# ATTY. NAPOLEON S. VALENZUELA, COMPLAINANT VS. JUDGE REYNALDO B. BELLOSILLO, RESPONDENT.

*A.M. No. MTJ-00-1241 (Formerly OCA IPI No. 97-445-MTJ). January 20, 2000*

Ponente: PURISIMA, J.

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**PURISIMA, J.:**

The Affidavit-Complaint dated October 17, 1997 of Attorney Napoleon S. Valenzuela charged respondent Judge Reynaldo Blanco Bellosillo of Branch 34 of the Metropolitan Trial Court of Quezon City with gross violation of the constitutional right of subject accused to assistance by counsel of her own choice, gross misconduct, oppression, partiality and violation of the Code of Judicial Ethics; averring:

> - That on September 4, 1997, I was hired as counsel for the accused in Criminal Case No. 65382-86 entitled 'People of the Philippines vs. Ms. Meriam V. Colapo' for Violation of B.P. 22 which case is being heard before Quezon City Metropolitan Trial Court Branch 34, presided by Hon. Judge Reynaldo Blanco Bellosillo;
>
> - That subsequently, I then filed a Manifestation praying for the Honorable Court to allow the accused to post bail; a copy of the Manifestation is hereto attached as 'Annex A and A-1' and made as integral parts hereof;
>
> - That Judge Reynaldo Bellosillo as was his custom, talked to my client before granting bail for her provisional liberty inside his chambers and in my absence;
>
> - That the next day, September 5, 1997, my client Meriam Colapo informed me that Judge Reynaldo B. Bellosillo had angrily ordered her to remove me as counsel and even suggested one Atty. Puhawan of the PALAO QUEZON CITY as my replacement; xxx
>
> - That as a consequence thereof, the undersigned had no recourse but to file a Notice of Withdrawal with the conformity of my client Meriam V. Colapo xxx;
>
> - That although I was aghast and flabbergasted with the unfathomable actuation of Judge Bellosillo, I can think of no reason what impelled him with anger to order my client for my replacement;
>
> - [sic] That the actuation of Judge Reynaldo Blanco Bellosillo is certainly oppressive, arrogant, and a gross misconduct affecting his integrity and efficiency which merits a dismissal from the service;
>
> - That such despotic act of Judge Bellosillo is likewise indicative of partiality and gross ignorance of the Constitution and the constitutional right of accused Meriam Colapo to choose her own counsel to defend her in court;
>
> - That such arrogant act of Judge Bellosillo would certainly violate and kill my right to earn and practice law;
>
> xxx."[1]

The Answer, dated February 16, 1998, of respondent Judge denied the allegations of the complaint, branded the same without any legal and factual basis; theorizing:

> - That when Complainant's Accused Client and Witness, Meriam J. [sic] Colapo, appeared before the

undersigned respondent to post Bail she was unassisted by Complainant-Counsel and upon inquiry informed that she is allegedly changing him not having liked the idea of being referred by a Metro-TC Branch 34 Personnel to its PAO Lawyer Joseph B. Sia, who rejected her due to the Prohibitive policy of his office to represent an Accused in BP 22 Cases and instead referred her to the Complainant-Lawyer, Napoleon S. Valenzuela, a former PAO Employee, who allegedly changed [sic] her unreasonably for the preparation of a mere Manifestation To Post Bail;

- That respondent could not have referred Complainant's Accused Client Witness to tha [sic] PALAO knowing its Prohibitive Policy to also represent Accused in BP 22 Cases as previously made clear by its Chief, Atty. Jose Puhawan;

- That out of delicadeza and in recognition of Complainant's right to practice the law profession, respondent never talked to him about it;

- That the Motion to Withdraw filed by Complainant with the Conformity of his Accused Client Witness, Meriam V. Colapo, is a matter strictly just between the two of them, to which respondent was never a privy;

- That had Complainant been more prudent, he could have just verified from the respondent the veracity of his client's statements which for legal intents and purposes are inadmissible for being hearsay, thus, this unfounded time consuming Complaint could have been avoided;

- That respondent discharges his functions with all integrity and good faith and without fear or favor knowing that justice must never be distorted as to do so would make even the wise blind and subvert tha [sic] cause of the innocent;

xxx"[2]

In the Resolution[3] issued on June 16, 1999, this Third Division referred the Complaint to the Executive Judge of the Regional Trial Court of Quezon City, for investigation, report and recommendation.

