

SECOND DIVISION

[A.M. No. MTJ-99-1237, November 25, 1999]

**ALFONSO AND CORAMINDA LUMIBAO, COMPLAINANTS, VS.
JUDGE MAMERTO C. PANAL MCTC, MALUNGON-ALABEL,
SARANGGANI, RESPONDENT.**

D E C I S I O N

BUENA, J.:

This administrative matter is an offshoot of a barrage of letter-complaints signed by herein petitioner spouses Alfonso and Coraminda Lumibao, imputing to respondent Judge Mamerto Panal of the MCTC, Malungon-Alabel , Saranggani, a plethora of charges involving among others, "grave misconduct"^[1], "delay in the remittance of P5,000.00 cash bail bond to the Supreme Court", "cultivation of land covered by TCT No. T-908", "electioneering"^[2] and "hurling of invectives"^[3]

Alfonso and Coraminda Lumibao are member and President, respectively, of the NGO-Alabel Reform Movement Inc. (ARMI), a non-governmental organization while respondent Mamerto Panal is the presiding judge of the Municipal Circuit Trial Court (MCTC) of Malungon-Alabel, Saranggani.

Based on the memorandum dated 11 August 1999^[4] of Court Administrator Alfredo L. Benipayo, the instant administrative matter arose from several letter-complaints filed by petitioner spouses which are summarized hereunder, together with the corresponding Comments thereto by herein respondent judge, thus:

**"Letter dated April 6, 1994.
Complainants' Allegations.**

Coraminda Lumibao requested for the transfer of Judge Panal from the Alabel Circuit of the 4th MCTC, Malungon-Alabel, Saranggani because: a) Judge Panal is 'the brother-in-law of the then incumbent mayor of the Municipality of Alabel'; and b) Judge Panal 'exhibited grave misconduct in the community as contained in x x x (her) complaint to the chairman of the District Election Committee, SOCOTECO II Cooperative.'

Respondent Judge's Comment.

In his Comment dated June 2, 1994, Judge Panal stated that: 1) he married the mayor's youngest sister on June 28, 1986 'long before Mayor Hernando L. Sibugan got elected as mayor of Alabel'; and 2) the accusation of 'grave misconduct in the community' is 'BELIED by no less than the Chairman, the Secretary and Member of the District Election Committee x x x as shown in their Joint Affidavit' x x x ... and 'the decision rendered by the District Election Committee DISMISSING the complaint filed by Coraminda Pabillo-Lumibao for 'no sufficient grounds for the

guilty/violations (sic) of the respondents.'

Letters of May 31, June 14 and July 8, 1994.
Complainant's Allegations.

In said May 31, 1994 letter, they stated that: [a] Judge Panal was intimidating complainants who requested for his transfer out of Alabel as stated in a letter sent to President Fidel V. Ramos on April 12, 1994; [b] a convicted murderer Rolando Lalisán, a relative of Judge Panal is out of jail and harassing the people; [c] 'a rapist Julian Villacrucis who is the driver of the Judge relative (sic) is out harassing people', [d] Judge Panal went to around 10 precincts in Alabel Poblacion in the Barangay Election day on May 9, 1994 'showing his weight around as their Dynasty supported some candidates'.

In said June 14, 1994 letter, they stated that:

'Judge Panal commented that my accusation against his brother-in-law Mayor Hernando Sibugan and other local officials are baseless. A judge should not be commenting this way before an investigation have (sic) even just began. He is suppose (sic) to be symbol of justice in this part of the country and as such suppose (sic) to be impartial on issues. In commenting little the lawyer of the accused (sic), this Judge have (sic) totally lost his credence as a Judge, and does not possess even an iota of delicadeza which is very dangerous in dispensing justice, especially when it concerns his relatives. And therefore deserve (sic) an immediate transfer if just to make him realize that a Judge is a very respectable position and never to be used for somebody's personal interest, not even the Mayor nor his relatives.'

