

EN BANC

[A.M. No. RTJ-91-712, July 09, 1996]

BEN D. MARCES, SR., COMPLAINANT, VS. JUDGE PAUL T. ARCANGEL, PRESIDING JUDGE, BRANCH 12, REGIONAL TRIAL COURT DAVAO CITY, RESPONDENT.

DECISION

MENDOZA, J.:

Respondent was, at the time material to this case, the Executive Judge of the Regional Trial Court, Branch 12, at Davao City.^[1] He is charged with serious misconduct, grave abuse of authority, harassment, and immorality.

The complaint alleges the following:

(1) Complainant is a 61-year old retiree, married to Ruth Jovellar, by whom he has five children, namely, Farley, Lydia, Ben Jr., Nikki and Allan. Complainant and the members of his family are residents of the BRC Village, Catalunan Pequeño, Davao City.

In 1984 the spouses Wilfredo and Flordeliza Cañas moved into complainant's neighborhood. They became the nearest neighbors of the complainant, their houses being only 45 meters apart. In that year, a domestic helper of the Cañases sought complainant's help for alleged maltreatment she had received from her employers. Complainant, who was the incumbent Purok leader, referred the matter to the barangay authorities. The dispute was resolved, but the relation of the Marcés and the Cañas families became strained.

On September 27, 1990, Mrs. Flordeliza Cañas had an exchange of words with Mrs. Ruth Marcés and the latter's daughter, Lydia, during which they hurled invectives at each other. The incident was triggered by a relatively minor matter involving a fight between the turkeys owned by the two families but which, because of the bad blood between them, became a major issue.

The following day, September 28, Mrs. Cañas, together with her sister and a neighbor, boarded a passenger jeepney despite the fact that there were no more seats available because complainant was riding on that vehicle. It turned out that Mrs. Cañas had intended to cause the complainant's arrest, because as the jeepney neared the police station, Mrs. Cañas asked the driver to stop the vehicle. Mrs. Cañas then got off and called a policeman and had the complainant Ben D. Marcés arrested.

The arrest was made on the basis of alias warrants of arrest handed to the policeman by Mrs. Cañas. The warrants had been issued by MTCC Judge Edipolo Sarabia in three criminal cases against the herein complainant for violations of Batas

Pambansa Blg. 22. Complainant was detained for one night without the knowledge of his family, a fact of which Mrs. Cañas allegedly boasted in the neighborhood.

The following day, complainant saw Judge Sarabia and explained that the criminal cases against him, in connection with which the alias warrants were issued, had long been amicably settled. Judge Sarabia told the complainant that he really did not know anything about the cases and that he had only been requested by respondent Judge Paul Arcangel to issue the warrants.

(2) As a result of the September 27, 1990 shouting incident, Mrs. Cañas also filed a complaint with the Barangay Captain against complainant's wife and daughter, Lydia. Mediation conferences between the two families were conducted on October 27, 1990 and on November 3, 1990. Although he had not been asked to, respondent Judge Arcangel attended the conferences. It is alleged that respondent judge

- disturbed the proceedings by walking in and out of the Barangay Hall where the conferences were being held;

- introduced himself as the Executive Judge of the RTC of Davao City in an obvious attempt to influence the Barangay Officials; and

- accompanied Mrs. Cañas and acted as the baby-sitter of the latter's daughter.

During the October 27, 1990 conference, respondent judge allegedly confronted the complainant, accusing him of sending the judge a death threat by means of a letter which purported to have been sent by the New People's Army.

The barangay officials failed to amicably settle the dispute. It is averred that Mrs. Cañas showed "arrogance and callousness at all times as if to prove that she is protected by a hard rock and impregnable when she is with the judge."

(3) The feud between the Marces and Cañas families worsened. On December 29, 1990, there was a violent confrontation between members of the two families. Some of the parties were injured as a result of hacking. Investigations were conducted by the police during which, according to complainant, he saw respondent Judge Arcangel talking to the policemen.

(4) On the night of January 2, 1991, armed men in uniform arrived in two military vehicles and arrested members of the complainant's family and took them to the Davao Metrodiscom Headquarters. The arrests were made on orders of a certain Col. Nelson Estares. A summary inquest was conducted which complainant laments to be irregular as the arrests were pre-arranged and the complaint sheet was fabricated. Complainant avers that the illegal issuance and service of the "warrant" (i.e., so-called Arrest Orders) by the Commander of the Davao Metrodiscom "can only be done by a person with a strong connection, power and influence," such as respondent judge, considering his high position in the government and close relations with the Cañas family.

