1999, informing the respondent of his selection as "Outstanding RTC Judge of the Year;
4. The Philippine Media Research and Progress Report, Inc., likewise with address at Rm. 541-A Republic Supermarket Building, notifying the respondent that he was chosen to receive an award as Outstanding Judge of the Year; and
5. Holy Redeemer Parish- a letter dated June 30, 1999, expressing gratitude to the respondent for his love offering to the parish.
6. Plaque of Appreciation given by the Municipality of Jasaan, Misamis Oriental for his exemplary service during his term as mayor of the municipality.<sup>[14]</sup>

Further, respondent judge presented three (3) of his co-judges in Butuan City to attest to his character. Judge Rosarito Dabalos of Regional Trial Court, Branch 02 testified that respondent had been serving as "sacristan" or acolyte in their parish at Bukidnon. He had no personal knowledge of any derogatory remarks about respondent judge. He saw the respondent judge after he was attacked on November 3, 1998, and his mouth was bloodied.

Judge Cipriano Alviso, Jr. of Branch 04 testified that he was one of those consulted by respondent judge about the application for a TRO, and he advised him to issue one to preserve the *status quo*. As to respondent's reputation as a judge, he stated, "x x x he works, he tries to dispose of his cases as early as possible."<sup>[15]</sup> When he heard of the commotion on November 3, 1998, he went to Branch 05, where the trouble was. He saw complainant Magarang about to go out of respondent judge's chamber. He asked her not to leave. He also asked the Security Guard who followed him to look for the man mentioned by Judge Jardin as the one who attacked him, because he saw respondent's mouth bloody. He ordered an investigation because he considered the Hall of Justice as sacred.

Judge Victor A. Tomaneng of the Regional Trial Court, Branch 33 testified that he had known respondent judge since May 1996 when he came in as a new judge. He looked up to respondent not only as a brother but also as a father, being the eldest among them. As to respondent's reputation, he is fatherly, very humble and very soft-spoken. He also saw respondent after the incident on November 3, 1998 when he came to the judge's chamber at Branch 05, and he saw respondent's mouth bleeding, and there were also bloodstains inside the toilet. When he asked what happened respondent judge answered that a woman and her brother who appeared to be a hunchback assaulted him. He asked why, and respondent answered that they wanted him (respondent) to reconsider his order in Spl. Civil Case No. 887. When he (witness) came, the persons who assaulted respondent judge were no longer there.

"The career of a judge, as required in the Code of Judicial Conduct, entails the highest degree of competence, integrity and independence, because a judge ought to be the embodiment of all that is good, efficient, competent, honest and reliable. Woe unto the magistrate who is wanting in any of these virtues. In view of the adversarial nature of our system of administering justice, a judge is almost always the object of hate, venom, and contempt--and of administrative or criminal charges--feigned or illusory. It is thus the policy of this court that administrative charges against a judge must be heard with utmost care and circumspection."<sup>[16]</sup>

After careful scrutiny of the records, we find respondent judge guilty of corruption in office.

The corruption consists in respondent judge's receiving P200,000.00 from petitioner Mama-0 in Spl. Civil Case No. 887 and P80,000.00 from complainant Magarang in consideration of favorable action on complainant's request for "justice" for her husband in the same case.

Complainant and her witness, Naima Capangpangan, proved these facts vividly and convincingly. The latter is a simple woman who reached only the fourth grade. She drew a clear picture of what transpired on August 28, 1998, when she went, with complainant to respondent judge's house, and on October 1, 1998, when she saw complainant prepare and count P80,000.00 and later accompanied complainant to respondent judge's office at the Hall of Justice in Butuan City which amount complainant personally brought to respondent judge's chambers. The witness withstood the rigors of a thorough cross-examination conducted by respondent judge's counsel.<sup>[17]</sup> Moreover, there was no evidence showing that witness Naima