

EN BANC

[A.M. No. MTJ 98-1168, April 21, 1999]

LUALHATI M. LIWANAG, COMPLAINANT, VS. JUDGE PATERNO H. LUSTRE, PRESIDING JUDGE, MUNICIPAL TRIAL COURT, CALAMBA, LAGUNA, RESPONDENT.

DECISION

QUISUMBING, J.:

On September 19, 1995, complainant Lualhati M. Liwanag sent a letter to the Court^[1] praying that respondent Judge Paterno H. Lustre be dismissed from the service due to "gross immorality and grave misconduct unbecoming of his profession."^[2] Attached to her letter was a sworn statement, reproduced *verbatim* hereunder, which details how respondent allegedly molested her sexually.

SWORN STATEMENT

I, LUWALHATI LIWANAG, of legal age, Filipino and a resident of Karunungan Road, Pamana Homes, Calamba, Laguna, after being duly sworn, according to law, hereby depose and state:

1. Prior to July, 1994, my husband, Jose B. Zafra filed twelve (12) counts of violation of B.P. 22 against Oscar Chua, Dante Chua and Rowena Chua for issuing checks amounting to approximately 3.5 million pesos, that were dishonored when presented for payment.
2. On July 22, 1994, the Assistant Provincial Prosecutor of Laguna filed twelve (12) informations for violation of BP 22 against Oscar Chua, Dante Chua and Rowena Chua, charging each of them with three (3) counts of Violation of BP 22. Copies of the informations are hereto attached for reference.
3. The said cases were assigned at the Municipal Trial Court of Calamba, Laguna presided by Judge Paterno Lustre.
4. After the informations were filed, the accused posted bail. However, their arraignment were (sic) postponed several times at the instance of the accused.
5. The case was set for hearing for November 16, 1994. However, when the date came, Judge Lustre was not present. Hence, the hearing was reset to December 15, 1994.
6. On November 17, 1994 at about 8:30 A.M., I went to see Judge Lustre at his chamber to inquire about the case filed by my

husband, why the accused have not yet been arraigned. At that point, I asked Judge Lustre if it is possible to schedule hearings in January and February, 1995 and every month thereafter and to order the arraignment of the accused. He responded in the affirmative and told me to come back after the hearing on December 15, 1994, at about 7:00 A.M. in his chamber.

7. The date of the hearing arrived, Dec. 15, 1994 at 1:30 P.M. The representative of Atty. Buted, counsel for the accused, arrived with a Motion to Transfer the scheduled hearing. Judge Lustre then reset the hearing on Jan. 17, Feb. 1, 9 and 23, 1995.
8. As requested, on December 16, 1994, one day after the hearing, at about 7:00 A.M., I went to see Judge Lustre at his chamber. There, he told me that he prepared an order for the accused. I thanked him and I told him that if the accused will pay us, my husband and I will give him five (5%) percent of it as token of gratitude. At that point, he stood up and told me he does not need money. While he was giving me a copy of the order, he touched my shoulder, down to my breast. I froze and could not do anything. He was telling me that he acceded to my request. Later, he told me that he is available during Mondays and Fridays as there are no scheduled hearings and for me to come back to him before the hearing on January 17, 1995.
9. I did not go back to see Judge Lustre as per his request before the hearing on Jan. 17, 1995 because of what he did to me, he took advantage of the situation to molest me.
10. Came the date of the hearing on Jan. 17, 1995. Despite the previous order setting the case for hearing for Feb. 1, 9 and 23, 1995, he cancelled hearings on all dates as per request of the counsel for the accused. Instead, he reset the same on Feb. 22, 28 and March 7, 1995.
11. When the hearing on Feb. 22, 1995 came, Judge Lustre cancelled the one set on Feb. 28, 1995.
12. By the way things were going, I could sense that Judge Lustre is delaying the case, granting postponement after postponement, despite objections from our lawyer. The case was already dragging and nothing was happening. We were running out of money and we needed to have the case terminated right away in order to get paid for the money the accused have swindled us. Because of this dilemma, I decided to see Judge Lustre.
13. On March 6, 1995, Monday, at about 10:00 A.M., I went to see Judge Lustre. I asked him why he cancelled the hearings. He responded that I fooled him since I did not come to him as per his request, whereas he acceded to my earlier request. He then told me that I must obey his wishes if I want our case to go smoothly since he is the only one who will decide our cases. After that, he told me

