

EN BANC

[A.M. No. RTJ-96-1336, July 25, 1996]

JOCELYN TALENS-DABON, COMPLAINANT, VS. JUDGE HERMIN E. ARCEO, RESPONDENT.

D E C I S I O N

PER CURIAM:

Once again, this Court must strike hard at an erring member of the Judiciary.

The case before us stemmed from a sworn-complaint filed by Jocelyn C. Talens-Dabon, Clerk of Court V of the Regional Trial Court of San Fernando Pampanga, charging Judge Hermin E. Arceo, the Executive Judge thereat with gross misconduct. The complaint was later amended to include immorality. Judge Arceo filed his answer with counter-complaint to the main complaint and his answer to the amended complaint. He likewise submitted the affidavits of his witnesses.

After considering the answers, we issued a Resolution dated February 1, 1996 referring the case to Associate Justice Portia Aliño-Hormachuelos of the Court of Appeals for investigation, report, and recommendations, and at the same time, placing Judge Arceo under preventive suspension for the duration of the investigation (p. 61, Rollo).

After requests for postponement from both parties, hearings were held on March 4, 19, 20, 21, 22, and on April 1, 8, 10 and 18, 1996. Both parties presented their respective witnesses. Except for Atty. Arnel Santos and Prosecutor Ramon S. Razon, all of Judge Arceo's witnesses were court employees assigned at either the Office of the Clerk of Court or Branch 43 of the Regional Trial Court of San Fernando, Pampanga.

In due time, the Investigating Justice submitted her Report and Recommendation with the following findings:

The evidence shows that complainant Atty. Jocelyn "Joy" C. Talens-Dabon, 29, a resident of Dolores, San Fernando, Pampanga, is the Assistant Clerk of Court of the RTC, San Fernando, Pampanga which item she assumed on August 10, 1995, after working for more than a year as Branch Clerk of Court of RTC Kalookan City under Judge Adoracion G. Angeles. At the time of her assumption to office, she was about to get married to Atty. Dabon, a lawyer who work at the Court of Appeals. She is a Methodist, the same religion as that of respondent's wife and family.

Respondent Judge Hermin E. Arceo, 54, a resident of Guiguinto, Bulacan is the Presiding Judge of the RTC Branch 43 in San Fernando, Pampanga. He was newly designated Executive Judge therein vice Judge Teodoro Bay who transferred to Quezon City. His wife is ailing and on dialysis, and has

been residing in the U.S. with their daughter since 1989. His family is in the printing business and his translations of some laws and books have been published (Exhs. 15-23). He has pursued further legal studies abroad either as participant or guest. He is President of the Pampanga-Angeles City RTC Judges Association and was designated Presidential Assistant for Operations of the Philippine Judges Association (PJA).

Three days after complainant first reported at the Office of the Clerk of Court, Atty. Elenita Quinsay, she was summoned by respondent. He was typing when she came in and at this first meeting, she was surprised that without even looking up at her, he asked her in a loud voice what she wanted. When he did look at her she was bothered by the way he looked at her from head to foot "as if he were undressing her." Respondent told her that she was going to be detailed to his office as his assistant, a situation which she did not welcome having heard of respondent's reputation in the office as "bastos" and "maniakis" prompting her to work for her transfer to Branch 45 under Judge Adelaida Ala-Medina.

On August 21, 1995, complainant received respondent's Executive Order No. 001-95 (Exh. H) requiring her to report to the office of the Executive Judge effective August 28, 1995. Her work was to draft and file memos and circulars, pay telephone and electric bills and other clerical duties assigned to her by respondent. At one time she was designated to act as Branch Clerk of Court of Branch 43 in the absence of OIC Bernardo Taruc. She observed respondent to be rude and disrespectful to her and the other court personnel. He talked in a loud voice and shouted at them; used offensive words such as "walang isip", "tanga"; told green jokes and stories; made harsh and negative comments about court personnel in the presence of others. Whenever he had the opportunity he would make bodily contact ("chancing") with her and certain female employees. Twice as she was about to go out the door respondent would approach it in big strides so that his body would be in contact with hers and he would press the lower part of his body against her back. When complainant introduced her fiancé to him, respondent asked her why she was playing with her forefinger, at the same time gesturing with his to signify sexual intercourse. Sometime in November 1995, respondent kissed complainant on the cheek, a fact admitted by him in his testimony. He also admitted kissing witnesses Marilyn Leander, Ester Galicia and other female employees.