(5) In a resolution dated May 11, 1991 the investigating prosecutor, Albert Axalan, found probable cause and filed charges of attempted murder against complainant Ben D. Marces, his wife and his son, Farley. Complainant's countercharges were dropped. Three days after, warrants of arrest were issued by the RTC against

complainant, his wife Ruth and son Farley respectively. Complainant alleges that respondent Judge Arcangel, taking advantage of his position, influenced the conduct of the preliminary investigation.

(6) Subsequently, complainant's son, Farley, was arrested. He was handcuffed and taken to the Ma-a City Jail. It is alleged that respondent's Toyota car, with plate number LBT 555, followed the car of the arresting policemen "as if to make sure that the evil plan" allegedly "authored by Judge Arcangel is well followed and executed." "To add insult to injury," it is alleged that while the applications for bail bond of complainant, his wife and Farley were being processed at Branch 8 of RTC of Davao City, respondent Judge Arcangel arrived and questioned the validity of the bond posted, telling the representative of the bonding company, "Hindi puwede ito, who gave you the authority to issue?" He then removed the receipts and arrogantly left with the receipts.

(8) Because of these events, complainant started asking why a judge should have a special interest in his family's feud with the Cañas family. All he knew before was that the judge's car was often parked in front of the house of Mrs. Cañas, especially when Mr. Cañas was away working overtime.

In his Comment submitted in compliance with the resolution of this Court, respondent judge alleges (1) that the charges against him are not only false and malicious but utterly baseless; (2) that the same were filed merely to gratify complainant's personal spite and animosity against him; and (3) that the complaint was filed in anticipation of the cases which the respondent intends to file against the complainant for slander and threats.

Respondent judge further avers:

Anent the charge of causing the issuance of warrants of arrest against the complainant and the handing of the same to Mrs. Cañas for enforcement, it was Mrs. Esperanza Deiparine and Mrs. Flordeliza Cañas who obtained the warrants. He only requested Judge Sarabia of the MTCC of Davao City to issue them.^[2] Respondent judge claims the warrants were valid, having been issued in connection with pending cases and that there were other warrants against complainant which could not be served because of complainant's close connections with the officers of the warrant section.^[3]

As to the allegation that he disturbed the barangay conciliation proceedings in the case between the Marces and Cañas families and allegedly acted as "an escort" of Mrs. Cañas and "baby-sitter" of her daughter, respondent judge denies he acted as escort and baby-sitter and claims that he could not have disturbed the proceedings because none were held on November 3, 1990. He claims that he went to the barangay hall because he filed his own complaint against Ruth Marces and her daughter Lydia. Apparently, respondent judge is referring to the incident on September 27, 1990 during which Mrs. Marces and daughter Lydia allegedly called Mrs. Cañas "kabit, kabit, kabit sa abogado" ("paramour, paramour, paramour of a lawyer").^[4] The judge probably felt alluded to.

Respondent judge likewise denies that he pressured the police officers and the prosecutors to file charges in court as a result of the December 29, 1990 hacking

incident.

Respondent vehemently denies having illicit relations with Mrs. Cañas and that he went to the house of the Cañas family whenever Mr. Wilfredo Cañas was away. Respondent claims that he has known the Cañas family since 1983, when he was still a City Judge. According to him, in 1989 he used to go to the Cañas residence on request by Mrs. Cañas to mediate in the latter's family problem. After this was settled, he continued going there because he and Mr. Cañas had business interests in the manufacture of appliance protectors.

Finally, it is alleged that complainant is actually a fugitive from justice, who has a string of criminal cases^[5] and is notorious in the community. Respondent further discusses the merits of the December 29, 1990 hacking incident pointing to complainant, his wife and son as the felons and the guilty parties.

