

BENJAMIN Z. LIBAN, SUBSTITUTED BY THE OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. JUDGE PLARIDEL L. VILLACETE, RTC, BRANCH 4, TUGUEGARAO, CAGAYAN, ACTING PRESIDING JUDGE...

A.M. No. RTJ-93-961. October 07, 1994

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PER CURIAM:

A verified complaint was filed on February 23, 1993 by Benjamin Z. Liban against respondent judge for graft practices, grave misconduct, grave abuse of authority, and unethical practices prejudicial to the image of the judiciary in connection with Civil Case No. 4183, entitled "Cesar T. Buenaventura vs. Benjamin Z. Liban," for replevin.

Respondent judge allegedly (a) demanded around P30,000.00 from Buenaventura and P27,000.00, plus two (2) goats and one (1) big lechon, from Liban; and (b) borrowed the jeep of Liban during the pendency of the case which he refused to return despite demands until the filing of this complaint. Liban also averred that there are cases in the sala of respondent judge which remain unresolved even after one year from the time they were submitted for decision and that respondent judge, whose legitimate family is in Manila, maintains a paramour in Tuguegarao with whom he has two children and another on the family way.

Liban submitted as documentary evidence his and Buenaventura's individual affidavits, a note from Judge Villacete asking reimbursement for his trip to Manila, photocopies of checks drawn by Buenaventura payable to Maximiano Corsino, Judge Villacete's process server, a receipt issued by Max Corsino in favor of Buenaventura and the joint affidavit of Liban and his daughter withdrawing the affidavit of retraction and desistance earlier executed by Liban, as well as photographs of the jeep allegedly borrowed and kept by respondent judge.

In his answer, respondent judge denied the charges and explained that Liban and Buenaventura requested respondent judge to summon Governor Vargas, after the latter's armed men forcibly took from Buenaventura the payloader subject of Civil Case No. 4183. He denied this request and instead suggested that he would provide an intermediary between the governor and the litigants. Liban and Buenaventura agreed to reimburse respondent judge any expense he may incur in trying to contact the intermediary, Atty. Alexander Balauitan who is a close friend of the governor, in Manila. Upon his return he issued a note to Liban asking for the said reimbursement.

As regards Liban's jeep which he borrowed but refused to return, respondent judge alleged that it was lent to the deputy sheriff to be used in locating the payloader.

Respondent judge denied the other charges of immorality and delaying resolution of cases pending before his sala.

At the Ad Hoc Committee hearing on March 2, 1993, Liban reiterated his written accusations and added that respondent judge actually borrowed two jeeps, returned the first when it would not start and asked for a replacement, a red jeep, which the respondent judge repainted black. He also stated that the respondent judge promised to return to him the jeep and the money advanced totalling almost P30,000.00 if nothing happens to his

case.

The Court, by resolution dated August 9, 1993, referred the case to the Court of Appeals for investigation, report, and recommendation, the final result of which was submitted on August 22, 1994 by Justice Bernardo P. Pardo with the following findings:

"To our mind, no matter how respondent judge would try to becloud the facts, two (2) things stand out:

First: He went out of his way to accommodate the parties in Civil Case No. 4183. Extra-judicially, he agreed that he would provide an intermediary who would intercede for them with Gov. Vargas. He agreed that he would travel to Manila to locate such intermediary and that the parties would pay for his travelling and other expenses. Such act of the respondent judge violates the canons of judicial ethics. x x x

Aside from the suspicion that such conduct will generate, there is the lingering doubt that his trip to Manila ostensibly to locate such intermediary was actually to be able to travel at the parties' expense to visit his lawful family residing in Manila. x x x He could have easily sent a wire or written a letter to such intermediary, or he could have contacted Gov. Vargas directly in Cagayan without having to take a trip to Manila at the expense of the parties. Verily, the act of respondent judge in admittedly asking for "reimbursement" from the complainant of the expenses for his trip to Manila to contact the "intermediary" he himself suggested (p. 4, Respondent's Answer, p. 23, rollo) constitutes grave misconduct. x x x

Second: We have no doubt whatsoever that respondent judge borrowed the jeep of complainant Liban for his own use. He returned the jeep only after complainant filed a complaint with the Supreme Court and testified before the Ad Hoc Committee. Complainant categorically stated that respondent judge borrowed the jeep and was using it. Of course, in an attempt to becloud the issue, respondent stated that it was his sheriff who was using the jeep for the purpose of locating the payload, subject of the case. Considering the geographical area of Cagayan, it would have taken just a day or two using such jeep to locate the payload. And why would the sheriff be the one to locate the payload? The sheriff is not an agent of the parties. He is a court employee who must render full time devoted service to the court, not to the parties (Cana vs. Santos, supra). x x x"

The investigating judge noted the spontaneity of Liban's affirmation of the truth of his affidavit and testimony before the Ad Hoc Committee, although showing apparent suspicion of his counsel's loyalty and some nervousness, especially when his answers appeared to implicate or disparage the respondent judge.

He therefore concluded and recommended that:

"IN VIEW OF THE FOREGOING, we respectfully submit that sufficient evidence has been adduced satisfying the conscience of those who are to act, that the respondent judge is guilty of gross misconduct in office prejudicial to the service and violation of the canons of judicial conduct (Court Administrator vs. Hermoso, 150 SCRA 269; Court Administrator vs. Bartolome, 203 SCRA 328).

WHEREFORE, we respectfully recommend that respondent judge be dismissed from office with prejudice to re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations, with forfeiture of all retirement benefits and accrued leave credits, if any, and that the dismissal be effective immediately.

IT IS SO RECOMMENDED."

After studying the records of this case, including the alleged affidavit of desistance later withdrawn by Liban, the Court finds the above findings of the investigating judge legally and morally sound and consequently, adopts his recommendations.

IN VIEW OF THESE PREMISES, the Court hereby resolves to DISMISS respondent Judge PLARIDEL L. VILLACETE from the service with prejudice to re-employment in any branch or instrumentality of the

government, including government-owned or controlled corporations, and to FORFEIT all his retirement benefits and accrued leave credits, if any. This resolution shall immediately be executory.

SO ORDERED.

Narvasa, C.J., Cruz, Padilla, Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Puno, Vitug, Kapunan, and Mendoza, JJ., concur.
Feliciano, J., on leave.

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