'Judge Panal claimed that the people trekked to his office to manifest their denial to have signed any petition for his transfer. The people went to see him because they were summoned with threat of imprisonment if they will not see the Judge. In fact it is (sic) Mayor Hernando Sibugan who sent the invitation and Judge Panal interrogates (sic) the people and have them signed that the NGO-ARMI (Alabel Reform Movement, Inc.) misled them. x x x' [Copied verbatim]

In said July 8, 1994 letter, they stated that:

"2. Judge Panal misled the Supreme Court when he said the people 'trekked to the Municipal Hall to see the town executive and to the Court' -- this is a lie -- the truth is the protesters were given 'Summons' by his brother-in-law Mayor Sibugan, and the Judge confronted them when he said, 'I had confronted only some of them' x x x The irony is that the Mayor and the Judge and other Alabel officials are supposed to be investigated -- instead, they investigated the complainants. x x x Some of those threatened by the Judge to sign are willing to testify that they were given a prepared form against Mrs. Lumibao, 'PARA SA KAALAMAN NG LAHAT ' x x x

`3. Judge Panal did not inform the Supreme Court that his relative Rolando Lalian was convicted for the murder of Pedro Escoltora due to a land problem -- and the poor wife Juanita Escoltora was not informed of the re-opening of the case for the acquittal of Lalian. **According to a witness, Judge Panal had harvested from this contested area which is allegedly titled to Lopez and other farmers who are afraid to visit their land for fear of the Judge and Lalian x x x' (Emphasis ours).**

x x x x x x x x x

`1. The Albarracins complained that Hermalina Albarracin, a rape victim, was asked by Judge Panal not to file a case, but they refused, and now the suspect is at large after jumping bail.'

x x x x x x x x x

`11. Is the complaint of Aldin Tusan true that his 14 years old son was jailed and Judge Panal had been postponing the hearing, while the alleged killer is Nayre who is the son of Mayor's employee who is at large? x x x' (Copied verbatim)

Respondent Judge's Comment.

In his Comment dated August 19, 1994, Judge Panal stated that:

`In re: Complaint of Aldin Tusan,
Paraiso, Alabel, involving his son--
Elmer, re: Murder of Filomino
Sampaga.

`The records show that a complaint for murder was filed on May 13, 1985 against Teodoro Nayre @ Adola and Elmer Tusan @ Tata for the death of Felomino Sampaga before then Judge Teodorico P. Diaz, docketed as Crim. Case No. 674-A x x x. On May 13, 1985, then Judge Diaz issued an order for the issuance of the warrant of arrest and the warrant of arrest itself against the 2 accused x x x. On February 10, 1993 (after almost 8 years), accused Elmer Tusan @ Tata was arrested so that the corresponding Order of Commitment Pending Trial was issued (now) by me on same date x x x. The following day (February 11), an order was issued by me directing Tusan to submit controverting evidence x x x. On March 22, 1994, PAO lawyer, Atty. Alfredo Barcelona, Jr. filed a Motion to Waive (right of accused Tusan to) Preliminary Investigation (Second Stage) x x x. On March 30, 1993, I issued a resolution ordering the forwarding of records to the Provincial Prosecutor and the commitment of the accused Tusan from municipal jail to the provincial jail x x x. On April 7, 1993, Prosecutor Franklin Gacal (City Prosecutor of General Santos and Sarangani OIC) issued an Order/Resolution finding no basis to disturb my Resolution finding a prima facie case against the two accuseds and directing the filing of the corresponding information x x x

` Further check of the case would show that, based on the Certification issued by the Clerk of Court of the RTC of Alabel x x x, the case (now docketed as Crim. Case No. 9413, RTC) was originally filed on April 14, 1993 with the RTC of General Santos City, Branch 22, and transferred on September 16, 1993, to the RTC of Alabel, Branch 38 (upon its creation), presided over by the Honorable Judge Jaime I. Infante. The latest scheduled trial on August 4 1994 was postponed by Judge Infante to September 19 for failure of accused's counsel to appear for trial.'

` In re: Allegation of Coraminda Lumibao
re investigation and threats to incarcerate
people who will refuse to sign petition for
my retention.

