

EN BANC

[A.M. No. MTJ-98-1162, August 11, 1999]

ANA MAY M. SIMBAJON, COMPLAINANT, VS. JUDGE ROGELIO M. ESTEBAN, MUNICIPAL TRIAL COURT IN CITIES, BRANCH I, CABANATUAN CITY, RESPONDENT.

DECISION

PER CURIAM:

In a letter^[1] dated September 8, 1997, Judge Rogelio M. Esteban of the Municipal Trial Court in Cities (Branch I, Cabanatuan City) was charged by Ana May V. Simbajon with sexual harassment and grave misconduct.

In the Sworn Complaint dated September 8, 1997, which accompanied her letter, Simbajon narrated the following:

"3. When the local position of book binder in Branch I of the said Court became vacant, I applied for it, but my papers requiring the signature of Judge Esteban remained unacted upon for sometime;

4. On June 25, 1997, I decided to approach Judge Rogelio M. Esteban about the matter, inside his airconditioned chamber, but during the course of our conversation, said Judge uttered the following:

"ANO NAMAN ANG MAGIGING KAPALIT NG PAGPIRMA KO RITO? MULA NGAYON GIRLFRIEND NA KITA. ARAW-ARAW PAPASOK KA DITO SA OPISINA KO, AT ARAW-ARAW, ISANG HALIK."

to which I replied that it could not be possible because look[ed] up to him like a father to me;

5. As he signed my papers, he stood up from his chair, went to my back where I was seated, and to my shock suddenly kissed my left cheek;

6. I stood up shaken and trembling in fear and immediately left the said chamber, promising myself never to enter that chamber again and never to talk to said Judge again;

7. Then, on August 5, 1997 at around 9:30 o'clock in the morning, Court Interpreter Virginia S. Medina told me I was being called by Judge Rogelio M. Esteban regarding our payroll, and although in trauma over my experience in said chamber, I was constrained to enter said room, as I had no choice, being a mere lowly subordinate;

8. As I was about to take a seat in front of Judge Rogelio M. Esteban's

table, he instructed me to stand beside his table near where he was seated;

9. Judge Esteban asked me since when I ha[d] been receiving [a] book binder's salary, and I told him quite sometime already, and after that, he told me:

"MATAGAL NA PALA EH BAKIT HINDI KA PUMAPASOK DITO SA KUWARTO KO? DI BA SABI KO SA IYO, GIRLFRIEND NA KITA?"

to which I firmly answered back it could not be possible for he was only like a father to me. I really felt insulted to be treated that low by a judge at that, being a married woman with two sons;

10. At that point, Judge Esteban suddenly stood up from his seat, uttering:

"HINDI PUEDE `YAN, MAHAL KITA."

and then grabbed me, started kissing me all over my face, embraced me, and touched my right breast;

11. I freed myself from his embrace, left the said chamber hurriedly, and threw the payroll on top of the table of co-employee Elizabeth Q. Malubay, teary-eyed, trembling in shock and fear;

12. Sensing something was really wrong with me, she accompanied me to the comfort room and there I cried and related to her what had happened in the chamber of Judge Esteban;"^[2]

In his Answer filed with this Court on December 2, 1997, respondent judge denied the allegations in the Complaint in this manner:

"4. That paragraph 4 is vehemently and specifically denied for lack of knowledge sufficient to determine its truth or falsity; the truth being that when Ms. Ana May Simbajon approached herein respondent and presented some papers/documents clipped to one another, he scanned over the same and when he saw that the same [were] already approved by the City Mayor, Hon. Manolette S. Liwag and that his signature thereon [was] a mere formality, he readily signed the same without hesitation [or] any questions asked; That after he ha[d] signed the document Ana May Simbajon rose from the chair placed in front of my desk where she was seated, walked towards the respondent and buzzed him on the forehead as she said `Thank you, sir, mahal ka namin, para kang tatay namin', to which he smiled and replied `salamat'. Thereafter she took the signed documents and casually walked out of the chamber of the judge;

x x x x x x x x

7. That paragraph 7 is specifically and vehemently denied for lack of knowledge sufficient to form a belief as to its truth or falsity[,], the truth

being that respondent never sent for Ms. Ana May Simbajon thru Court Interpreter, Virgie Medina, on August 5, 1997; that when he re-entered his chamber after talking with some people at the MTCC lobby, found that [the] payroll voucher of the City Hall casual employees [was] already stacked above the piles of official papers on his table[,] all for signature of the Presiding Judge; that he signed the said payroll voucher without any hesitation, as he usually does even up to this writing;

x x x x x x x x

10. That herein respondent hereby emphatically manifests the physical impossibility of the commission of the accusation considering that the xxx chamber's door to the staff room is always fully and widely [open] and almost all the employees of Branch I are respectively seated on their assigned places such that any unusual conversation or commotion inside the judge[`s] chamber is easily and readily detected;