that he was already free and for me to wait for him outside the courtroom. We boarded his white Toyota car, with Plate No. PLN-513 and he brought me to Canlubang Tollway. While in the car, he kissed me on the lips and caressed my breast. I was repulsed and disgusted but I could not do anything since our cases are with him and he was deliberately delaying the hearings. At that instant, I told him to set hearings for April and May, 1995 since according to his staff, there would be no hearings in May and in April. He told me, he will take care of it and ordered me to come to his office on March 13, 1995 at 7:00 A.M. and we will talk about the settings.

14. On March 13, 1995, Monday, as ordered, I went to see Judge Lustre at his office at around 7:10 A.M. There was no one there except him. I saw him waiting just outside his chamber. He ushered me inside, but I had barely entered the room, when he kissed me on the lips and caressed my body, particularly my breast. He exposed his penis and ordered me to masturbate him. I could not do anything but obey. There was a fluid that oozed from his penis, which was somewhat bloody. I felt dirty. While doing that, he told me to tell my lawyer to file a motion to set hearing for April and May, 1995. He then asked me to go with him to Laguna de Bay Inn. I refused, he got angry. He retorted that the fate of our case is on his hands and told me to see him on March 23, 1995 at 7:00 A.M. at Laguna de Bay Inn in Sucat since his house is near the area.
15. After that, my lawyer filed a Motion to Set Case for Hearing. But I did not go and see Judge Lustre at Laguna de Bay Inn. Thus, on March 28, 1995 hearing, no schedule was set for April and May. Instead, he made the setting in June, 1995.
16. On April 10, 1995 I received a new subpoena for pre-trial and arraignment of the new cases we filed, scheduling the same for May 3, 1995. The following day, April 11, Tuesday, I went to see Judge Lustre to inquire why our case was not scheduled on May 3, at any rate, there is arraignment of our new case filed on the same date. He responded that he was early at Laguna de Bay Inn on March 23, and he waited for me at 7:00 A.M. but I did not come. He told me not to fool him, "masama daw siyang magalit."
17. The June 6 hearing proceeded, that of June 13 was cancelled at the instance of the accused's lawyer.
18. On June 15, 1995, Thursday, at around 7:00 A.M., I went to Judge Lustre in his office because I was told that our next hearing would be in September despite previous settings. I requested Judge Lustre to give us monthly hearings, in July and August. He told me that he would oblige if I would follow his wishes. As he was saying that, he was already touching my breast. He exposed his penis at told me to perform "fellatio." I refused. I was then told to return the following day, the same time and he will wait for me.

