

THIRD DIVISION

[A.M. No. MTJ-99-1177, February 08, 1999]

**SPOUSES GREGORIO LORENA AND TERESITA LORENA,
COMPLAINANTS, VS. JUDGE ADOLFO V. ENCOMIENDA,
MUNICIPAL TRIAL COURT PAGBILAO, QUEZON, RESPONDENT.**

RESOLUTION

PANGANIBAN, J.:

The serious nature of the tasks of judges requires them to be circumspect in both their public *and* their private dealings. As they are "expected to rise above human frailties," they must, in all of their activities, avoid not only impropriety but even the appearance of impropriety.

The Facts

Spouses Gregorio and Teresita Lorena, in a sworn letter-complaint^[1] received by the Office of the Court Administrator on August 5, 1997, charged Judge Adolfo V. Encomienda of the Municipal Trial Court of Pagbilao, Quezon, with grave abuse of authority. The letter-complaint reads as follows:

"Kami pong mag-asawa, Gregorio at Teresita Lorena, ay magalang na sumulat sa inyo upang ipaalam ang mga sumusunod na pangyayari at tuloy humingi sa inyo ng inyong mahalagang tulong:

"Kami po ay ikinulong sa pamamagitan ng pagsasabwatan simula alas 9:00 ng umaga ng Julio 4 hanggang 7, 1997 ng umaga nang wala pong habla sa amin o "warrant of arrest" sa piitan ng pulisya sa Lungsod ng Lucena.

"Ang mga tao po na nagtulong-tulong o nagkaisa na kami ay isuot sa kalabos o piitan ay sina Judge Adolfo V. Encomienda, Municipal Trial Judge ng Pagbilao, Quezon, at kasalukuyan ay Assisting Judge ng Lucena City, ang pulis po ng Lucena City na si Alex Nuyda, ang mag-ina po na si Dolores Encomienda na ikalawang asawa ng namatay na si Herminio Encomienda na kapatid ni Judge Encomienda, at ang anak ng namatay na si Herminio Encomienda na ang pangalan ay si Tadito Encomienda.

"Kami po ay tumira sa lupa nila na katabi ng kanilang bahay (Erminio at Dolores) dahil sa kanilang anyaya sa amin, sapagkat ako, Gregorio Lorena, ay kanyang utusan, bodyguard at marami pang iba.

"Ang dahilan po ay n[an]g kunin niya sa akin ang lupa nila na nilinis ko at tinamnan ng 680 saging at marami pang iba ay inihabla ko sila sa DARAB at noong hinihingi nila na iurong ko ang habla ay hindi po ako pumayag

at ako ay inihabla nila ng "ejectment" at dahil po sa kami ay natalo ay giniba po ng sheriff ang aming bahay noong Julio 3, 1997.

"Nang kami po ay [gum]awa ng kanlungan ng aming kagamitan para huwag mabasa ng ulan noong alas (9:00 ng umaga ng Julio 4, 1997, ay dumating po si SPO3 Alex Nuyda at sinabi sa amin na gusto raw kaming makausap ni Mayor Ramon Talaga ng Lucena City;

"Na pagdating namin sa munisipyo ay wala si Mayor Talaga at ang naruruon ay si Dolores at Tadito Encomienda at kami ay pinipilit na pumirma sa isang kasulatan, at ang sabi naming mag-asawa ay hindi kami pipirma sapagkat wala ang aming abogado na si Atty. Antonio Robles. Ang sabi nila sa amin ay pumirma lamang kayo at tapos na ang lahat, at kung hindi ay kami ay ikakalabos at kami nga ay ikinulong sa piitan ng Lucena City.

"Bago po kami ikinulong ay may tumawag sa telepono at ako (Gregorio) ay tinawag at nang kunin ko ang telepono ay ang sabi po sa akin ay kilala mo ba ako, ang sagot ko po, "Opo, kayo si Judge Adolfo Encomienda. Ang sabi po sa amin, pumirma na kayo at tapos na ang lahat. Ang sabi ko po kay Judge, hindi po kami pipirma at wala ang aming abogado, at ang sabi po ni Judge, mga tarantado, mabulok kayo sa kalabos sabay bagsak ng telepono.

"Dahil po dito, kami pong mag-asawa ay humihingi sa inyo ng katarungan at naisip namin na kayo lamang po ang malalapitan sa aming kaapihan na isang mahirap na tao. Bigyan mo po kami ng kaunting halaga sa mundong ito.

"Maawa na po kayo sa amin na aping-api na sa buhay at naway pagpalain kayo ng maykapal sa pagtulong ninyo sa isang mahirap sa buhay at pinagsamantalahan ng mga may influencia at mayaman.

"Kahit po ipangutang namin ang pagpunta sa Maynila, kami po ay nahahandang humarap sa investigasyon, at upang patunayan ang sinabi sa sulat na ito ay katunayan po ay aming pinanumpaan ang nilalaman ng sulat na ito."^[2]

In his Answer,^[3] Respondent Judge Encomienda denied the charge against him and averred:

"The dispute over the residential lot owned by the deceased brother of the undersigned, Herminio V. Encomienda, was between said Herminio V. Encomienda and herein complainants. And said dispute was the subject of an ejectment case filed by the owner, Herminio Encomienda and spouse against Spouses Gregorio and Teresita Lorena, herein complainants, under Civil Case No. 1681-94 before Branch I, MTCC, Lucena City on February 21, 1994 (Annex A[-]complaint dated February 17, 1994).