On February 27, 1992, the Court referred the case to the Office of the Court Administrator for evaluation, report and recommendation. A Reply was subsequently filed by the complainant, alleging harassment by respondent judge, as follows: (a) respondent judge wrote the Administrator of the Social Security System, pretending to be interested in purchasing an acquired asset consisting of a house and lot, which happens to be the residence of the complainant; (b) the management of the Philippine Airlines was asked by a fictitious person to revive the criminal cases against the complainant; (c) the respondent judge, together with a certain Fiscal Dumlao, had been visiting witnesses to the December 29, 1990 hacking incident; (d) the respondent judge filed an administrative case with the Professional Regulations Commission against Nikki Marces, daughter of the complainant who had just passed the Nursing Board Examinations; and (e) respondent still visited the house of Mr. and Mrs. Cañas.

Complainant further avers that the criminal cases against him are all business-related, being cases for violation of Batas Pambansa Blg. 22 and for estafa arising from the issuance of bouncing checks. He calls attention to the fact that respondent judge discussed in his pleadings the merits of the December 29, 1990 hacking incident and contends that this is improper and unethical.

On May 26, 1992, the Court referred the case to Associate Justice Luis Javellana of the Court of Appeals for investigation, report and recommendation. Unfortunately, Associate Justice Javellana suddenly died on August 25, 1993. The case was thereafter reassigned to Associate Justice Fidel P. Purisima, but the reception of the evidence was assigned to Executive Judge Romeo D. Marasigan of Branch XVI, RTC-Davao City. On September 18, 1993, Judge Marasigan forwarded the records of the case, together with the evidence adduced before him, to this Court. The records were later transmitted to Justice Purisima.

In his Report and Recommendation dated May 30, 1994, Associate Justice Purisima recommends dismissal of the charges against respondent judge for insufficiency of evidence, except the charge that respondent judge attended mediation conferences between the feuding families and tried to intervene. As to this charge the Investigating Justice finds that the evidence establishes the same. Justice Purisima recommends that respondent judge be admonished and sternly warned that repetition of the acts of impropriety by respondent will be dealt with more severely.

The pertinent portions of Justice Purisima's report states:

The charge concerning the frequent visits by respondent Judge at the residence of Mrs. Flordeliza Cañas in Barangay Catalunan Pequeño, Davao City, and allusion that the former has illicit relation with the latter are utterly devoid of sufficient substantiation. The mere suspicion on the part of the complainant and members of his family that the respondent Judge has an affair with Mrs. Flordeliza Cañas has been completely effaced and reduced to nothing reprehensible or censurable by the unequivocal and straightforward testimonies of Flordeliza's husband and parents that the respondent Judge is just a family friend whose visits did not have any immoral implication. According to these knowledgeable witnesses, the latter was their frequent visitor in 1990, when respondent Judge and Engr. Wilfredo B. Cañas, were engaged in the manufacture of appliance protectors.

Obviously, Engr. Wilfredo B. Cañas, the lifetime partner of Mrs. Flordeliza Cañas, day and night, should be in the best position to observe her. Whether or not his wife is unfaithful to him is a matter within the sphere of the husband to detect. Here, Engr. Wilfredo B. Cañas having given his wife clean slate, We can do no less. A different conclusion and ruling could ruin families, which society cherishes and protects (Article 215, New Civil Code; Article 149, Family Code).

. . . .

So also, respondent Judge cannot be held administratively liable for the handicapping [sic] of a son of complainant, who was allegedly handicapped [sic] and brought to the Ma-a jail, while working at the Davao Light and Power company. Absent any admissible evidence that the respondent Judge was the one who caused such malfeasance to happen, he is not answerable therefore

. . . .

But the charge that the respondent Judge was present during the mediation conference between the Marces family and Cañas family on October 27 and November 3, 1990, before the Lupon Tagapayapa of Catalunan Pequeño, Davao City, and that during such conference, respondent Judge was in and out of the conference room, trying to interfere with the proceedings, and to wield influence as Regional Trial Court Judge, is firmly anchored on Complainant's evidence, which has not been effectively traversed and negated by respondent's evidence.

From the evidence on hand, it is clear that on October 27, 1990, the respondent Judge arrived at the Barangay Hall of Catalunan Pequeño, Davao City, in the company of Mrs. Flordeliza Cañas, and the latter's small child. During the said mediation conference between the Marces family and Cañas family, respondent Judge entered the conference room and made it known to all and sundry that he is the Presiding Judge of Branch 12 of the Regional Trial Court of Davao. Such actuation was