

FIRST DIVISION

[A. M. No. P-93-794, February 18, 1999]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
ANASTACIA DIAZ, CLERK OF COURT, MUNICIPAL CIRCUIT TRIAL
COURT, ABORLAN-KALAYAAN, PALAWAN, RESPONDENT.**

R E S O L U T I O N

KAPUNAN, J.:

Sometime in October 1992, Mayor Rafael R. Ortega, together with Chief of Police Senior Inspector Leopoldo M. Pacaldo of Aborlan, Palawan, sought the assistance of the National Bureau of Investigation (NBI) in looking into the alleged nefarious activities of herein respondent Anastacia Diaz, then Clerk of court of the Municipal Circuit Trial Court (MCTC), Aborlan-Kalayaan, Palawan.^[1]

On October 20, 1992, NBI agents acting pursuant to an entrapment plan, caught respondent in the act of receiving (marked) money from one Anita Taguno who had a case pending before said MCTC and from whom the former allegedly demanded money earlier on.^[2]

Records show that two other affidavit-complaints were filed against Mrs. Diaz: the first, by one Yolly Capucao who alleged that sometime in August 1992, respondent approached her and demanded the amount of Five Hundred Pesos (P500.00) for the release of her father-in-law who was detained at the Aborlan Police Station; and, the second, by Ms. Marina Beira who alleged that she gave the amount of four Thousand Five Hundred Pesos (P4,500.00) to respondent to expedite her son's case in the same court.^[3]

Consequently, a complaint for direct bribery under Article 210 of the Revised Penal Code (RPC) was filed against respondent with the Office of the Provincial Prosecutor. In a Resolution dated April 28, 1993, said Office recommended the filing of an information for two counts of direct bribery under R.A. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act. It further ordered that the records of this case be forwarded to the Office of the Ombudsman for appropriate action.^[4]

The Office of the Ombudsman in turn, approved the above resolution with the modification that an information be filed against respondent for only one count of direct bribery under Article 210 of the RPC and that the provisions of R.A. 3019 no longer be applied in her case.^[5]

The records further reveal that a criminal case was indeed filed against respondent, but for violation of Article 315, par. 2, sub-par. (a) of the Revised Penal Code. Said case was subsequently dismissed by the MCTC, Aborlan-Kalayaan, Palawan, on the ground that private complainant therein, Ms. Anita Taguno had executed an Affidavit

of Desistance alleging, among others, that she had already lost interest in the case.^[6]

Meanwhile, on November 25, 1992, Atty. Gerarda G. Galang, Chief of the Legal and Evaluation Division of the NBI, submitted a Report to the Office of the Court Administrator (OCAD, for brevity) on the results of the investigation they conducted in the Diaz case, with the recommendation that administrative action be taken against the respondent.^[7]

In its En Banc Resolution dated February 4, 1993, this Court upon the recommendation of Deputy Court Administrator Reynaldo L. Suarez, directed the OCAD to file the appropriate administrative complaint against respondent for Grave Misconduct and for Violation of the Anti-Graft and Corrupt Practices Act; and, consequently, preventively suspended respondent from the service.^[8]

On April 5, 1993, respondent submitted a letter to the OCAD requesting therein that the order of preventive suspension be lifted since probable cause against her had yet to be determined in the preliminary investigation of the criminal case.^[9]

On May 3, 1993, this Court issued a resolution requiring respondent to comment on the administrative complaint of Deputy Court Administrator Reynaldo L. Suarez.^[10]

In compliance with the above resolution, respondent filed her Comment in which she adopted the allegations in her counter-affidavit and motion for reconsideration (in the criminal case).^[11]

On August 9, 1993, the First Division of this Court resolved to recall the preventive suspension of respondent as ordered in the Resolution of February 4, 1993, and to suspend the administrative proceedings against her until the termination of the criminal case.^[12]

On July 9, 1996, the above-mentioned criminal case against respondent was dismissed by the MCTC, Aborlan-Kalayaan, Palawan, on the ground that the private complainant therein, Ms. Anita Taguno had executed an Affidavit of Desistance alleging, among others, that she had already lost interest in the case.^[13]

Thereafter, the OCAD recommended that the complaint be referred to the lower court for investigation, report and recommendation despite the dismissal of the criminal complaint, and the compulsory retirement of respondent on February 13, 1995.

On December 2, 1996, this Court resolved to revive the case against Anastacia Diaz; to refer the same to the Executive Judge of the Regional Trial Court, Puerto Princesa City, Palawan for investigation, report and recommendation; and, to release her retirement benefits, but retain the amount of Fifty Thousand Pesos (P50,000.00) pending resolution of the case.^[14]

At the investigation conducted by Palawan RTC Executive Judge Panfilo Salva, the complaining witnesses Anita Taguno, Yolly Capucan and Marina Beira declared that they were no longer interested in pursuing their complaints because the sums of

money that they gave to respondent had already been allegedly given to their lawyers.^[15]

Respondent for her part, while denying that she demanded money from the complainants, admitted having received separate sums of money from all the complainants, but for the purpose of delivering the same to other persons for whom the amounts were allegedly intended.

Thus, respondent testified:

ATTY. CRUZAT

xxx.

Do you know a person certain person by the name of Yolly Capocao? (sic)

MRS. DIAZ

Yes, Your honor.

xxx.

ATTY. CRUZAT

By the way, she filed a case against you that sometime on August of 1992 you demanded from her the sum of five hundred pesos, what can you say to that?

MRS. DIAZ

That is not true, your Honor.

ATTY. CRUZAT

And she stated madam witness during the hearing On June 17, 1997 that she gave you five hundred pesos for the purpose of delivering the said amount to the lawyer, Mr. Edora, what can you say to that?

MRS. DIAZ

Yes, your Honor, she gave me the sum of five Hundred pesos it was given to Mr. Edora, her lawyer.

ATTY. CRUZAT

So madam witness, the purpose of five hundred Pesos was payment for the lawyer, Mr. Edora of the Case of her father-in-law?

MRS. DIAZ

Yes, your Honor.

ATTY. CRUZAT

And you have turned it over to Mr. Edora as Requested by Mrs. Capocao? (sic)

MRS. DIAZ

Yes, your Honor.

xxx.

ATTY. CRUZAT

This Mrs. Beira, do you know her?

MRS. DIAZ

Yes, your Honor.

xxx.

ATTY. CRUZAT

Do you know if she has any case then pending before the Municipal Circuit Trial Court of Aborlan?

MRS. DIAZ

Before her son has a case in the Municipal Circuit Trial Court, your Honor.

xxx.

ATTY. CRUZAT

And do you know the reason why Mrs. Beira would file a case against you?

MRS. DIAZ

I do not know, your Honor.

ATTY. CRUZAT

Do you know a certain Mayor, Mayor Rafael Ortega, Sr.?

MRS. DIAZ

Yes, your Honor, he is the Mayor of Aborlan, Palawan

ATTY. CRUZAT

And do you know a certain Edora?