"And on December 16, 1994, a Decision in said case was handed down by the then Judge Jose V. Habalo in favor of the plaintiffs ordering,

among other things, the ejectment of the defendants, Spouses Gregorio and Teresita Lorena, herein complainants (Annex B Decision, dated December 16, 1994). The Decision was appealed by the defendants which was given due course, and the records forwarded to the Regional Trial Court, Lucena City. The case was assigned to Branch 59, then presided over by Judge Ismael T. Portes, but was taken over upon his retirement by Judge Jose V. Hernandez who rendered the Decision on October 9, 1995 affirming en toto the Decision of MTCC, Branch I, Lucena City (Annex C[-]Decision, dated October 9, 1995).

"Subsequently, a Motion for Issuance of Writ of Execution was filed by the plaintiffs on November 20, 1995 and on February 7, 1996, a Writ of Execution was ordered issued by MTCC Branch I, Lucena City (Annex D Order, dated February 7, 1996).

"Consequently, a Writ of Execution was issued on March 21, 1996 (Annex E Writ of Execution, dated March 21, 1996) but the same was returned unsatisfied because of the refusal of the defendants, Spouses Gregorio and Teresita Lorena to vacate the premises despite the grace period given them (Annex F[-]Officer's Return, dated May 3, 1996).

"A motion for [the] issuance of [the] Writ of Demolition was filed by the plaintiffs Herminio Encomienda and spouse on February 27, 1997, and which motion after hearing the Court granted[,] ordering the demolition of any structure/s, building/s or edifice/s and other improvements erected by the defendants on the property of the plaintiffs (Exhibit G[-]Order, dated June 24, 1997).

"xxx [F]iled by the defendants, spouses Gregorio and Teresita Lorena [was a Motion for Reconsideration] of the Order of Demolition but said motion was denied in the Order of the Court of July 3, 1997 (Exhibit H[-]Order, dated July 3, 1997).

"And on July 4, 1997, the Sheriff submitted his report informing the Court that the Writ of Demolition was already implemented with the demolition of the house of defendants, but defendants still refused to vacate the premises (Exhibit I, Compliance, dated July 4, 1997)

"The complainants in the Sworn Letter Complaint claim that the undersigned together with his sister-in-law Dolores Encomienda, nephew Tadito Encomienda and one police officer Alex Nuyda helped and conspired with one another in placing them in jail beginning July 4 up to July 7, 1997.

"In refuting this claim of the defendants, undersigned has this to say:

"On July 4, 1997, the undersigned was at the MTCC, Branch II, Lucena City, performing his duties as Assisting Judge. At about 10:00 in the morning, his nephew, Tadito Encomienda, called up, informing him that he (Tadito Encomienda) together with Spouses Gregorio and Teresita Lorena, were at the Lucena City Police Station. According to him (Tadito Encomienda), he saw Gregorio Lorena starting to build another structure

on the lot subject of the ejectment case. And so he (Tadito Encomienda) sought police assistance thru the Mayor for them to settle things in the presence of a police officer. Gregorio Lorena then asked to be allowed to stay for a few days on the premises and which request he (nephew of the undersigned) was amenable provided that Spouses Gregorio and Teresita Lorena would sign a written promise that they would leave the premises after the expiration of the period granted them.

"During the same telephone call, the undersigned's nephew sought advice whether it was indeed appropriate for him to require the spouses to sign the said written promise and to which query undersigned told his nephew that there was nothing wrong [with] it.

"After the first telephone call, again undersigned's nephew called up informing undersigned that Spouses Gregorio and Teresita Lorena refused to sign claiming that they did not understand the content of the note and that if they would be forced to do so they would rather continue staying in jail.

"It was at this point that undersigned told his nephew that he would talk with Gregorio Lorena having in mind that said Gregorio Lorena would listen to him regarding the nature of the papers he would sign, the Decision ordering their ejectment and the Demolition order which had already been effected.

"During the conversation with Gregorio Lorena, the undersigned informed him that there was nothing wrong with him and his spouse signing a written promise to vacate, after all, they were requesting xxx their extended stay in the premises, and the Writ of Demolition ha[d] already been enforced. However, Gregorio Lorena insisted that he and his wife would not sign any written promise to vacate and if forced to do so, they would rather stay in jail. Undersigned told him that they were not being forced to sign, but since they were asking for an extended stay in the premises, it was but natural that the owner be given assurance that they would leave upon expiration of the period given them.

"The undersigned even told Gregorio Lorena that he could request his sister-in-law and nephew to allow them to stay even for a month provided that they would sign a written promise to vacate -- but he refused the offer.

"The undersigned respectfully submits that there was no abuse of authority on his part as he had no hand at all [I]n what transpired on July 4, 1997, and that even under the circumstances aforesated there was no such unlawful detention as claimed by Spouses Gregorio and Teresita Lorena.

"As adverted to above, the undersigned only came to know that complainants were at the police station when he received a phone call from his nephew (Tadito Encomienda) on July 4, 1997. And this fact was attested [to] by PO3 Alex Nuyda who responded to the call for police assistance (Annex J - affidavit of PO3 Nuyda).