

## FIRST DIVISION

[ G.R. No. 133575, December 15, 2000 ]

**JUDGE MARTIN A. OCAMPO, PETITIONER, VS. SUN-STAR  
PUBLISHING, INC., RESPONDENT.**

### D E C I S I O N

**YNARES-SANTIAGO, J.:**

Before this Court is a Petition for Review on *Certiorari* seeking to set aside the April 20, 1998 Decision<sup>[1]</sup> of the Regional Trial Court of Cebu City, Branch 57, which dismissed petitioner's Complaint for Libel.

Petitioner is the presiding judge of the Regional Trial Court of Cebu City, Branch 7. He filed a Complaint<sup>[2]</sup> for Libel on account of two articles which appeared in the August 28, 1997 and August 30, 1997 issues of Sun-Star Daily, a provincial newspaper published and circulated by respondent in Cebu.

The August 28, 1997 article, which appeared on pages two (2) and twenty two (22) of the aforesaid newspaper, reads in full as follows -

#### **"Judge Ocampo facing graft raps at Ombud**

"BRANCH 7 Judge Martin Ocampo of the Regional Trial Court (RTC) faces graft charges before the Office of the Ombudsman for the Visayas.

Lawyer Elias Tan who also accused Ocampo of conduct unbecoming a judge asked the Supreme Court to bar Ocampo's retirement pending an investigation and deny the retirement benefits due him should he be convicted by final judgment.

Tan said Ocampo violated the provisions of judicial canons when he granted petition for relief from judgment on a dismissed case against the Millenium Industrial Commercial Corp. (MICC).

MICC, chaired by Tan, was sued for foreclosure of mortgage by Jackson Tan, a stockholder. The case, according to Tan, was already dismissed by Ocampo on July 12, 1996.

However, Tan added in his affidavit, Ocampo granted Jackson's petition for relief which alleged a "mistake" in that he has not received the certificate of stock worth P10 million from defendant MICC.

MICC counsel Romeo Tagra said: "The circumstances which plaintiff

referred to as either fraud or mistake were already known and existing long before he filed the instant petition."

Ocampo, in an interview yesterday, down-played the filing of the case saying it is "natural" for the losing party to "hate" the judge.

He considers the case as "pure harassment."

"It's part of the professional hazards of a judge. Naturally, a losing party gets mad at the judge," he said.

He said he is just waiting for the time the anti-graft office asks him to comment on the complaint. "That's the time to really give my explanations on this harassment."

Tagra said of the grounds on the petition for relief: "The fraud under Rule 38, Sec. 2 (of the Rules of Court) contemplates an extrinsic fraud to be a ground to annul a final judgment; and mistake under the rules and jurisprudence cited does not contemplate a mistake committed by judicial error of law which may arise in the trial of the case. But a mistake of the party."

Tan added Ocampo set the hearing on the petition for relief on April 8, 1997, "However, during the scheduled date no actual hearing was conducted and MICC was not allowed to present its witness."

Instead, Tan said, Judge Ocampo adjudged counsel Tagra guilty of direct contempt on May 9, 1997 for filing a motion for reconsideration to the order granting the relief.

Tagra was also fined P10,000 and ordered imprisoned for five days.

On May 22, Tagra filed his motion for reconsideration citing that the "power to punish for contempt should be exercised on the preservative and not on the vindictive principle."

On July 21, Ocampo issued his decision on the case in favor of the plaintiff Jackson Tan and filed before the Supreme Court an administrative complaint against Tagra and his law firm, A.S. Dy and Associates.

On the same date, the Court of Appeals (CA) issued a temporary restraining order on a petition for certiorari filed by MICC enjoining Ocampo from further proceeding with the case and for Jackson Tan to explain why a writ of preliminary injunction should not be issued.

On August 15 this year, MICC filed a supplemental petition before the CA, "for notwithstanding the TRO issued by the CA, Judge Ocampo on July 21 issued a declaration of default and judgment by default despite MICC's manifestation and motion informing Ocampo that a petition for certiorari will be filed with the CA."

The August 30, 1997 article, appearing on pages two (2) and twenty six (26) of the paper, reads -

**"No jurisdiction, says  
Judge on Ombudsman**

**However, Ombudsman's office says it will raffle  
Complaint filed by lawyer against judge**

JUDGE Martin Ocampo of the Cebu Regional Trial Court (RTC) yesterday fumed over a news report about a complaint filed against him by a losing litigant, lawyer Elias Tan.

He said the Visayas Ombudsman's Office "has no jurisdiction whatsoever to investigate graft charges against judges for alleged 'violations of judicial canons'."

The complaint, however, will take the normal route of being raffled to a graft investigator for evaluation, according to Ombudsman Director Virginia Santiago.

If there is administrative liability involved, she told Sun-Star Daily, the results will be sent to the Supreme Court. If the investigator finds a criminal case, the anti-graft office will proceed to investigate, review and possibly prosecute it, depending on the approval of Ombudsman Aniano Desierto.

"It will be evaluated first to determine if it is to be docketed as an administrative case or a criminal case, or both," Santiago said.

Judge Ocampo, in a letter to Sun-Star Daily, complained that the news report was "libelous" and damaging to his reputation.

He said the paper should have known better that the Ombudsman has no jurisdiction to investigate the case, only the Supreme Court.

The complaint on which the news report was based was filed with the Visayas Ombudsman's Office by Tan, a 64-year-old lawyer.

Sun-Star Daily delayed publication for one day to get the judge's comment. He was quoted in the report as describing the case as "pure harassment" and "part of the professional hazards of a judge."

"Naturally, a losing party gets mad at the judge, " Martin earlier said in an interview.

Tan, the complainant, is president of Millennium Industrial Commercial Corp., which was sued for foreclosure of mortgage by a stockholder.

The case was dismissed on July 12, 1996, but Judge Ocampo later granted a petition for relief from judgment when the stockholder, Jackson