On September 22, 1999, Executive Judge Perlita J. Tria Tirona sent in the following Report and Recommendation, to wit:

"Complainant alleged that: on September 4, 1997, he filed a motion praying that his client Meriam V. Colapo accused in a BP 22 case then pending in Metropolitan Trial Court, Branch 34, Quezon City, presided over at that time by respondent, be allowed to post bail for her provisional liberty. Respondent before acting on the Motion allegedly talked to the accused and ordered her to replace her counsel, herein complainant, with Atty. Puhawan from PALAO, Quezon City. Accused Colapo informed him of this incident and told him she was terminating his services pursuant to the instructions of the respondent.

In deference to his client's wishes, complainant filed a Notice of Withdrawal of his appearance with his client's (Colapo's) conformity.

According to complainant, he could not think of any reason for respondent to order his client to replace him.

On cross examination, complainant stated that he worked with the Public Attorney's Office for seven (7) to eight (8) years. He resigned in 1995. Complainant's wife used to be an officemate of respondent at the Public Attorney's Office in Makati in 1988.

Complainant admitted that his client Colapo was referred to him by Atty. Sia, his friend, who is with the Public Attorney's Office (PAO) where he used to work. He is aware of the PAO/PALAO policy not to represent any person charged with BP 22. Complainant likewise admitted that he filed his notice of withdrawal on the basis of what his client Colapo told him. However, he did not confront the respondent about it. He believed his client because she was agitated. According to his client Colapo, respondent recommended Atty. Puhawan and he right away filed his withdrawal as counsel.


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At first, complainant stated that the affidavit of his client Colapo was prepared by the Notary Public Lino Soriano. Then he stated that he assisted her in the preparation of the same.

Complainant further alleged that it was also on September 5, 1997 (when his client's bond was approved) that Colapo informed him that respondent wanted him changed as counsel.

However, in his Notice of Withdrawal as counsel which he filed in Court, he stated that he was informed by his client Colapo on September 7, 1997, which complainant again claims to be a typographical error.

Complainant further admitted that his Notice of Withdrawal was with the conformity of his client Colapo.

No other witness was presented by the complainant.

Respondent Judge Bellosillo, testified that he does not personally know Miriam [sic] Colapo. He first met her when she appeared before him in his Court for the approval of her bail bond. She was allowed to post bail on the basis of the manifestation filed by her counsel on record, complainant Atty. Napoleon S. Valenzuela. At that time she was notassisted [sic] by her counsel (complainant was absent) but he (respondent) allowed her just the same to post bail because according to him he personally knows Colapo's counsel complainant Atty. Valenzuela.

Respondent further stated that when he inquired from Ms. Colapo where her lawyer was, Ms. Colapo, in a very 'disappointing mood' said that she was going to change her counsel because she did not like the idea of paying somebody who could not appear for her at the time she needed him most. Later on he was informed of the notice of withdrawal filed by complainant Napoleon Valenzuela with the conformity of his client Colapo. He did not bother to read the withdrawal anymore because anyway it contained the conformity of his client Colapo. It was only when he received the 1st indorsement of the Court Administrator which contained the complaint and the annexes to the complaint of Atty. Valenzuela that he came to read the notice of withdrawal. Had he read the notice of withdrawal earlier, he could have called them for a conference, and confront both of them, considering that the information given to him (complainant) by Colapo is different from what appeared in the notice of withdrawal as counsel, filed by herein complainant. Respondent likewise stated that in all honesty and good faith, he honored the entry of appearance of the new counsel and dismissed the case against Ms. Colapo on the basis of the Affidavit of Desistance filed by the complaining witness in the case against Colapo.

On cross examination, respondent admitted that he talked to accused Colapo before he approved the bail, who was then not assisted by her counsel, to find out if she is the one who appears in the picture attached to the bail bond, and to inform her of her undertaking under the bail, and when he inquired from Colapo where her lawyer was, she answered in a very disappointed manner that she was going to change her counsel because she did not like the idea of paying somebody who could not represent her at the time she needed him most and because of the fact that she was referred to one Atty. Sia of the PAO Office who in turn referred her (Colapo) to complainant who allegedly charged her (complainant) so much for the preparation of the manifestation.

