

**SHERLITA O. TAN, COMPLAINANT, VS. JUDGE REXEL M. PACURIBOT,
REGIONAL TRIAL COURT, BRANCH 27, GINGOOG CITY,
RESPONDENT.**

A.M. No. RTJ-06-1982 (Formerly A.M. No. 05-12-757-RTC). December 14, 2007

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-m-no-05-12-757/>

PER CURIAM

These consolidated-complaints filed against Executive Judge Rexel M. Pacuribot (Judge Pacuribot) of the Regional Trial Court (RTC) of Gingoog City, Branch 27, consist of the following:

- Affidavit-Complaint[1] dated 4 December 2005 filed by Sherlita O. Tan (Ms. Tan), Court Stenographer of RTC, Branch 27, Gingoog City, and affidavit-complaint[2] dated 20 December 2005 filed by Johanna M. Villafranca (Ms. Villafranca), Clerk II, Gingoog City Parole and Probation Office, charging Judge Pacuribot with sexual harassment;
- Letter[3] dated 4 April 2005 from “concerned citizens,” asking for the relief of Judge Pacuribot on the grounds that he has been terrorizing and harassing most of the employees, both casual and contractual, of the Hall of Justice of Gingoog City; and
- An undated letter[4] from “concerned citizens” also asking the Office of the Court Administrator (OCA) to investigate the illicit relationship of Judge Pacuribot and a certain Sheryl Gamulo. They informed the OCA that Sheryl Gamulo bore two acknowledged children of Judge Pacuribot, the eldest of whom named Rexell Pacuribot was born on 15 October 2004, and the second child was born on 2 September 2005, both at Maternity Hospital, Cagayan de Oro City.

On 14 December 2005, OCA issued a Memorandum[5] recommending that:

- The complaint of Ms. Sherlita Tan be referred to the Committee on Decorum and Investigation of the Regional Trial Court of Gingoog City for investigation;
- the complaint of Ms. Johanna M. Villafrancia be docketed as a regular administrative matter
- Judge Pacuribot be required to comment on the complaint of Ms. Villafranca; and
- Judge Pacurribot be suspended immediately until further orders from this Court.[6]

On 7 March 2006, we issued a resolution amending Section 8 of A.M. No. 03-03-13-SC, approving all the other recommendations of OCA and suspending Judge Pacuribot, thus:

With respect to all the other recommendations of the OCA, finding them to be in accord with existing laws, the same are hereby APPROVED. In particular, Judge Rexel Pacuribot is immediately SUSPENDED until further notice from this Court. He is likewise DIRECTED to comment on the complaints of Mesdames Tan and Villafranca within ten days. The complaint, however, of Ms. Sherlita Tan should be docketed as a regular administrative matter to be consolidated with that of Ms. Johanna M. Villafranca’s for proper disposition in line with the foregoing discussions.[7]

On 25 October 2006, the court referred the case to Justice Teresita Dy-Liacco Flores of the Court of Appeals, Cagayan De Oro City Station, for investigation, report and recommendation within 90 days from notice thereof.

On 8 October 2007, Investigating Justice Dy Liacco Flores submitted her Report[8] with the following findings:

Tan's story

Ms. Tan's nightmare as an underling of respondent judge started on 20 October 2004 – a Wednesday. Having officially filed a half-day leave, she went to Cagayan de Oro City to attend a wedding ceremony at six o'clock in the evening at Pryce Plaza Hotel. She stood as one of the principal sponsors to a couple named Kimberly Castillon and Thomas Elliot. At around 8:00 o'clock in the evening, while relishing the "gala" portion during the wedding reception (when the newly weds dance and guests pin peso bills on their attire), she received from [Judge Pacuribot] a call through her mobile phone, asking when is she going back to Gingoog City. She said she intends to go back right after the wedding reception. [Judge Pacuribot] offered to bring her to Agora Bus Terminal but she politely refused the offer saying that she will just take a taxi in going there. Taking her answer as declining his offer, he ordered her to come out, displaying short temper, saying he was already waiting outside the hotel. To hint at urgency, he told her that he just slipped out from the Masonic Meeting he was attending and will immediately return to it right after he will have shuttled her there. Aware that he has the tendency to humiliate anyone in public when he is angry, she decided to abruptly leave the wedding reception and comply.

