

## SECOND DIVISION

[ A.M. No. RTJ-99-1445, June 21, 1999 ]

**VENTURA B. AYO, COMPLAINANT, VS. JUDGE LUCIA VIOLAGO-ISNANI, BRANCH CLERK OF COURT JAIME M. LUY, SHERIFF JADI HATAB, REGIONAL TRIAL COURT, BRANCH 59, MAKATI, CLERK OF COURT ERLINDA M. PEREZ, REGIONAL TRIAL COURT, BALANGA, BATAAN, AND LEGAL RESEARCHER JOEY A. ASTORGA, REGIONAL TRIAL COURT, BRANCH 5, DINALUPIHAN, BATAAN, RESPONDENTS.**

### DECISION

**MENDOZA, J.:**

This is a complaint filed by Ventura B. Ayo against Judge Lucia Violago-Isnani of the Regional Trial Court, Branch 59, of Makati City, and Atty. Jaime M. Luy and Jadi I. Hatab, Clerk of Court V and Sheriff, respectively, of the same court, and Atty. Erlinda M. Perez, Clerk of Court VI, Regional Trial Court of Balanga, Bataan, and Joey A. Astorga, Legal Researcher II of the Regional Trial Court, Branch 5, of Dinalupihan, Bataan.

Complainant was the representative of Vilma C. Aquino and her minor children who are plaintiffs in Civil Case No. 91-354. In an amended decision rendered by respondent judge on September 4, 1996, Vilma Aquino and her children were awarded P50,000.00 as indemnity for the death of her husband Ireneo Aquino; P1,101,600.00 for the loss of Ireneo's earning capacity; P14,000.00 actual damages; and P100,000.00 moral damages.

Complainant's charges and the respective comments of respondents are as follows:

(1) Clerk of Court Jaime M. Luy and Sheriff Jadi I. Hatab of the RTC, Branch 59 of Makati City.

Complainant alleged that it took respondents an unreasonably long time, from July 15, 1997, when the writ was issued, to December 17, 1997, to enforce the writ of execution in favor of Vilma C. Aquino and her minor children. Complainant claimed that the two "did not even send the writ of execution through registered mail to the appropriate Clerk of Court and/or the Sheriff and his deputy who have administrative jurisdiction to enforce [said writ]."

In his comment, Clerk of Court Luy denied delaying the implementation of the writ of execution. He alleged that while he issued the writ of execution on July 15, 1997, it was only on December 17, 1997 that complainant got the writ from him for delivery and payment of the required fees to the Clerk of Court and Ex-Officio Sheriff, RTC of Balanga, Bataan. Luy pointed out that when an order was issued on January 9, 1998 authorizing Aquino and her children to litigate as indigent parties,

he immediately issued an alias writ of execution and endorsed the same to the Clerk of Court and Ex-Officio Sheriff, RTC of Dinalupihan, Bataan.

For his part, Sheriff Hatab alleged that he had nothing to do with the writ of execution as the same was first addressed to the Clerk of Court and Ex-Officio Sheriff of the RTC of Balanga, Bataan, and later endorsed to the RTC of Dinalupihan, Bataan.

2. Clerk of Court and Ex-Officio Sheriff Erlinda M. Perez of the RTC of Balanga, Bataan.

Complainant alleged that on December 19, 1997 he tried to give the writ of execution to respondent Perez, but the latter refused to receive and enforce the same.

On the other hand, respondent Perez denied that she refused to receive the writ of execution. She said that as the persons against whom the writ was issued were residents of Dinalupihan, Bataan, she referred the writ to Joey Astorga, the Officer-in-Charge of the RTC in Dinalupihan. She did this in a letter dated the same day, the original of which was received by complainant himself for delivery to the addressee.

3. Clerk of Court and Ex-Officio Sheriff Joey A. Astorga of the RTC, Branch 5 of Dinalupihan, Bataan.

Complainant alleged that, for one month since complainant personally delivered to him the writ on January 27, 1998, Astorga did nothing to cause its enforcement.