19. I came back on June 16, around 7:00 A.M. As ordered, I proceeded to the Calamba Church to wait for Judge Lustre. He fetch (sic) me from there on board his white Toyota car and he brought me to Riverview Resort and Sports Complex in Crossing, Calamba, Laguna. I could not refuse because of the threat about our case. Inside the room at Riverview, he told me there will be a setting for July and August. Then he undressed himself and ordered me to do the same. I knew I was selling myself to the devil but our blood money is at stake. It is for the future of my son and I was willing to do anything for my family. Perhaps I was too stupid to do it, but at that time, I felt helpless. He ordered me to perform "fellatio" on him and I obeyed. There was blood that oozed from his penis. I also saw black rashes on his body, especially on his legs. Before we left, he told me to see him again on July 10 in his office.
20. On June 23, 1995, the same thing happened. I went to his office at 7:00 A.M. Judge Lustre brought me to Riverview Resort and Sports Complex and I was again ordered to perform "fellatio" on him.
21. The June 28 hearing proceeded. But I did not go and see Judge Lustre on July 10 as requested. I just called him and presented an alibi. He told me to just come the following day, July 11 at 7:00 A.M. at Jollibee, Calamba and he will wait for me. As parting words, he told me not to fool him.
22. I did not see him on July 11 because I already felt so dirty and used. I never realized before I was capable of doing such a thing for my family, until the time came. But I could not take it anymore.
23. On July 27, the hearing proceeded. But the previous schedules were cancelled and instead hearing was set in November, 1995.
24. On August 15, 1995 at 7:00 A.M., I went to his office to get an order for the referral of the specimen signatures of Rowena Chua to the NBI. Again, he kissed me and touched me. I could not refuse for fear of retaliation.
25. I could see that Judge Paterno H. Lustre is deliberately delaying the prosecution of our cases to prolong his abusive acts towards me. As can be seen from the transcript of the hearings, he is not leaning in our favor. What we are asking only is for the continuous setting of the trial because we cannot afford a long drawn out proceedings. But instead, he is delaying the trial. He has even shown hostility towards my husband when he was testifying and towards my lawyer, allegedly because he was jealous.
26. This kind of judge gives the judiciary a bad name. There must be a stop to this evil doings. I am not the only victim of Judge Lustre. I know at least two (2) other women who are similarly situated are being used and abused by him. But they do not want to complain because of fear and the possible consequence to their cases. As for me, I am emboldened by disgust and frustration. I now seek the

intervention of the Honorable Supreme Court to give justice to the victims and rid the judiciary of the likes of Judge Paterno H. Lustre.

27. I know the shame I have to bear but I have to expose the wrong doings of a judge who is supposed to uphold the law and morality. But instead, he preys on hapless and those who are not learned in law as his victims.

28. What I have narrated here are true, which I would never have revealed were it not for my better sense of judgment. I know I made a mistake by becoming a willing victim. But I did it for my family as I thought that is the only way I can help my husband get back his money for our future.^[3]

Apart from the letter and the sworn statement, complainant also sent the Court 11 photographs showing her and respondent together in various places. Five of these were allegedly taken at the Riverview Resort in Calamba, Laguna. She also submitted a receipt issued by said resort dated June 23, 1995 and two transcripts of phone conversations she had with respondent.^[4]

Respondent's defense is anchored on denial. In a "2nd Indorsement"^[5] he sent to the Court, by way of answer to the complaint, he "strongly denie(d)"^[6] the charges leveled against him and dismissed them as "the vile products of (complainant's) malicious and prejudiced mind."^[7] According to him, complainant and her common-law husband thought of filing charges against him when he "refused to bend to, and accommodate, (their) haughty and arrogant demands ... to hastily schedule, try continuously, finish and decide arbitrarily within a very short period of time"^[8] the B.P. 22 (Bouncing Checks Law) cases filed by complainant's husband. The complaint was, according to respondent, likewise prompted by respondent's refusal to accept complainant's offer to "reward" him with five percent of the P3.5 million her husband seeks to recover.

Respondent claimed that he could not have been in his chambers as early as 7:00 in the morning as alleged by complainant since he usually arrives for work some five to ten minutes before 8:00 in the morning. Moreover, he said the door to his room is never locked -- thus, the impossibility of him engaging in illicit sexual conduct within its confines -- since the only comfort room in the courtroom is inside his room and anyone who wants to use it may enter his room freely.

Respondent further pointed out that at age 67, with a heart ailment and diabetes, "(s)ex is beyond (his) physical capacity."^[9] He said he is "no longer capable of what ordinary men indulge in, lest (he) die in the attempt."^[10] He sought the dismissal of the complaint filed against him.

In support of his claims, respondent submitted the following documentary evidence: (1) affidavit executed by Rodelio A. Alcaraz, a utility worker, stating that respondent usually arrives at the office at 7:45 in the morning; (2) affidavit executed by Atty. Benjamin A. Alonzo, Sr., a private practitioner based in Calamba, attesting to respondent's fine work ethics and moral uprightness; and (3) certification from Dr. Elmer S. Sayoc stating that respondent is being treated for coronary artery