x x x x

Coming out into the lobby of the hotel, Ms. Tan saw respondent judge [Judge Pacuribot] inside his car, alone. When she came near, he opened the car door for her and she took her seat. Then, angrily he asked: "What took you so long?" She kept mum. She saw in between their seats his clutch bag with his short firearm. That sight frightened her although she was consoled by the thought that she would soon get rid of him at the bus terminal. Pryce Plaza Hotel to the bus terminal would be about twenty (20) minutes ride, traffic considered.

Unfortunately, [Judge Pacuribot] had other ideas. Along the way to the bus terminal, he drove in to what looked like a compound. She unexpectedly saw that his car entered a small garage, and when it stopped, the roll down shutter quickly locked up from behind. She was brought not to the bus terminal but to a motel whose name she came to recognize only after the incident as the City Lodge Motel in Carmen, Cagayan de Oro City. She felt deceived. Knowing the implications, she protested: "Why did you bring me here, sir? Didn't I tell you that I will just take a taxicab to the Agora Terminal?" He rudely told her: "Shut up! As if you are still a virgin!" Respondent judge [Judge Pacuribot] then directed her to get down the car. Timorously, she obeyed. As soon as she went down his car, she looked for a possible exit and found none. All she saw was a door which opened. He ushered her into the room, walking closely from behind her. He locked the door.

Ms. Tan, scared and confused, walked to the comfort room, where she pretended to relieve herself. There, she again looked for a possible exit. Again, she found none. After a short while, she heard [Judge Pacuribot] asking: "What are you doing there? What's taking you so long?" Remembering, that he has a gun, she came out of the comfort room. To her dismay, she found him nude in bed and fear overcame her more.

[Judge Pacuribot] ordered Ms. Tan to undress. Her reluctance made her move slowly. He let out more impatience asking: "What's taking you so long to undress? Excite me!" She refused at first, but he became furious. At that moment too, she saw his gun on what seemed to her was headboard of the bed. Frightened, she undressed, retaining her bra and panty. He asked her to kiss him and she obeyed half-heartedly. While she was kissing his neck, he expressed dissatisfaction by asking: "You don't know how to kiss! How do you do it with Ramon? Get into sex right away without any preliminaries?" Ramon is her husband. She was quiet.

[Judge Pacuribot] ordered her to lie down on the bed. She yielded out of fear. He pulled her bra and panty, kissed her neck and lips, and sucked her tongue and breasts. Minutes after, he inserted his penis to her vagina.

While he did a push and pull motion, she was complaining: “You are so rude, Sir! We work in the same office yet you disgrace me!” He told her angrily: “Shut up! Concentrate! See! It’s softening....” She recalled that he tried several times to stiffen his penis but he seemingly has some erection problem. At his attempt for coitus, she felt the penetration was just slight. Later, he was getting exhausted and was breathing hard. He would rest each time he failed to have full enjoyment. While he rested, she would ask him to let her go, but angrily he refused. Instead, he would forcibly ride on top of her again and make more attempts at coitus until he finally gave up. He said to her: “It won’t stiffen because I have been forbidden to eat many kinds of food such as meat which gives energy.”

After a while, Ms. Tan saw [Judge Pacuribot] got up from bed, took his gun, and peeped through the window of the motel. This time, she once again implored him, “Sir, I’ll just take a taxi to Agora.” He answered: “I’ll bring you there.” At the time, she was so confused that she cannot recall whether he made payment in the motel. She could not concentrate anymore.

