

JOSEPHINE JAZMINES TAN, PETITIONER, VS. JUDGE SIBANAH E. USMAN, REGIONAL TRIAL COURT, BRANCH 28, CATBALOGAN CITY, SAMAR, RESPONDENT.

A.M. No. RTJ-14-2390 (Formerly OCA I.P.I. No. 12-3923-RTJ). August 13, 2014

Ponente: PERALTA, J.

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PERALTA, J.:

Before this Court is an administrative complaint[1] filed by Josephine Jazmines Tan (complainant) against Judge Sibannah E. Usman (respondent), Presiding Judge of the Regional Trial Court of Catbalogan City, Branch 28, Samar for bribery and corruption, relative to Civil Case No. 7681 and Criminal Case No. 6536.

Complainant is one of the plaintiffs and accused in Civil Case No. 7681 and Criminal Case No. 6536, respectively, then pending before Branch 28, presided by respondent. She claimed that relative to said cases, respondent was paid P250,000.00 by their opponent, a certain Allan Tan, through Jaime Cui, Jr., as evidenced by a receipt stating: “Received P250,000.00 (Two Hundred Fifty Thousand Pesos) from Mr. Jaime Cui, Jr. as full payment in CC No. 6536 & 7681 to be given to Judge S.E. Usman” and signed by Nilda C. Cinco, OIC-Branch Clerk of Court of the same court.

Complainant further accused respondent of knowingly issuing an unjust interlocutory order when he cited her in contempt. She, however, pointed out that in A.M. No. RTJ-11-2266,[2] the Court found respondent guilty of gross ignorance of the law. Complainant now prays that respondent be meted the penalty of dismissal from service for bribery and corruption.

On August 14, 2012, the Office of the Court Administrator (OCA) directed respondent to comment on the charges of Gross Misconduct, Knowingly rendering an Unjust Order, Abuse of Power and Dishonesty against him.[3]

In his Comment[4] dated October 9, 2012, respondent argued that since complainant's allegations and issues had already been raised and threshed out in A.M. No. RTJ-11-2266, following the principle of *res judicata*, the instant complaint should not be given due course.

Respondent countered that the allegations of bribery and corruption are baseless and unfounded. He denied that he received any money from Jaime Cui, Jr. or from anyone relative to said subject cases. He claimed that complainant merely concocted and falsified the acknowledgment receipt wherein she made it appear that Nilda C. Cinco received the money and issued the receipt in behalf of respondent.

Meanwhile, Nilda C. Cinco, in her Affidavit[5] dated October 8, 2012, denied that she received any amount of money from Jaime Cui, Jr., nor did she issue any acknowledgment receipt thereto.

Jaime Cui, Jr., likewise, in his Affidavit[6] dated October 8, 2012, vehemently denied even in open court on August 28, 2009 that he disbursed a substantial amount of money to respondent or to Nilda Cinco, in any occasion or for any purpose.

Finally, respondent pointed out that when complainant alleged that she received information about the alleged bribery sometime in February or March 2009, said subject case, particularly Civil Case No. 7681 was still being tried before Branch 29 and was only transferred and received by RTC Branch 28 on June 25, 2009. Moreover, respondent judge argued that Allan Tan was killed on October 28, 2008, hence, it is impossible that he gave orders to Jaime Cui, Jr. on the alleged dates where bribery took place.

In a Memorandum dated August 12, 2013, the OCA, due to the conflicting versions of the parties, recommended that the instant administrative complaint be referred to the Presiding Justice of the Court of Appeals in Cebu City, for raffle among the justices in Cebu City on who shall conduct the investigation. The complaint was later on raffled to Court of Appeals Justice Marilyn B. Lagura-Yap.

After investigation and evaluation, in her Report,[7] the Investigating Justice recommended that the instant complaint be dismissed for lack of evidence. The Investigating Justice opined that the complaint-affidavit and the “receipt” given by complainant do not constitute as substantial evidence to prove that respondent judge committed bribery or corruption.

RULING

The Court adopts the findings of the Investigating Justice.