Sometime in October 1995, the Courts of San Fernando transferred to the Greenfields Country Club due to the inundation of their regular offices with lahar. Ester Galicia whose house was also affected was allowed to house her appliances in the staff room of RTC Branch 43. These included a VCR on which, as testified by witness Bernardo Taruc, a VHS tape entitled "Illegal in Blue" brought by respondent was played at respondent's bidding. The tape contained explicit sex scenes and during its showing respondent would come out of his chamber and tease the female employees about it. Taruc further related that at one time respondent brought and showed to the employees a picture which when held in some way showed figures in coital position.

Adding to complainant's apprehensions about respondent's sexual predilection were the revelations of Marilyn Senapilo-Leander, 23, a stenographer of Branch 43. Testifying on her own experiences with respondent, Leander stated that respondent wrote a love poem to her (Exh. A) and that many times while taking dictation from respondent in his chamber, he would suddenly dictate love letters or poems addressed to her as if courting her (Exhs. B to E). He kissed her several times, pointedly stared at her lower parts when she wore tight pants and made body contacts ("chancing"). At one point bursting into tears -- which prompted this Investigator to suspend her testimony; she was so agitated -- Leander testified of the time that respondent summoned her to his chamber and she found him clad only in briefs. When she turned around to flee, respondent called after her saying "why are you afraid. After all, this is for you."

Leander took into her confidence the most senior employee in Branch 43, OIC Clerk of Court Bernardo Taruc who then took it upon himself to accompany Leander in respondent's office whenever he could or ask other female employees to accompany her. Taruc asked Leander to report the matter to Deputy Court Administrator Reynaldo Suarez but Leander expressed fear of retribution from respondent. When Leander's wedding was set in late 1995, respondent taunted her by saying "Ikay, ang dami ko pa namang balak sa 'yo, kinuha pa naman kita ng bahay sa isang subdivision, tapos sinayang mo lang, tanga ka kasi!" This is admitted by respondent who said it was only a joke. Asked why she did not file any complaint against the respondent for sexually harassing her, Marilyn Leander explained:

"I am afraid considering that I am just an ordinary employee. And I know for a fact that Judge Hermin Arceo is a very influential person, he is very rich. I know he has lots of friends in Pampanga like the Governor. I know I cannot fight by myself alone." (TSN, March 20, 1966, p. 30).

For the complainant, these personal and vicarious experiences hit bottom with the incident that happened in the afternoon of December 6, 1995. As testified by complainant, corroborated in parts by Bemardo Taruc, Yolanda Valencia and Rosanna Garcia, complainant was summoned at about 1:30 p.m. to respondent's temporary chamber at Greenfields Country Club by respondent who himself came to the Staff room. By this time, only the Office of the Clerk of Court and RTC Branch 43 had been left at Greenfields; the other RTC branches had returned to their usual offices at the Hall of Justice. The Sangguniang Panglalarawan which had also occupied Greenfields had likewise vacated the building only the day before.

At his temporary chamber at Greenfields, respondent occupied two (2) small adjoining rooms while the personnel of the Office of the Clerk of Court and RTC Branch 43 occupied a bigger room called the Maple Room (Please see Exhs. "J", "K" and "2"). In respondent's Floor Plan marked Exhibit "2" it appears that from respondent's chamber, one had to pass a chapel and bar lounge before reaching the staff room. The door to the outer room of the chamber was equipped with a knob and an automatic

door closer. When locked from inside, it could not be opened outside except with a key. Since there was no airconditioner, this door was usually held open for ventilation by a chair or a small table. The outer room had filing cabinet and sacks of rice lined up on two (2) sides of the wall. The inner room also had a door but without a knob. Respondent had his desk here. The window in this room opened to the lawn of the Country Club.

