

BELLA FALCIS, COMPLAINANT, VS. JUDGE VICENTE CUSI, JR., RESPONDENT.

A.C. No. 1701-CFI. October 28, 1977

Ponente: SANTOS, J.

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SANTOS, J.:

This is an administrative complaint filed on September 9, 1977.

Complainant charges respondent judge under two specifications, to wit:

"Specification No. 1

"Oppression, grave and serious misconduct in that the respondent Judge, far from exercising his judicial functions free from outside interferences and pressures, and with pre-determined and pre-conceived design to do harm and injustice to complainant at the importunings of officials and key personnel of the Philippine National Bank, Davao Branch, Davao City, against whom complainant made an expose with PNB higher authorities and the Department of National Defense, Camp Aguinaldo, Quezon City, availed of and utilized then a pending Criminal Case No. 2561 against the undersigned and being tried by respondent judge -- as a measure of retribution -- and insured eventually undersigned complainant's conviction by the respondent judge.

"Specification No. 2

"Ignorance of the law, grave and serious misconduct, harrassment and oppression in that respondent Judge, on 12 August 1977, after promulgating the decision in Criminal Case No. 2561 convicting the undersigned complainant, deliberately and with malice, refused to approve the bail bond for the provisional release of herein complainant but instead ordered her immediate incarceration, on representations made by the officials of the Philippine National Bank, Davao Branch, Davao City, such that respondent Judge approved only the bail bond on August 15, 1977. It may be stated here that respondent Judge ordered the commitment pending appeal of undersigned complainant on a Friday, 12 August 1977 notwithstanding the presentation of a bail bond with sufficient justification for his approval, but instead wilfully and with malice aforethought delayed such approval up to Monday, 15 August 1977, all in violation of his oath of office that justice be administered with an even heart and hand, if not existing circulars from higher authorities that no arrests shall be made on days, of which the subject will be unable to post a bond the following day for the reason that such following day is not a working day or is a holiday."

Complainant attached Annex "A", her sworn statement, and annexes thereto with the request that a formal investi-gation be conducted, if evidence so warrants.

Complainant, in her sworn statement, states that she was a former employee of PNB, Davao Branch, Davao City and as such employee, exposed to PNB authorities' anomalies being perpetrated by authorities and high ranking officials of PNB; that she brought such anomalies to the attention of Sec. Juan Ponce Enrile of National Defense, who is concurrently the Chairman of the Board of PNB; that Secretary Juan Ponce Enrile ordered the military authorities to step into the investigation which is under progress; that about the time the military authorities were

conducting the investigation of the bank anomalies, the promulgation of the judgment in Crim. Case No. 2561, wherein complainant is the accused, was scheduled by respondent judge who tried the case; that in view of her conviction, complainant's lawyer immediately submitted Surety Bond DAV CR(2)-02333 FT/V 26212 in the amount of P6,000.00 as appeal bond, but which respondent judge refused, saying "I should be put in jail" since "PNB officials have made representation with him that I have to be put in jail" (Annex "A-1"); that complainant was placed under arrest (Annex "A-2"); that on August 15, 1977, respondent judge approved the appeal bond pursuant to which complainant was released (Annex "A-3"); that respondent judge knowingly rendered unjust and illegal order and allowed himself to be influenced by outside parties is 'apparent by the fact that his order of commitment was made on Friday, August 12, 1977, the following day being a Saturday ..." which constitute grave oppression, harassment and grave, serious misconduct that warrant disciplinary action (Annex "A-4")

The complaint was referred on September 14, 1977 by the Acting Judicial Consultant to respondent judge, who by way of traverse, filed his Answer per his 2nd Indorsement of October 6, 1977. Respondent's answer, in part, follow.

Answering "Specification No. 1" of the basic communication, the undersigned has this to say. Long before the arraignment of the accused. Bella Falcis, Msgr.. Fernando R. Capalla, then Auxiliary Bishop of Davao City, went to the Chamber of the undersigned and requested him to give the accused an opportunity to explain her side of the case. The undersigned told Msgr. Capalla that the time for her to explain her side would be during the trial. After arraignment, Msgr. Capalla again went to the Chamber of the undersigned, told him that she is a friend of his family, and asked him what he could do for her. The undersigned assured the Monsignor that he would give her justice. The verity of these facts can be verified from Msgr. Capalla, who is now assigned in Iligan City.

In spite of the intercession Of Msgr. Capalla in her behalf, the undersigned found Bella Falcis guilty as charged and sentenced her to four years and two months of prison correccional, as minimum, to six years, eight months and twenty days, as maximum, with the accessories of the law, to indemnify Simeon G. Salazar in the amount of P13,754.00 without subsidiary imprisonment in case of insolvency, and to pay the costs.