` This is a BIG VICIOUS LIE. A MALICIOUS FABRICATION. A SUPPRESSION OF TRUTH. What truthfully transpired was that I sought the assistance of the Mayor to get in touch with the people who appeared to have signed the alleged petition seeking for my transfer. It was a first step to giving (sic) them "due process" before I consider taking legal actions against those who appear to be responsible in maligning me, tarnishing my integrity as member of the Bench, and scandalizing my family by reason of the malicious imputations and baseless charges. Those notified thru the letters sent by the Mayor trekked to my office after seeing the Mayor and had explained their side. They admitted to have signed blank sheets of paper upon the behest of Coraminda Lumibao under the pretext of forming a Non-Governmental Organization (NGO) where the members thereof can either avail of cash assistance or loan, assistance in their livelihood projects, water connection or reduction of taxes, etc. But they claimed innocence as they have no knowledge regarding the petition. Contrary to the imputation of threats, these people were even grateful to the Mayor and me for contacting them and giving them the opportunity to air their side. To this effect, their respective declarations (Pahayag/ Deklarasyon, x x x) were taken, subscribed and submitted earlier to the Supreme Court. I even have tape recording of our free-wheeling conversation. They claimed to have been misled by Coraminda Lumibao and her sycophants into signing them under the guise of NGO membership.

` I swear on my oath as a member of the Bench that there was (sic) no threats of whatever nature or kind. **It's not my way.** Besides, how can this alleged threat be possibly true when the letter itself of the Mayor is devoid of such implication? Lumibao cannot substantiate her charges otherwise she would have presented a copy of the alleged petition for my retention or statements under oath by the person or persons threatened, but...there was none. If there was some form of threats or harassments (sic) on the people, it was the Lumibao couple and their minions who did it to prevent the people from coming out of their statements that would adverse (sic) to the Lumbaos (sic). My case is a clear example. This malicious and unfounded charges are, in themselves, pure and clear harassments (sic). Admitting, arguendo, that the couriers of the Mayor's letters may have uttered words convincing them to see the Mayor or me to avoid facing possible prosecution, it cannot be considered in the

context of plain threats but a show of concern, being the Mayor and father of the town of Alabel, to spare them from getting involved in the crossfire of cases that I am readying to file against the spouses Lumibao and their cohorts.'

Letters of August 30, September 5 and October 5, 1994.

Complainant's Allegations

In said August 30, 1994 letter, they stated that:

` On August 24, 1994, Aldin Tusan of Paraiso, Alabel, Sarangani Province was summon (sic) by Judge Mamerto Panal to appear before the Office of the Chief of Police, Carlos Abastillas because of the past experience of the police brutality, Aldin Tusan requested Mrs. Coraminda Lumibao, President of NGO-Alabel Reform Movement, Inc. to accompany him.'

` During the meeting Judge Panal was already very angry at Aldin Tusan for bringing to the attention of the Supreme Court in his complaint regarding his son (sic) pending case. Judge Panal was not able to control his anger when Coraminda Lumibao suggested that Aldin Tusan should also be given the chance to explain his reason as to why he brought his complaint against Judge Mamerto Panal. At this juncture the Judge bang (sic) his fist on the table and pinpointed on me his finger and shouted **(Putang Ina mo, Mrs. Lumibao)**. There was a commotion immediately after that because some policemen entered the office and push (sic) me practically drug (sic) me out of the office because Judge Mamerto Panal was on the act of slapping me. To humiliate me further Judge Panal was shouting at the top of his voice in front of the police station, threatening me with a court suit. x x x

` Judge Panal is now in the warpath committing grave misconduct, disgraceful and immoral conduct, conduct grossly prejudicial to the interest of the Court, oppression and threatening those who are complaining against him, failure to attend to his duties, and many others--and he said: **`PUTANG INA MO!'**

x x x x x x x x x

` Judge Panal received the letter from the Supreme Court for him to make a reply-- but instead he lambasted, threatened and harassed our witnesses so they will change their testimony against him, and in so doing he created more trouble. x x x

` Judge Panal questioned Mr. Aldin Tusan for his letter sent to the Chief Justice Andres Narvasa x x x.

In our letter to the Supreme Court on July 8, 1994 we wrote on Page 4 and Number 11 that the real killer is close to the Sibugan-Panal Clan and possibly relatives -- the problem is that the killer is at large, while Tusan's son is in jail-- and the Judge did not care about the case. It was during the confrontation of Judge Panal with Mr.