Amid this backdrop in what may have been a somnolent afternoon at Greenfields, complainant entered respondent's office. Already made cautious by respondent's reputation and Mrs. Leander's experience, she took care to check the outer door and noted the chair which prevented it from closing. Her apprehension increased because the hallway was clear of people and only the personnel of Branch 43 and the Office of the Clerk of Court were left holding office there. She entered the inner room, and sat on a chair in front of respondent's desk. They talked about the impending construction of the Hall of Justice. Their conversation was interrupted when Bemardo Taruc dropped by to tell respondent of a phone call for him. Respondent left the room but told complainant to remain for the signing of her Certificate of Service which she was then bringing. After a few minutes respondent returned and they resumed their conversation. When the talk veered to his wife, complainant became uneasy and directed respondent's attention to her unsigned Certificate of Service. After respondent signed it, complainant prepared to leave the room. At this juncture, respondent handed to her a folded yellow paper containing his handwritten poem (Exh. M; p. 22, Record).

Hereunder quoted is the poem and complainant's interpretation of it as contained in her Memorandum:

"Dumating ka sa buhay ko isang araw ng Agosto
Ang baon mo ay 'yong ganda at talinong abogado
Ang tamis ng 'yong ngiti ang bumihag sa puso ko
Malakas na pampalubag sa mainit kong ulo."

"Indeed, the last two lines of the first stanza are consistent with complainant's claim regarding respondent's rude manner and erratic mood swings.

"The second stanza of respondent's poem also jibes with his own testimony that he would often look for complainant whenever he would not see her, and with complainant's testimony that respondent's behavior towards her -- his propensity to utter remarks with sexual connotations, his acts of making physical contact with her, among others --

"Ang akala ko'y gayong lamang magiging pagtingin sa iyo
Ako itong amo at ikaw ang empleyado
Bakit habang tumatagal isip ko'y nagugulo
Pag di ka nakikita'y laging nagagalit ako."

"The third stanza is most descriptive of respondent's attitude towards complainant which complainant and her witnesses described as rude. It is

also consistent with the testimonies of witnesses that respondent would shout at complainant and would crack green jokes towards her:

"Damdamin kong sumusumpling pilit kong itinatago
Sa malalakas na mga tinig asik at mga biro
Ngunit kung nag-iisa puso ko'y nagdurugo
Hinahanap ng puso ko ang maganda mong anyo.

"The fifth stanza jibes with complainant's testimony that respondent gave her an unexpected kiss on at least two occasions:

"Bawat patak ng luha ko'y mga butil ng pag-ibig
Na siya kong kalasag sa pagnanakaw ng halik
Sa pisngi mo aking mahal, aking nilalangit
Patak ng ulan -- sa buhay kong tigang ang nakakawangis."

"Finally, the fourth and last paragraphs of the poem provides the context of the lascivious acts committed by respondent against complainant on 6 December 1995:

"Sawingpalad na pagibig nabigong pangarap
Na ikaw ay maangkin, mahagkan at mayakap
Pag-ibig mo'y ibinigay sa higit na mapalad
Ako ngayo'y naririto bigong-bigong umiiyak."
Kapalaran ay malupit, di kita makatalik
Sa ngayon o bukas pagkat di mo ibig
Aangkinin kita kahit sa panaginip
Gano'n kita kamahal Joy, aking pag- ibig."

(Complainant's Memorandum, pp. 32-33)

Complainant found the poem repulsive (obscene) particularly the line saying "Kapalaran ay malupit, di kita makatalik sa ngayon at bukas pagkat di mo ibig." In her testimony, complainant said she considered the poem malicious because they were both married persons, and he was a judge and she was his subordinate. Although outraged, complainant respectfully asked permission to leave while putting the poem in the pocket of her blazer. She then proceeded towards the outer room where she was surprised to find the door closed and the chair holding it open now barricaded it. The knob's button was now in a vertical position signifying that door was locked.

Complainant was removing the chair when respondent walked to her in big strides asking her for a kiss. Seconds later he was embracing her and trying to kiss her. Complainant evaded and struggled and pushed respondent away. Then panicking, she ran in the direction of the filing cabinets. Respondent caught up with her, embraced her again, pinned her against the filing cabinets and pressed the lower part of his body against hers. Complainant screamed for help while resisting and pushing respondent. Then she ran for the open windows of the inner room. But before she could reach it respondent again caught her. In the ensuing struggle, complainant slipped and fell on the floor, her elbows supporting the upper part of her body while her legs were outstretched between