

## FIRST DIVISION

[ A.M. No. RTJ-00-1552, May 31, 2000 ]

**MARLAN YOUNG, COMPLAINANT, VS. JUDGE HILARIO I. MAPAYO, REGIONAL TRIAL COURT, BRANCH 19, DIGOS, DAVAO DEL SUR, RESPONDENT.**

### D E C I S I O N

**PARDO, J.:**

The case is an administrative complaint for grave misconduct<sup>[1]</sup> filed by Marlan Young against Judge Hilario I. Mapayo, Regional Trial Court, Branch 19, Digos, Davao del Sur.

The facts are as follows:

On September 2, 1998, Marlan Young, an American national, and a resident of Tibagon, Pantukan, Davao, filed with the Office of the Ombudsman for Mindanao an affidavit complaint,<sup>[2]</sup> charging Judge Hilario I. Mapayo with grave misconduct. His affidavit complaint stated, among others things, that:

- Respondent performed the marriage between complainant and Virginia Parba on March 15, 1993;
- Respondent demanded and received from complainant the amount of Ten Thousand Pesos (P10,000.00) for the ceremony;
- Respondent asked complainant and all others involved in the ceremony to sign six (6) blank copies of the marriage contract;
- Respondent at a later date accomplished the forms and placed therein "Digos" and June 9, 1993 as the place and date of the solemnization of the marriage, respectively;
- Complainant was allegedly out of the country on said date (June 9, 1993) as his passport would show;
- Complainant sought the help of respondent who provided him with a lawyer, Atty. Barba, free of charge, and later filed a case for annulment of the marriage, but the same had dragged on for two (2) years with no favorable development; and
- Complainant had allegedly good reason to believe that respondent had been part of a conspiracy since during a confrontation with respondent and Virginia Parba, they threatened him with deportation.

On September 29, 1998, the Ombudsman for Mindanao referred Young's affidavit-complaint to Court Administrator Alfredo L. Benipayo. On February 12, 1999, Court Administrator Benipayo referred the complaint to respondent Judge Mapayo for comment.

On March 16, 1999<sup>[3]</sup>, respondent Judge submitted his comment. He denied all the allegations of the complaint. In support of his denial, respondent attached to the affidavit of complainant's ex-wife, Virginia Parba, the original copy of the complaint

for annulment of marriage filed by complainant<sup>[4]</sup> wherein he acknowledged the validity of his marriage to Virginia Parba, as well as the final decision on the annulment case. However, the marriage of complainant and Virginia Parba was later annulled.

The affidavit of Virginia Parba<sup>[5]</sup> stated that she was married to the complainant on June 9, 1993, in Digos, Davao del Sur, with the respondent judge as the solemnizing officer; that she followed complainant to the United States after a few months of marriage but had to return to the Philippines with the complainant since she was not accustomed to the weather conditions in the United States; her union with the complainant bore them a child; after a few years, complainant engaged in womanizing and started beating and harming her even over trivial matters and the complainant later abandoned her and their child to live with another woman in Pantukan, Davao del Norte; that there was no truth to complainant's claim that respondent made the former sign blank marriage forms; that there was no truth either to complainant's allegation that he gave respondent judge Ten Thousand Pesos (P10,000.00) to solemnize the marriage; that the amount was part of the amount given to her mother to cover the expenses of the marriage and her trip to the United States; that her family had known respondent judge and his wife since 1987 and had often asked for help since her aunt once worked for respondent's household; and her family had a high respect for respondent judge.

On June 2, 1999, Senior Deputy Court Administrator Reynaldo L. Suarez requested complainant to send photocopies of his passport showing his exit and entry to this country for the period starting March 15, 1993 to June 9, 1993<sup>[6]</sup>. Likewise, in a letter dated June 3, 1999<sup>[7]</sup>, Senior Deputy Court Administrator Suarez requested Commissioner Rufus B. Rodriguez of the Bureau of Immigration (BI) for information and photocopies of complainant's passport with his alleged exit and entrance to the country during the aforesaid period.

Respondent sent the Senior Deputy Court Administrator a copy of his Answer<sup>[8]</sup>, a letter<sup>[9]</sup>, and an Affidavit<sup>[10]</sup> of complainant requesting this Court not to pursue the case against respondent, with a personal note to Deputy Court Administrator Suarez requesting help for the dismissal of his case, the original copies of the documents<sup>[11]</sup> were received by the Court Administrator on July 22, 1999.

In reply to the request of Senior Deputy Court Administrator Suarez, Bureau of Immigration Commissioner Rodriguez sent the travel record/information of the complainant based on their computer records<sup>[12]</sup>.

The Office of the Court Administrator referred the complaint to this Court<sup>[13]</sup> for referral to an Associate Justice of the Court of Appeals for investigation report and recommendation. In a resolution dated September 20, 1999<sup>[14]</sup>, we resolved to refer the case to Justice Remedios A. Salazar-Fernando for investigation, report and recommendation.

In her Final Report and Recommendation dated February 14, 2000, Justice Salazar-Fernando recommended that respondent Judge Mapayo be absolved of the charges of grave misconduct filed against him.

We find the recommendation of Justice Salazar-Fernando to be well-taken.

Respondent Judge Mapayo is accused of (1) demanding and receiving the amount of Ten Thousand Pesos (P10,000.00) for the solemnization of the marriage between complainant Marlan Young and Virginia Parba; and (2) changing the date and place of marriage of complainant and Parba. The first charge, if proven, would constitute illegal exaction and/or violation of the Anti-Graft and Corrupt Practices Act; and the second charge would constitute falsification of public document under the Revised Penal Code.

However, complainant later executed an affidavit withdrawing his complaint against respondent. However, such withdrawal will not result in the dismissal of the complaint. In *Marcelino vs. Judge Singson, Jr.*,<sup>[15]</sup> we ruled:

"The Court has held in a number of instances that mere desistance on the part of complainant does not warrant the dismissal of administrative complaints against members of the bench. The withdrawal of complaints cannot divest the Court of its jurisdiction nor strip it of its power to determine the veracity of the charges made and to discipline, such as the results of its investigation may warrant, an erring respondent. The Court's interest in the affairs of the judiciary is a paramount concern that must not know bounds."

We agree with the findings of Justice Salazar-Fernando that the charges against respondent have not been proven. With respect to the first charge, we quote Justice Salazar-Fernando's report and recommendation as follows:

"With regard to the first charge, the letter-affidavit of private complainant alleged that respondent demanded and received the amount of Ten Thousand Pesos (P10,000.00) from him in consideration of the solemnization of his marriage with Virginia Parba. The same statement was categorically denied by respondent. Later, the complainant stated that the amount stated was given to his former wife's aunt during the ceremony, not to the respondent.

"Virginia Parba, complainant's former wife, on the other hand, alleged that the amount was given to her mother to cover the expenses of the wedding and her trip to the United States.

"Granting *arguendo*, complainant failed to prove that the amount of Ten Thousand (P10,000.00) Pesos given to Parba's aunt or mother which was intended for the respondent was actually received by him. No evidence was presented that respondent demanded or received the amount. In the absence of any positive evidence directly pointing to respondent as the person who demanded and received the amount, the charge must necessarily fail."<sup>[16]</sup>

With respect to complainant's allegation that he was in the United States when the marriage took place on June 9, 1993, in Digos, Davao del Sur, the following evidence were presented:

"a. Certification from the Computer Section of the Bureau of Immigration (BI) on the travel of private complainant."<sup>[17]</sup>

"The certification states that a certain Marlan W. Young departed Manila via Northwest Airlines on March 16, 1993; arrived in Manila via the same airline on