

SECOND DIVISION

[A.M. No. MTJ-98-1152, June 02, 1998]

AVELINO AND ASTERIA DAIZ, COMPLAINANTS, VS. JUDGE PROSTASIO G. ASADON, 6TH MCTC, LLORENTE-HERNANI, EASTERN SAMAR, RESPONDENT.

D E C I S I O N

PUNO, J.:

In an Affidavit/Complaint dated March 19, 1997, spouses Avelino and Asteria accused respondent Judge Prostasio G. Asadon of the 6th Municipal Circuit Trial Court of Llorente-Hernani, Eastern Samar, of evident bias and partiality, abuse of authority and violation of Supreme Court circulars on punctuality and observance of office hours. They alleged:

"x x x

"That at around noon yesterday, March 18, 1997, we were charged with the trumped up charge of Slight Physical Injuries before the 6th Municipal Trial Court of Llorente-Hernani, presided by Judge Prostasio G. Asadon;

"That at about 2:00 o'clock in the afternoon, we were arrested by policemen and brought to the municipal jail;

"That Judge Asadon did not accord us the right to present controverting evidence to the fabricated charges by means of counter-affidavits but instead issued a warrant for our arrest with undue haste;

"That after issuing the warrant of arrest, Judge Asadon immediately left his station and went home to Gen. MacArthur town;

"After our arrest, we sought assistance from Atty. Rufilo L. Tan who filed an Omnibus Motion which was filed at 3:10 o'clock in the afternoon but there was no one to act on it because Judge Asadon had gone home already; A [sic] relative offered to put up a cash bond of P1,000.00 for our provisional liberty but we did not proceed with it because there was no one to issue an Order of Release;

"The municipal employees told us that Judge Asadon often arrive [sic] late and always go home at noon and that he had never been known to hold office in the afternoon x x x;

"The daughter-in-law of Feleciano Bade who is the complainant against us is a relative of the wife of Judge Asadon, hence, his bias and partiality against us."^[1]

In his Comment dated August 16, 1997, respondent judge foisted the following defenses:

"xxx

"The accused Avelino Daiz and Asteria Daiz, has [sic] been nourishing hatred and rancor in their hearts arising from respondent's [sic] issuance of a Warrant of Arrest due to the fact that they were about to escape, as in fact, they have escaped after they were released on Bail on Recognizance since March 20, 1997, and up to now their whereabouts is [sic] unknown. x x x

"In regard to the imputation against respondent for evident bias and partially and abuse of authority, the series of orders x x x will show that respondent have [sic] been lenient in dealing with the accused.

"x x x

"It is not true and the same is vehemently denied that respondent went home to Gen. MacArthur in the afternoon on March 18, 1997, because on that date respondent was in the Municipality of Hernani, E. Samar, to attend an equally urgent Crim. Case No. 3975, entitled: PEOPLE VS. FEDERICO AMANO, For, CONSENTED ABDUCTION, in compliance with an EN BANC RESOLUTION of the Honorable Supreme Court, dated June 9, 1994. x x x

"Respondent had absolutely no knowledge of any relationship to his wife with the wife of the Offended Party in fact, respondent's wife [sic] given name, middle name and surname when still single is ROSITA ANES CALZITA, hence complainant's version to this effect is unfounded and an outright lies [sic].

"As to the charge of violation of Supreme Court Circular on Punctuality and Strict Compliance of [sic] Office Hours, same is also denied. If respondent has been plying from his Official Station of Llorente to other Municipal Circuit Trial Courts, like the MCTC Salcedo-Gen. MacArthur; MCTC Guiuan-Mercedes; MCTC Maydolong-Balangkayan; MTC Borongan, and MCTC San Julian-Sulat, it was in obedience to the Orders and designations of his superior Officer. x x x"^[2]

On January 1, 1998, while this case was still pending, respondent judge died of pneumonia.^[3]

In a Memorandum dated February 27, 1998, the Court Administrator exonerated the late respondent judge of all the charges except for abuse of authority based on the following findings:

"x x x

"The records show that on March 18, 1997, x x x respondent issued on Order directing the issuance of a warrant of arrest against the complainants. The following day, March 19, 1997 x x x another Order was again issued by respondent ordering the parties to file their respective affidavits and counter-affidavits.

"It is evident that respondent judge had been remiss in the correct application of the law when he immediately ordered the arrest of the