The two left the motel in his car. However, instead of conducting her to the bus terminal, again [Judge Pacuribot] brought Ms. Tan to another place . . . this time to Discovery Hotel adjacent to Limketkai Center, Cagayan de Oro City. When she protested, he told her that it would be safer for her to sleep there instead of traveling alone. It was around 10 o’clock in the evening. Still unrelieved of her fright which Ms. Tan calls “shock,” or “rattled,” she failed to ask for help, nor did she think of escaping. She was not even able to call her husband. She was even wondering whether anyone will help her if the judge will do anything to her. After he partially settled the room’s bill, he warned her not to leave until his return the following morning saying he was returning to the Masonic Conference. After he left, she asked a bellboy if she could leave, but the bellboy told her that she should first settle the hotel bill before she can check out. Unfortunately, she had no money enough to pay the balance of the hotel bill. Meantime, through his cell phone, he kept calling her that night and threatening her to watch out in the office if she would disobey. She was crying in the hotel. She was terrified of what he will do to her and her family, and what reaction her husband would make once he learns of what happened to her. She was scared that her husband might kill [Judge Pacuribot] and her husband would be harmed in turn.

At around 7 a.m. of the following morning, [Judge Pacuribot] arrived. He came panting and rested in bed while Ms. Tan just stood by. She saw him put his gun near the bed. She recounted the events that happened after, as follows:

Q:

What did he do, if any?

A:

He ordered me again saying: “Make Love to me!”

Q:

What was your reaction, if any?

A:

I refused.

Q:

What was his reaction, if any?

A:

He angrily shouted at me: “My goodness! Why are you so slow? As if you are a virgin!”

Q:

What did you feel, if any?

A:

I was terrified of him.

Q:

What did you do, if any?

A:

I was forced to go near him, kissed his neck, but [I] stopped.

Q:

Why did you stop?

A:

I was disgusted with what I was doing and with him.

Q:

What was his reaction, if any?

A:

He angrily told me: “You don’t know how to make love! How do you do it with Ramon? You simply have sex without foreplay? Kayati ba sab?”

Q:

What was your reaction, if any?

A:

I felt helpless and kept quiet.

Q:

What happened next, if any?

A:

He ordered me saying: "Suck it!"

Q:

What did he want you to suck on him?

A:

His penis.

Q:

What did you do, if any?

A:

I refused.

Q:

What was his reaction, if any?

A:

He got angry, pulled my hair and pushed my face to his penis saying: "suck it! Let it in till deep your throat! Let my penis reach your throat!"

Q:

What did you do, if any?

A:

I gasped for breath so that when I opened my mouth, his penis entered my mouth.

Q:

What happened next, if any?

A:

He tightened his hold on me so I was forced to suck his penis afraid that he might break my neck.

Q:

What happened next, if any?

A:

His penis reached my throat and I felt nauseated so I ran to the bathroom and vomited.

Q:

What happened next, if any?

A:

I stayed in the bathroom for a while because I was not feeling well.

Q:

What was his reaction, if any?

A:

He angrily ordered me to go to him and lie beside him and I obeyed.

Q:

What happened next, if any?

A:

He rode on top of me again and tried to insert his penis into my vagina.

Q:

What happened next, if any?

A:

His penis could hardly stiffen.

Q:

What was his reaction, if any?

A:

He got angry saying: "It can't enter! Your vagina's too small.

Q:

What did he do next, if any?

A:

He spread my two (2) legs wide apart and tried to insert his penis but it did not stiffen.

Q:

What happened next, if any?

A:

He pulled my head towards him by pulling my hair.

Q:

What was your reaction, if any?

A:

I told him: “Don’t pull my hair, sir! It’s very painful! What a sadist you are!”

Q:

What was his reaction, if any?

A:

He just kissed my lips, neck, sucked my nipple and mashed my breast by saying: “This is the breast of a lustful woman” while continuing to suck my neck and breast.

Q:

What happened next, if any?

A:

He said: “I’m going to plant lots of kiss marks here to let the people know that you passed through my hands.”

Q:

What was he referring to as “here”?

A:

My neck.

Q:

What was your reaction, if any?

A:

I cried.

Q:

What happened after that, if any?

A:

He rested while I went crying to the bathroom, washed my body then dressed up.

