

JEANET N. MANIO, COMPLAINANT, VS. JUDGE JOSE ENER S. FERNANDO, REGIONAL TRIAL COURT, BRANCH 5, DINALUPIHAN, BATAAN, RESPONDENT.

A.M. No. RTJ-00-1589 (Formerly A.M. OCA IPI No. 99-736-RTJ). September 29, 2000

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

In a letter-complaint dated January 27, 1999 complainant Jeanet N. Manio charged respondent Judge Jose Ener S. Fernando, Presiding Judge of the Regional Trial Court of Dinalupihan, Bataan, Branch 5 with "giving me a hard time" by freezing "all my accounts (time deposits and Savings Account) at the bank," thus preventing her from withdrawing money needed "to buy a parcel of land." [1]

Explaining his side in a letter dated March 1, 1999, respondent Judge stated that on August 6, 1998, complainant filed in his court a petition praying that she be appointed guardian of her minor son, Germigo M. Cawed. After a hearing held on September 7, 1998, the petition was granted. Complainant was thus ordered to post a bond in the amount of P100,000.00 and to submit an inventory of the minor's properties, real and personal, which inventory was to be submitted every three months thereafter. As requested by complainant, the insurer of the minor's father, Servicemembers' Group Life Insurance, Newark, New Jersey, U.S.A., was furnished a copy of the decision of September 7, 1998. Proceeds of the insurance of the minor's father was to form part of the minor's properties. On November 24, 1998, complainant having failed to post the required bond, respondent Judge issued an order directing her to file the requisite bond in the amount of P100,000.00 and to submit an inventory of the minor's properties. All that complainant did was to inform the respondent's guardianship Court "that the insurance proceeds under the Veterans Group Life Insurance Program of the Service Members Group Life Insurance were deposited with the Land Bank of the Philippines, Dinalupihan Branch". To protect the minor's interest, respondent Judge directed that "no withdrawals could be made and no properties, if any, of the minor could be disposed without complying with the order of the Court." On November 26, 1998, complainant filed an undated "Quarterly Inventory of Properties" of the said minor for October, November and December 1998, stating that the minor had no real properties but had a bank deposit in the amount of US\$52,155.00. On the same date, complainant filed a motion seeking authority to withdraw from the Land Bank the amount of US\$10,000.00 to "pay debts incurred since May, 1998" "in connection with the processing of the petition for guardianship and attorney's fees thereof, daily sustenance of the minor and for his education," which motion respondent Judge readily granted. On December 1, 1998, complainant filed another motion seeking authority to withdraw the amount of US\$10,000.00 "to purchase a house and lot allegedly worth P550,000.00 and P200,000.00, respectively." On December 2, 1998, respondent Judge issued an order granting complainant's motion but directing her to comply with her undertaking to submit a copy of the contract of sale and/or deed of assignment of the house and lot within three days from receipt of notice of the order. Within the short span of three months from date of the decision granting the petition for guardianship, complainant was able to withdraw the amount of US\$20,000.00 out of the US\$52,155.00 leaving a balance of US\$30,155.00 only, for the sustenance of the minor (who was then eleven years old) until he

reach the age of majority. Complainant filed nothing more with respondent's court after December 2, 1998, hence respondent Judge had nothing to act upon in the case to give "her a hard time in doing her duties and functions as guardian of" the minor. Complainant's "allegation that the properties were frozen resulting to her disability to withdraw money" is, therefore, absolutely untrue. Neither did he waste time in acting upon complainant's motions of November 26 and December 2, 1998, which were granted and the orders thereon issued on the same and next day, respectively. Besides, he could not have issued orders based upon verbal requests, that complainant's allegation that the respondent Judge has been "giving me a hard time" is false and is but the product of her imagination.[2]

On April 7, 1999, complainant wrote a sworn letter to the Court Administrator stating that upon advice of her younger sister who knew respondent Judge, she asked him (respondent Judge) to help her look for a lawyer to assist her. Respondent Judge recommended Atty. Francis Lagman, and told her that Atty. Lagman's fee was P200,000.00 to which she agreed because she was already tired and had spent much looking for a lawyer. Besides, most of the lawyers she talked to "iisa ang presyo nila." Before the petition for guardianship could be filed respondent Judge told her that she had to pay the amount of P35,000.00 "para paunang bayad sa abogado ko." She asked that the amount be reduced but respondent Judge told her he would lend her P10,000.00 to complete the needed amount of P35,000.00. It was to respondent Judge that she delivered the amount of P25,000.00 for him to give to Atty. Lagman. When she asked him to issue her a receipt respondent Judge told her it was not necessary because after all "siya ang bahalang gagawa ng mga papeles mo." Upon receipt she deposited the check of US\$52,155.50 at the Land Bank and told its manager, Lenin Malang, not to tell respondent Judge about it because he (respondent Judge) did not like any check to be deposited with PCI Bank. After the lapse of the 40-day required to clear the dollar check she tried to withdraw from her account but the bank manager told her she could not withdraw because of respondent Judge's order. When she saw respondent Judge about the matter he told her she had to file a bond in the amount of P100,000.00. She requested him to allow her to withdraw from the amount deposited with the bank since the check had already been cleared but he did not agree to her request. Asked what she should do to comply with his requirement because she did not know of anybody from whom to borrow the amount of P100,000.00 respondent Judge told her he would help her obtain a surety bond from his friend which would be less expensive. Respondent Judge then asked one Joey Astorga to prepare a motion to withdraw the needed amount; hence on November 26, 1998, she was able to withdraw the amount of US\$10,000. In fact respondent Judge and his friend from whom she would obtain the surety bond accompanied her in going to the bank. While she was inside the bank premises respondent Judge and his friend were waiting for her in front of the bank because it was to him (respondent Judge) that she would hand over the balance that was due from her to the lawyer. Because of her complaint against respondent Judge, the latter filed a case for perjury against her. On March 8, 1999, to her surprise a warrant of arrest was served upon her, and because of that she bled as she was pregnant and had a miscarriage.[3]

Thereafter, in a letter dated June 24, 1999, complainant requested that her complaint against respondent Judge be dismissed.[4] In another letter dated on the same day, she stated that she is withdrawing her complaint since it was out of ignorance and her anger at respondent Judge that she complained against him.[5]

The case was referred to retired Justice Pedro A. Ramirez, a consultant of the OCA, to conduct the necessary investigation, report and recommendation.[6] However, no investigation ensued since on the dates Justice Ramirez set the case for hearing, that is, on March 9, 2000 and thereafter on March 31, 2000, complainant did not appear despite notice duly served upon the complainant through her sister, Janice Manio.[7] There being no evidence upon which respondent Judge may be held liable for misconduct in office, Justice Ramirez recommended the dismissal of the complaint against respondent Judge Fernando.

While we are not unaware of our ruling in the cases of Javier v. Samonte (A.M. OCA IPI-No. 97-216-P, 21 September 1998) and OCA v. Eje (A.M. No. P-96-1198, 7 July 1998), however, under the circumstances, we have no other recourse except to approve the well taken recommendation of the investigator, Justice Pedro A. Ramirez (Ret.) and, thus, dismiss the case. There is no evidence against respondent Judge.

WHEREFORE, the Complaint at bar against respondent Judge Jose Ener S. Fernando is hereby DISMISSED.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Rollo, p. 2.

[2] Id.

[3] Rollo, pp. 27-32.

[4] Id., p. 46.

[5] Id., pp. 47-48.

[6] Id., p. 91.

[7] Id., pp. 99, 105, 106 and 110.

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