Respondent Astorga on the other hand alleged that when complainant filed the writ in his office on January 12, 1998, he informed the latter that the Deputy Sheriff was out doing fieldwork and suggested that complainant return another time. However, when complainant came back on January 29, 1998, the writ could not be enforced as complainant had not deposited the amount necessary to defray the Deputy Sheriff's expenses. Respondent Astorga alleged that Judge Jose Ener S. Fernando offered to give police escort and even "shell out the expenses that may be incurred in the implementation of the writ that same date but [complainant] refused as he prefer[red] Manila Police as escort and the media people." Respondent Astorga concluded his comment by saying that, insofar as he is concerned, "the deputy sheriff is doing her best to have the decision of the court fully implemented but Mr. Ayo [herein complainant] seems to be the one who causes delay in its implementation."

4. Judge Lucia Violago-Isnani, RTC, Branch 59 of Makati City.

Complainant alleged that he filed a motion to disqualify Atty. Jose V. Natividad as counsel for Vilma C. Aquino and her children, as well as Enrico Tensuan and his representatives to negotiate on behalf of the Aquinos; that at the hearing on his motion on February 6, 1998, Judge Isnani showed her partiality toward Atty. Natividad and Tensuan by subjecting him (complainant) to humiliation, telling him that he was not a lawyer, and prevented him from speaking when he tried to state the grounds for his motion. Complainant further alleged that on that date, Judge Isnani granted Atty. Natividad 35 days to negotiate for a settlement with the defendants.

In her comment, respondent Judge Isnani alleged:

On January 30, 1998, Mr. Ayo, as representative of co-plaintiffs' Vilma Aquino and her minor children, filed a "Motion To Dismiss And Disqualify Atty. Jose V. Natividad as Legal Counsel for the Co-plaintiffs (Vilma S. Aquino and Her Minor Children) etc." (Xerox copy is hereto attached as Annex "B"). Mr. Ayo set the hearing of the motion on February 6, 1998 at 8:30 A.M.

During the hearing of the motion on February 6, 1998, the Court noticed that while Atty. Romualdo Din, Jr., counsel for the defendants, was furnished with a copy of the said motion, Atty. Natividad, against whom the motion to dismiss and disqualify was directed, was not. Hence, the undersigned pointed out to Mr. Ayo, who appeared as representative of co-plaintiffs Vilma Aquino and her minor children, that since he claims in his motion to dismiss that: Atty. Natividad could no longer protect honestly and effectively the individual interest of the co-plaintiffs in Civil Case No. 91-354; Atty. Natividad did not effectively and completely carried out his duties as legal counsel for the co-plaintiffs; Atty. Natividad compromised the individual interest of the indigent litigants, the widow and the orphans, to the self-interest of Mr. Enrico Tensuan (a wealthy and influential businessman); and Atty. Natividad should not compromise his client's litigation without special authority to do so, then in the interest of justice and fair play, Atty. Natividad should be given a chance to comment. Mr. Ayo insisted that there is no need to furnish Atty. Natividad with a copy of his Motion to Dismiss; that precisely he did not furnish Atty. Natividad with a copy of the motion was because he did not want Atty. Natividad to prepare; and that he has all the right to dismiss Atty. Natividad as he does not trust him anymore. Mr. Ayo started delivering a speech attacking Atty. Natividad. The undersigned admonished him to stop as Atty. Natividad was not present in Court to answer his attack. But Mr. Ayo refused to stop and started lecturing on the freedom of speech. At this point, the undersigned reminded Mr. Ayo that since he is not a lawyer, he does not know that his motion is litigious and that notice is important and part of due process. Obviously, Mr. Ayo resented being admonished for he retorted that even if he is not a lawyer, he has read the Rules of Court many times and there is nothing there to show that a lawyer must be notified of his dismissal by his client.

Mr. Ayo then proceeded to argue that since the co-plaintiffs whom he is representing, are pauper litigants, the Court must be on their side.

On the same date, February 6, 1998, the Court through the undersigned, dictated an order in Open Court directing Mr. Ayo, to furnish, within three days, Atty. Natividad with a copy of said motion and for Atty. Natividad to file his comment thereto within five (5) days from receipt of said copy. The Court also reset the hearing of the motion to March 13, 1998. (Xerox copy of the Order dated February 6, 1998 is hereto attached as Annex "C"). Throughout the proceedings on February 6, 1998, the undersigned never spoke "harshly" to Mr. Ayo or to anyone, for that matter. The undersigned was very patient with Mr. Ayo knowing pretty well that he is