Ms. Tan again pleaded for [Judge Pacuribot] to let her go. This time, [Judge Pacuribot] assented, but he offered to bring her to the bus terminal. Traumatized, she refused the offer. She told him that she will just take a taxi and will have breakfast at the Ororama. Still he insisted to shuttle her there. Thus, at about past 8:00 o'clock in the morning, he left her at Ororama Cogon, Cagayan de Oro City.

Ms. Tan did not report to the office the next working day, that was 22 October 2004 – a Friday. She absented herself from her work because she still had noticeable number of kiss marks on her neck. She only reported on Monday and covered her kiss marks with her hair. At the office, [Judge Pacuribot] told her not to file anymore her leave for October 20 and 21, 2004 while bragging, “Ako na gud ni, kinsay magbuot nako?” (It is me, who will prevail against me?)

Ms. Tan told no one of her traumatic experience and carried on as if nothing happened. But from then on, [Judge Pacuribot's] advances on her went on unabated even in the office. Whenever she would go inside his chamber, at times, he would grab her blouse, mash her breast, and kiss her neck saying that she smells so sweet. At times, he would touch the crotch of her pants or pull the string of her panty. On 13 October 2005, he did the same indignities to her in the presence of Placido Abellana, the court aide, and the latter just pretended to see nothing by turning his back. Every time she would resist and/or evade his sexual advances, he would shame her before her officemates at a later time. He also told her to send him text messages of endearment. She was warned that her failure to comply, or to receive his call, or reply to his text messages will have an adverse effect on her performance rating.

The situation got worse for Ms. Tan when respondent judge [Judge Pacuribot] indicated his interest in renting a room in her house which she used as her home office. Ms. Tan's house is near the Police Station and the courthouse. Initially, she candidly told him that the said room is not for rent. She even refused him in the presence of her officemates who cannot comprehend why she should not allow him to rent the room considering that it would be an additional income for her. At that time, they were unaware what she was going through.

Ms. Tan brought her commercial calendar to their office. It has her picture. Having seen it, [Judge Pacuribot], in the presence of Ms. Tan, instructed Placido Abellana, the court aide, to mount her calendar at the door of his chamber, saying: “Whoever removes the calendar would take a scolding from me. Don't remove Shirley's calendar. I like that hot babes.” Then, pointing to her picture, he added: “That's my idol, the hot babes Kikay!” As he was still trying to persuade her then to let him rent a room in her house, he said in jest to Placido Abellana: “If I rent the room, I will call Shirley... she will massage me and step on my back and I will feel good because Shirley is sexy.”

With the pressure on her to rent him a room being kept, Ms. Tan eventually yielded, but she erected a wall between his rented room and her house, and provided for him a separate ingress and egress. Nonetheless, when her husband is not around, she would find him knocking on her window and ordering her to go to his room.

Ms. Tan claims that if [Judge Pacuribot] could not have his way with her because she resists, he would scold her in his chamber and would also humiliate her in the presence of her officemates. She would also receive threats from him as regards her performance rating. In fact, her “Very Satisfactory” rating in the previous years of her service went down to “Satisfactory” for the period of January to June 2005, the first and only time that she was given such a rating.

Because of the very oppressive ways of [Judge Pacuribot], Ms. Tan eventually suffered from what doctors call “chronic fatigue syndrome” and was hospitalized in December 2005. Dr. Virgilio Lim of Lipunan Hospital of Gingoog City treated her. Dr. Lim testified that emotional stresses of a patient could lead to chronic fatigue

syndrome.

Ms. Tan's helplessness against the sexual abuses and advances of her judge was gnawing on her. She found it revolting. She finally mustered enough courage to come out in the open to free herself. She executed an Affidavit Complaint sworn before a woman Clerk of Court of Cagayan de Oro City on 06 December 2005. She flew to Manila and went to the Supreme Court on 08 December 2005 to file her administrative case against her superior. In February 2006, she filed criminal charges of rape, acts of lasciviousness and sexual harassments against [Judge Pacuribot] before the City Prosecutor of Gingoog City. At the onset, no lawyer in Gingoog City would even want to accept her case. The criminal cases were dismissed for lack of jurisdiction. She re-filed the case with the Prosecutor's Office of Cagayan de Oro City. They were also dismissed.