It is settled that in administrative proceedings, the burden of proof that respondent committed the acts complained of rests on the complainant. Thus, if the complainant, upon whom rests the burden of proving his cause of action, fails to show in a satisfactory manner the facts upon which she bases her claim, respondent is under no obligation to prove his exception or defense.[8]

As settled, an accusation of bribery is easy to concoct but difficult to prove. The complainant must present a panoply of evidence in support of such an accusation. Bare allegation would not suffice to hold respondent liable.[9] In the absence of showing direct and convincing evidence to prove the alleged bribery, respondent judge cannot be held guilty of said charge. In the instant case, no evidence was presented showing that respondent in fact accepted or received money or anything from Cui in relation to the subject cases. Neither was there any evidence to show that respondent judge unlawfully or wrongfully used his official function for his own benefit or personal gain.

By merely presenting a “receipt” with a tenor that money in the amount of P250,000.00 was received by Nilda Cinco in behalf of respondent to support an accusation of bribery will not stand alone. As correctly observed by the OCA, while it may be considered as proof that indeed there was money received, it does not prove however that respondent received the same. Notably, while complainant presented the subject receipt, there was no allegation as to how she acquired the receipt and from whom she obtained said receipt. It did not help also that the due execution and authenticity of said receipt was not sufficiently established considering that the parties thereto, Mr. Cui and Ms. Cinco, swore in their affidavits and during the hearing that no money was received and that no receipt was issued thereto. Likewise, complainant, despite notice, failed to attend the hearing of the case, hence, she failed to substantiate and corroborate her claim of bribery and corruption against respondent.

Inasmuch as what is imputed against the respondent judge connotes a misconduct so grave that, if proven, it would entail dismissal from the bench, the quantum of proof required should be more than substantial.[10]

The Rules of Court requires that if a judge should be disciplined for grave misconduct or any graver offense, as in this case, the evidence against him should be competent and derived from direct knowledge. The Judiciary to which respondent belongs demands no less. Before any of its members could be faulted, competent evidence should be presented, since the charge is penal in character. Thus, the ground for the removal of a judicial officer

should be established beyond reasonable doubt. Such is the rule where the charge on which removal is sought is misconduct in office, willful neglect, corruption, or incompetence. The general rules in regard to admissibility of evidence in criminal trials apply.[11]

Respondent judge cannot be blamed for asserting that complainant merely fabricated the allegation of bribery and corruption due to the latter's failure to present evidence in support thereof. This is likewise not the first time that complainant raised an unsubstantiated accusation of bribery against respondent. However, as in this Court's previous rulings, in the absence of evidence to the contrary, respondent enjoys the presumption of regularity in the performance of his duties as well as the presumption of innocence.[12]

This Court will not hesitate to protect Judges or court personnel against any groundless accusation that trifles with judicial processes when an administrative charge against them has no basis whatsoever in fact or in law. This Court will not shirk from its responsibility of imposing discipline upon all employees of the judiciary, but neither will it hesitate to shield them from unfounded suits that only serve to disrupt rather than promote the orderly administration of justice.[13]

WHEREFORE, the instant administrative complaint against respondent Judge Sibanah E. Usman, Regional Trial Court, Branch 28, Catbalogan City, Samar, is hereby **DISMISSED** for failure of complainant to substantiate the charges.

SO ORDERED.

Velasco, Jr., (Chairperson), Villarama, Jr.,[*] Mendoza, and Leonen, JJ., concur.

September 2, 2014

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on ____August 13, 2014____ a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on September 2, 2014 at 1:44 p.m.

Very truly yours,

(SGD)

WILFREDO V. LAPITAN

Division Clerk of Court

[*] Designated Acting Member per Special Order No. 1691 dated May 22, 2014, in view of the vacancy in the Third Division.

[1] Rollo, pp. 1-4.

[2] Tan v. Judge Usman, A.M. No. RTJ-11-2266, February 15, 2011, 643 SCRA 13.

[3] Rollo, p. 77.

[4] Id. at 83-88.

[5] Id. at 89-90.

[6] Id. at 91-92.

[7] Investigation Report dated May 6, 2014.

[8] Reyes v. Judge Mangino, 490 Phil. 444, 455-456 (2005).

[9] Judge Buenaventura v. Mabalot, A.M. No. P-09-2726 [Formerly OCA IPI No. 08-2923-P], August 28, 2013, .

[10] Reyes v. Judge Mangino, supra note 8, at 456.

[11] See Judge De Guzman v. Judge Dy, 453 Phil. 214, 219 (2003).

[12] See Tam v. Judge Regencia, 526 Phil. 25, 36 (2006).

[13] See Tan Tiac Chiong v. Cosico, 434 Phil. 753, 764 (2002).

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