11. That herein respondent always act[s] with fatherly attitude and behavior towards all the employees of the MTCC of Cabanatuan City;

12. That herein respondent always conducts himself publicly with amiable, jolly and good behavior and [the] nice attitude of a good father of the family;

13. That he has no personal enmity with anybody and harbors no ill-feeling towards anybody;

14. That he is not aware of any reason sufficient to form a belief why he should be charged or indicted on any ground either civilly, criminally or administratively;

15. That he is endowed with public trust and confidence, he being a former director and president of the Nueva Ecija Judges Association; former Deputy Grand Knight of the Knights of Columbus Sta. Rosa Council No. 5463; an active member of Gen. Llanera Lodge No. 168 F & AM; an active dual member of Santa Rosa Lodge No. 297, F & AM; incumbent Secretary-General of the City Judges Association of the Philippines; and a religious and charitable person;

16. That he specifically and vehemently objects to all the contents of the Affidavit of Ms. Elizabeth Q. Malubay which she executed in relation to the above-cited sworn statement of Ms. Ana May Simbajon, it being entirely preposterous, hearsay and contrary to reason and common sense."^[3]

On August 31, 1998, this Court referred the case to Executive Judge Federico Fajardo Jr. of the Regional Trial Court of Cabanatuan City (Branch 30) for investigation, report and recommendation. Further, the Court placed respondent Judge Esteban under preventive suspension for the duration of the investigation until further notice.^[4]

In his Report, Judge Fajardo accorded credibility to the complainant and her

witnesses and rejected the testimonies of respondent and his witnesses. The investigating judge reported:

"[Respondent judge] was not able to present any proof that complainant is a woman capable of spinning a lie, a woman so callused and thick-skinned to be able to bear the consequences of a tale of sexual harassment which put her own morality and reputation at stake, not counting the serious effect it will have on her own husband and children. Respondent failed to show what kind of relationship and/or agreement complainant and witness Malubay had that the former would risk her marriage, her reputation and her future only to help avenge the latter who was not recommended to the position of Utility Worker by respondent. Also, complainant filed a case against respondent before the Ombudsman, the case now being heard at the Sandiganbayan. Such determination to seek justice for herself negates the allegation or any suspicion that her case was just a blatant fabrication.

Without any convincing evidence on hand, respondent's last line of defense is denial. The Supreme Court held that 'Denial, if unsubstantiated by clear and convincing evidence, is a negative and self-serving evidence which deserves no weight in law and cannot be given greater evidentiary value over the testimony of credible witnesses who testify on affirmative matters'.

As to the pressure being exerted by respondent for complainant to withdraw her case against him as testified to by complainant and witnesses Priscilla Santos and Lea Rubio which was not convincingly rebutted by respondent, suffice it to say that pressure is the only recourse of any respondent who is bereft of any evidence to defend himself with.

Based on the foregoing findings, the undersigned Investigator concludes that there is sufficient evidence to create a moral certainty that respondent committed the acts complained of. In a long line of cases involving judges, the Supreme Court has held that actuations like those done by respondent 'are aggravated by the fact that complainant is one of his subordinates over whom he exercises control and supervision he being the Executive Judge. He took advantage of his position and power in order to carry out his lustful and lascivious desires. Instead of he being in loco parentis over his subordinate employees, respondent was the one who preyed on them taking advantage of his superior position'.

Thus, respondent has violated the Code of Judicial Conduct which requires every judge to be the embodiment of competence, integrity and independence and to avoid impropriety and the appearance of impropriety in all activities as to promote public confidence in the integrity and impartiality of the judiciary.

At a time when the Courts are trying to disprove its 'hoodlums-in-rob'es' image, this despicable act of respondent turning his august chambers into a bordello only further tainted the image of the judiciary. Respondent failed miserably to observe the exacting standards of morality and