Villafranca's Story

Ms. Villafranca first met respondent judge [Judge Pacuribot] sometime in November 2004 at the lobby near the Probation Office at the Hall of Justice of Gingoog City where she holds office. When [Judge Pacuribot] passed by, she was then talking to a certain Dondi Palugna, her childhood friend who at that time was [Judge Pacuribot's] driver. Short introductions followed.

On 18 December 2004, Ms. Villafranca received a call through her cell phone from [Judge Pacuribot]. To Ms. Villafranca, the call was unexpected. After their talk, he asked her if he could call again for chitchat. She answered "Ok lang." She asked him how he got her mobile number. He said he got it from Dondi Palugna. Later, she began to receive text messages from him, telling her how beautiful and sexy she is, how the mini skirt suited her, etc. She courteously acknowledged his praises and said "thank you" to him. Then, he started inviting her for dinner. Knowing him to be married and the fact that she is married, she declined these invitations citing an inoffensive excuse which is her evening teaching sessions at Bukidnon State College, Gingoog City. But she found him persistent. One time, he took offense at her refusal, saying "Why don't you come with me? I AM A JUDGE! Why should you refuse me? Why do you go with Dondi and not with me when I AM A JUDGE?" At another instance, he even asked her why she goes with Dondi Pallugna, a drug addict, and not him a judge. Although scared of his outbursts, which by reputation he was known, she politely explained to him that his driver Dondi Pallugna was her childhood friend. Still, she had to dodge his persistence.

In avoidance, Ms. Villafranca requested for a transfer to Probation Office, Cagayan de Oro City. This was in February 2005. She was asked to make a written request which she failed to file due to heavy work load. At that time, the Regional Office of the Probation Office for Region X was about to hold a Timestral Conference. Venue of the Conference was Gingoog City and so the host office for that conference was the Gingoog City Parole Office where Ms. Villafranca works. She was assigned to take charge of the hotel accommodations of participants in the conference. For that reason, she was too busy attending to her assigned task that she failed to prepare the written request. Accordingly, nothing materialized out of her intended transfer.

Although calls of [Judge Pacuribot's] were unwanted, but Ms. Villafranca wanted to be polite to him for two (2) reasons: his status as a judge and his reputation, in the Hall of Justice, as "terror" which caused most people to fear him. So, she took his calls politely, gave him respect, and when she had to turn down his call, she had to do it courteously like: "Ok, sir, I still have work to do, I cannot talk long."

In the last week of February 2005, Ms. Villafranca got a call from [Judge Pacuribot] who was fuming mad because she refused his dinner invitations. Scared, she finally relented. It was scheduled on 22 February 2005 which turned out to be her worst nightmare.

February 22, 2005 came. [Judge Pacuribot] asked Ms. Villafranca to choose a restaurant. She singled out The Mansion in Gingoog City for good reasons. The Mansion is owned by her relative. On that account, she thought that in the place she will be safe. She planned to invite one of her relatives in that restaurant during the dinner. By arrangement, she was to be picked up at 7 p.m. at the school gate.

A few minutes past 7 p.m., on the appointed date, [Judge Pacuribot], driving his car, fetched Ms. Villafranca. He opened the car door to her and she took her seat. While she was talking to him, she saw him brought out his clutch bag, took out his gun, cocked it and put it in between them. Frightened that it may blow off anytime, she voiced out her fears of guns. He quickly replied that guns are for the safety of judges who are prone to ambushes.

Noticing that [Judge Pacuribot] was driving towards the opposite direction of The Mansion, she told him they are driving the wrong way. But she was told that they are going to Butuan City as he knew a great dining place there. While driving with his left hand, [Judge Pacuribot] would hold his gun with his right hand and put it down every now and then when he had to change gear. This scared her even more and she started shaking in fear. She observed that he was over speeding and would honk his horn furiously so the other drivers would allow him to overtake. She started having frightening thoughts like imagining being killed if she resists and be left along the road. She feared for her life, and of her children.

