

## FIRST DIVISION

[ A.M. No. MTJ-93-783, July 29, 1996 ]

### OFFICE OF THE COURT ADMINISTRATOR, PETITIONER, VS. JUDGE FILOMENO PASCUAL, RESPONDENT.

#### D E C I S I O N

##### HERMOSISIMA, JR., J.:

Intimating as to what the ideals of a good judge should be, Sir Francis Bacon wants judges "to remember that their office is *jus dicere* and not *jus dare*, to interpret law, and not to make law or give law." They ought to be "more learned than witty, more revered than plausible, and more advised than confident. Above all things, INTEGRITY is their portion and proper virtue."<sup>[1]</sup>

The Constitution and the statutes, however, limit the legal qualifications of judges to only three bare essentials: citizenship, age and experience. The virtues of probity, honesty, temperance, impartiality and integrity, most often used to measure an aspirant to the bench, lose their meaning in individual perception.

While people perceive judges to be above the ordinary run of men, they know that a perfect judge, like a perfect priest, exists only in fantasy.

Thus, it does not come as a surprise that the integrity of respondent judge in this administrative case stands challenged for committing acts of extortion or bribery.

The following antecedent facts appear on record:

Sometime in February, 1993, a certain Ceferino Tigas wrote a letter, addressed to Hon. Reynaldo Suarez of the Office of the Court Administrator of the Supreme Court, charging that irregularities and corruption were being committed by the respondent Presiding Judge of the Municipal Trial Court of Angat, Bulacan.

On March 10, 1993, the letter was referred to the National Bureau of Investigation in order that an investigation on the alleged illegal and corrupt practices of the respondent may be conducted. Ordered<sup>[2]</sup> to conduct a "discreet investigation" by the then NBI Director Epimaco Velasco were: SA Edward Villarta, team leader, SI Reynaldo Olazo, HA Teofilo Galang, SI Florino Javier and SI Jose Icasiano. They proceeded to Angat, Bulacan, in order to look for Ceferino Tigas, the letter writer. Tigas, the NBI team realized was a fictitious character. In view of their failure to find Tigas, they proceeded to the residence of Candido Cruz, an accused in respondent's sala.

In his affidavit<sup>[3]</sup> executed on March 23, 1993 before SA Edward Villarta, Cruz declared that he was the accused in Criminal Case No. 2154, charged with the crime of Frustrated Murder. Respondent judge, after conducting the preliminary

investigation of the case, decided that the crime he committed was only physical injuries and so, respondent judge assumed jurisdiction over the case. Cruz believed that he was made to understand by the respondent that, in view of his favorable action, Cruz was to give to respondent the sum of P2,000.00. Respondent judge is believed to be a drunkard and, in all probability, would need money to serve his vice.

In view of this statement, the NBI agents assigned to the case caused respondent judge to be entrapped, for which reason, the judge was thought to have been caught in *flagrante delicto*. NBI agents Villarta and Olazo filed the following report:

***"On 25 March 1993, at about 4:00 in the afternoon, CANDIDO CRUZ met with Judge PASCUAL at the Colegio de Sta. Monica, near the Municipal Building of Angat, Bulacan, where Subject is attending the graduation of his daughter. CANDIDO CRUZ told Judge PASCUAL that he already had the P2,000.00 which he (Judge PASCUAL) is asking him. However, Judge PASCUAL did not receive the money because according to him there were plenty of people around. He then instructed CANDIDO CRUZ to see him (Judge PASCUAL) at his office the following day.***

***At about 8:30 in the morning of the following day (26 March 1993), CANDIDO CRUZ proceeded to the office of Judge PASCUAL at the Municipal Trial Court of Angat, Bulacan, and thereat handed to him four (4) pieces of P500.00 bills contained in a white mailing envelope previously marked and glazed with fluorescent powder.***

***In the meantime, the Undersigned stayed outside the court room and after about 15 minutes, CANDIDO CRUZ came out of the room and signaled to the Undersigned that Judge PASCUAL had already received the marked money. The Undersigned immediately entered the room and informed Subject about the entrapment. Subject denied having received anything from CANDIDO CRUZ, but after a thorough search, the marked money was found inserted between the pages of a blue book on top of his table.***

***Subject was invited to the Office of the NBI-NCR, Manila wherein he was subjected to ultra violet light examination. After finding Subject's right hand for the presence of fluorescent powder, he was booked, photographed and fingerprinted in accordance with our Standard Operating Procedure (S.O.P.).***

***On even date, the results of our investigation together with the person of Judge FILOMENO PASCUAL was referred to the Inquest Prosecutor of the Office of the Special Prosecutor, Ombudsman, with the recommendation that he be charged and prosecuted for Bribery as defined and penalized under Article 210 of the Revised Penal Code of the Philippines." (Rollo, pp. 47-48.)***