Thus, the statement in specification No. 1 that ". . . , far from exercising his judicial function free from outside interferences and pressures . . ." is a lie because in spite of. . . outside interferences and pressures . . ." in her favor, the undersigned convicted her because he was convinced of her guilt. No personnel of the Philippine National Bank, both of the Main Office and of the Davao City Branch, saw the undersigned in connection with the above-entitled case during the pendency of the same, much less influenced him to convict Bella Falcis. No one in Davao City or in any part of this Country was able to influence the undersigned how to decide the cases pending in his Sala, much less to send an innocent person to jail.

x x x

Specification No. 2 is another lie concocted by Bella Falcis. As Judge of the Court of First Instance of Davao, the undersigned approved bonds in his office, on the streets and in his residence on any day and at any time, whenever the same were sent to him for approval, provided that they bear the initial of the Branch Clerk of Court to show that the bonding company concerned is free from ". . . outstanding liabilities, already due but unsatisfied" and the corresponding documentary and science stamps are affixed to the bonds. If the undersigned approved the bond of Bella Falcis on August 15, 1977, it was because it was only on that day that the bond was cleared for his signature, not "... on representations made by the officials of the Philippine National Bank, Davao Branch, Davao City . . ." who have nothing to do with the case.

Respondent enclosed the affidavits of Atty. Velona P. Durante, Acting Branch Clerk of Court and Miss Lilia Togonon, clerk in charge of criminal cases, in support of his Answer to specification 2.

1. The burden of complainant's charge under Specification 1, is that respondent judge instead of deciding

Criminal Case No. 2561 for Estafa on its merits alone, prostituted his Office by yielding to outside interferences and pressures on the part of PNB officials to insure her conviction--a very serious charge indeed.

In support thereof, however, complainant in her sworn statement states merely that as a former employee of the Philippine National Bank, Davao Branch, she exposed PNB anomalies which she brought to the attention of Secretary Juan Ponce Enrile, of the National Defense, who is concurrently Chairman of the Board, Philippine National Bank; that among the information she had furnished the Secretary was the alleged anomalous grant of a loan to a dead applicant whose application was subscribed and sworn to Atty. Raman Bullezer, an official of the PNB branch in Davao (Complainant's affidavit, par. 7, Rollo, p. 3). Apart from the foregoing, complainant has not come forward with any clear much less palpable evidence to show prima facie that respondent judge had been actuated by any consideration apart from the merits of the criminal case of which complainant had been found guilty.

On the contrary, it was Mons. Fernando R. Capalla who went to see respondent judge, on two occasions, to intercede in complainant's behalf. (Respondent's Answer, pars. 3 & 4; Rollo, p. 13). Respondent, thus, in answer to Specification 1, forthrightly and in all candor denied that there had been any attempt on the part of the PNB officials to see him in connection with complainant's case; that instead of such alleged interference by PNB authorities, respondent admitted the intercession of Monsignor Capalla in complainant's own behalf, whom respondent advised "that the time for her to explain her side would be during the trial" and that respondent "would give her justice".

2. The thrust of complainant's charge under Specification 2, on the other hand, is that respondent judge refused to approve the bail bond for her provisional release; instead ordered her immediate incarceration on representations made by officials of the Philippine National Bank, Davao Branch, again imputing to respondent judge motives other than the proper exercise of his judicial functions on the matter of the approval of her bail bond for her temporary release pending appeal. On this score, complainant merely adverts to respondent judge's alleged remarks that "I should be put in jail since the PNB officials had made representations with him (sic) that I have to be jailed." (Complainant's Affidavit, p. 2; Rollo, p. 4), which is, to say the least, incredible.

By way of traverse to Specification 2, respondent asserts--and this is a practice of wide observance--that he approves bail bonds in his Office, on the streets, or in his residence at any day or any time any bond is presented to him for approval, provided that it bears the initial of the Clerk of Court.

3. A consideration of the complainant's affidavit - in support of her charges--which is prolix with conclusions but is bereft of evidentiary support therefor, and respondent's frank and forthright answer--detailing not only the persons who saw him in connection with complainant's case, and enclosing, to boot, the affidavits of the personnel of his Office, Antonina B. Escobilla, Branch Clerk of Court, and Lilia Togonon, the clerk in charge of records of criminal cases, Branch I, Court of First Instance, Davao City--will readily show not only that complainant failed miserably to show a prima facie case, but instead, that respondent's actuations in the premises of Criminal Case No. 2651 for Estafa against complainant were proper and above-board.

Complainant is a former employee of the Philippine National Bank, Davao Branch, Davao City, and an accused before respondent's court who stands convicted for the offense of Estafa in Criminal Case No. 2561. Respondent on the other hand, is the erstwhile Presiding Judge of the Court of First Instance of Davao City, Branch I, with more than 47 years of service in the government, the last 19 years of which were, served in the Judiciary, whose optional retirement was approved by this Court on September 19, 1977, effective September 30, 1977. The records also show that respondent had been the subject of complaints under Adm Matters Nos. 829 and 841, CFI, but which charges had been both dismissed "for failure to show a prima facie case" per Resolution of this

Court (Ist Division) dated January 21, 1976 (Rollo, Adm. Matters Nos. 829 and 841, CFI).

Considering that the complainant failed miserably to state any basis by way of support for the serious charge of alleged ignorance of the law and grave and serious misconduct; considering that respondent's answer not only denied the serious charges but substantiates and explains his actuations in the premises of complainant's case for Estafa, this complaint must fall, for failure to show a prima facie case.

WHEREFORE, let this complaint be, as it is hereby, DISMISSED, for failure to show a prima facie case.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, and Concepcion, Jr., JJ., concur.
Aquino, J., no part.

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