Respondent likewise denied that he ever referred Ms. Colapo, complainant's client to the PALAO knowing fully well that the PALAO does not represent an accused in a BP 22 case. Besides, according to respondent, it was none of his business whether Colapo would want to change her counsel. He (respondent) stated that he is not aware whether Atty. Gusapos, the lawyer who replaced the complainant, is a PALAO lawyer since he used his private or residential address when he entered his appearance."

Prescinding from the foregoing, Judge Tirona concluded:

"The undersigned finds the evidence adduced by the complainant insufficient to substantiate his charges against respondent Judge Bellosillo.

The basis of complainant's complaint is the affidavit of his client Meriam Colapo to the effect that respondent

> Judge suggested to her (Meriam Colapo) that she should change her counsel (herein complainant), and that respondent recommended Atty. Puhawan of the PALAO.
>
> However, Meriam Colapo was not presented by complainant to testify because she is presently in Brunei. While complainant claims that Meriam Colapo is willing to testify, said willingness is not sufficient to lend credence to the present charge since respondent has every right to cross examine said witness.
>
> It should likewise be noted that the lawyer who replaced complainant as counsel for Meriam Colapo was not Atty. Puhawan, the lawyer allegedly suggested by respondent but one Atty. Gusapos allegedly of the PALAO, although no evidence was presented by complainant to show that indeed Atty. Gusapos is also with PALAO notwithstanding the fact that he promised to submit a certification from PALAO that Atty. Gusapos is indeed an employee of said office.
>
> If Meriam Colapo has to discharge complainant as allegedly suggested by respondent so as not to antagonize said respondent judge, why did they not engage the services of Atty. Puhawan, the lawyer allegedly suggested by respondent to take complainant's place as counsel?
>
> On the other hand, respondent in denying the charge, stated that he could not have even suggested Atty. Puhawan of PALAO to take complainant's place as counsel since PALAO lawyers are not allowed to represent an accused in a BP 22 case.
>
> Besides, even complainant himself could see no reason why respondent would suggest to Meriam Colapo to change complainant as counsel and instead to engage the services of Atty. Puhawan.
>
> Thus, the only evidence of the complainant, which is the Affidavit of his client Meriam Colapo, cannot be the basis of a finding of guilt even in an administrative case.
>
> In view of the foregoing, the undersigned respectfully recommends that the charges against respondent Judge Reynaldo B. Bellosillo be dismissed for lack of evidence."

All the facts of the case studiedly considered, with a thorough evaluation of the records on hand, the Court finds merit in the findings and recommendations of Executive Judge Tirona, absent any discernible basis for adjudging respondent Judge Bellosillo liable under the premises.

Apart from his testimony and affidavit-complaint, complainant did not adduce enough evidence to prove his charges. He did not even present his primary witness, Meriam Colapo, to support the charge that respondent Judge Bellosillo pressured the latter to replace him as defense counsel. The affidavit[4] of Meriam Colapo cannot be given credence and is inadmissible without the said affiant placed on the witness stand to give the respondent Judge an opportunity to test the veracity of affiant's allegations.[5] An affidavit is hearsay unless the affiant is presented for cross-examination.[6]

Sans the testimony of witness Meriam Colapo, to corroborate complainant's allegations and submission, the case against the respondent judge cannot prosper. The employment or profession of a person is a property right within the constitutional guaranty of due process of law.[7] Respondent judge cannot therefore be adjudged guilty of the charges against him without affording him a chance to confront the said witness, Meriam Colapo; otherwise, his right to due process would be infringed.

WHEREFORE, for insufficiency of evidence, the Complaint at bar against respondent Judge Reynaldo Blanco Bellosillo is hereby DISMISSED.

**SO ORDERED.**

Melo, (Chairman), Vitug, Panganiban and Gonzaga-Reyes, JJ., concur.

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[1] Affidavit-Complaint, Rollo, pp. 1-2.

[2] Answer, Rollo, pp. 11-12.

[3] Rollo, p. 16.

[4] Rollo, p. 6.

[5] People v. Canuzo, 255 SCRA 497, 502.

[6] Molina v. People, 259 SCRA 138, 159-160.

[7] Callanta v. Carnation Philippines, Inc., 145 SCRA 268, 278.


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