On May 11, 1994, by resolution of the Third Division of this Court, this case was referred to Executive Judge Natividad G. Dizon for investigation, report and

recommendation.<sup>[4]</sup>

In connection with this investigation, respondent filed a Memorandum, dated July 28, 1995, wherein respondent presented his version of the case:

***"Sometime in February 1993, one Ceferino Tigas, a fictitious person according to the NBI, wrote a letter to Court Administrator Ernani Paño of the Supreme Court, alleging irregularities committed by the accused. Deputy Court Administrator Reynaldo L. Suarez endorsed the letter to the NBI Director requesting 'discreet' investigation of the Tigas letter. An NBI tandem of Agents Edward Villarta and Reynaldo Olazo proceeded to Angat, Bulacan, to investigate. Said tandem's assignment was merely to conduct discreet investigation supposedly, but it led to incriminatory machinations, planting evidence, unlawful arrest, illegal search and seizure. They contacted Candido Cruz who was mentioned in the letter. They, however, discovered that Ceferino Tigas, the alleged letter writer, was an inexistent person, fictitious as shown by the synopsis report of the NBI agents (Exhibit 8). Having contacted Candido Cruz, the NBI agents persuaded him to participate in what they called 'entrapment operation.' The NBI agents prepared an affidavit, then a supplementary affidavit and had them signed by Candido Cruz. They also went to the NBI Headquarters and had four (4) P500 bills dusted with fluorescent powder which they used in the 'operation' against the accused.***

***In the afternoon of March 25, 1993, the NBI, along with Candido Cruz, proceeded to the municipal building of Angat, Bulacan, where the accused judge was holding office. However, they learned that the accused judge was not in his office but was then attending the graduation rites of his son at the nearby Colegio de Sta. Monica, and so they decided to move their 'operation' to the school grounds. The ceremonies had not yet begun. Candido Cruz saw the accused in one corner of the compound and approached him. He tried to give the accused an envelope allegedly containing money, but the judge refused to accept it and angrily drove Candido Cruz away. Rebuffed, the NBI agents decided to reset their 'operation' the following day.***

***At around 9:30 in the morning of March 26, 1993, the NBI agents and Candido Cruz arrived at the municipal building of Angat, Bulacan. Cruz, as planned, entered the accused judge's chambers and placed an envelope, allegedly containing marked money, right on his (judge's) desk. He thought it was a pleading for filing and he told Candido Cruz to file it with the office of the clerk of court at the adjacent room. Cruz replied that it was the money the judge was asking for. Upon hearing the reply, the accused suddenly erupted in anger, he grabbed the envelope on the desk and hurled it to Cruz. The envelope fell on the floor, the accused picked it up and inserted it inside the pocket of Cruz's polo shirt and drove him out of the chamber.***

***Just seconds thereafter, agents Villarta and Olazo entered the door of the chamber which door was open at that time. They introduced themselves and told the accused that the money that Cruz gave him was marked. Accused told them that he did not receive or accept money from Cruz. But they proceeded to search the room, the table, its drawers, and every nook and cranny of his room, including the pockets of the accused's pants. After scouring the place, the agents failed to find the envelope with the marked money. And so, one of the agents called for Candido Cruz who was waiting outside at a waiting shed fronting the municipal building, and asked him where the envelope was. Cruz came back to the room and, together with agent Olazo, approached the cabinet and said 'heto pala.'***

***Then, the accused's humiliating experience began. Thereafter, despite the strident protestations of the accused, the envelope, which came from the pocket of Cruz's polo shirt, was placed on top of the table of the judge, pictures were taken, and the accused was arrested by the NBI agents."***<sup>[5]</sup>

On August 11, 1995, Executive Judge Natividad G. Dizon submitted the following report and recommendation:

***"The Investigating Judge respectfully submits her findings based on the evidence at hand.***

***As against the respondent judge's denials, the undersigned submits that the sworn affidavits of complainants and NBI Agents and documentary proofs attached to the records are more convincing and nearer to the truth. They have no motive for fabricating this charge, except to bring justice. Credence should be given to the testimony of the NBI Agents coming as it does from an unpolluted source. These Agents had no reason to testify falsely against the respondent judge. They were just doing their duty. On the other hand, the respondent judge had to protect himself against the testimonial and technical/scientific evidence that he had received the envelope and to reject its implications of such evidence.***

***Furthermore, his defense that he was just instigated to commit a crime is likewise untenable. The principle evolved from the cases appears to be that in a prosecution for an offense against the public welfare, such as accepting bribe, the defense of entrapment cannot be successfully interposed; x x x.***

***One may well wonder over the manner the envelope containing the money was proffered to the respondent judge as he narrated his story on how he got mad at Candido Cruz when he proffered the said envelope, how he threw, picked it up and placed it in the pocket of the latter and how he drove him away. He even testified that it was just 'planted' by the NBI Agents when the latter***