After about an hour, Ms. Villafranca noticed that [Judge Pacuribot] turned right from the national highway, and a little farther, he honked his horn, entered a garage which then immediately closed as soon as his car entered. It was late for her to realize that he brought her to a motel in Butuan City. She became numbed with fear. He alighted from the car carrying his gun, and opened the door on her side. She asked him: "Why are you taking me here? You told me we were going to a restaurant." He ignored her. He told her to get out of the car. Sensing she was uncooperative because she would not get down, he grabbed her from the car. She tried to resist but she was numbed with fear. She wanted to get away but she could not seem to move. He pushed her in the room. She attempted to go out of the room but he locked the door and blocked it with his body. She pleaded to him to let her go because her children and family are looking for her. Then, [Judge Pacuribot] grabbed Ms. Villafranca by her shoulders and tried to kiss her. She evaded by backing out from him and turning her face away. As she continued to back away from him, she fell on the bed while he immediately laid on top of her. She felt his hands groping all over her body, as he tried to kiss her. She kept on pleading to him to let her go; that she wants to go home because her kids are looking for her. He lifted her blouse, unbuttoned and unzipped her pants while she was pushing him away. But he was too strong and big for her. She tried to get up when he took off his pants and brief, but he was fast and was soon on top of her. As he pinned her down on the bed, she could hardly move and found him too heavy. All along she was trembling in fear and was crying while pleading to him for mercy. But he could not be dissuaded. On cross examination, [Judge Pacuribot's] counsel asked her some details on this incident, as follows:

Atty. Kho:

Q:

You said you were brought to Butuan City in a motel. Do you remember the name of the motel?

A:

No, I don't.

Q:

Could you remember the size of the room that you were in on that day which you claim on February 22, 2004?

A:

I'm sorry, Attorney, everything seems to be so blurred during that time. All I could really remember was

asking him to take me home because it was not agreed that I go with him in a motel but in a restaurant at Mansion by the sea at Gingoog City.

Q:

So you don't remember really anything else?

A:

I remember what happened to me.

Q:

Why, what happened to you?

A:

When he forced himself to me.

Q:

When you say he forced himself to you, what do you mean?

A:

When he was on top of me and he was kissing me. God, I can feel and I can remember how heavily he was breathing in my face and he was kissing me all over and he was trying to position himself inside of me. Those are what I can remember and I kept on telling him: "No! I want to go home to my children." I wanted to go home because my family will be looking for me. What? Did he listen to me? No, he kept on telling me I am emancipated. Nobody will look for me.

Q:

What were you wearing at that time on February 22?

A:

I was wearing pants and a blouse.

Q:

Were you undressed at that time?

A:

I am sorry?

Q:

Were you undressed?

A:

Undressed? He undressed me.

Q:

He undressed you?

A:

Yes.

Q:

Nothing left?

(No reply).

Ms. Villafranca felt that her legs were being parted as [Judge Pacuribot] tried to insert his penis into her vagina, but she could sense he had difficulty with erection. She felt penetration was slight. She recalled that he tried penetration more than three times, but was unsuccessful. She felt his heavy breathing while he planted vile kisses on her neck and chest. Her repeated pleas for mercy had not done her any good. Not long after, he rolled over with her and she found herself on top of him. He grabbed her hair and pushed down her face to his penis, and forced her to do oral sex on him instead. She resisted, but he insisted saying that it was what he wanted, otherwise she would be put to harm. She took it to mean that he will kill her if she refuses him. Scared, she relented and had oral sex on him. She felt shamed as she sucked his limp penis. She was disgusted with him, with herself and the very act itself. Still not having an erection, he released his grip on her. While she was physically and emotionally exhausted, she continued crying for mercy, but [Judge Pacuribot] was boasting that nobody in his right mind would refuse his demands as he could easily cause damage to anybody's honor if he wanted to.

Ms. Villafranca then got up, and put on her underwear and pants. [Judge Pacuribot] also got up and took his cell phone. She pulled the sheets to cover herself because her blouse was on the opposite side of the bed. However, he pulled the sheets from her and pushed her to the bed half naked. She braced herself with her arms so that she would not be pinned down on the bed again. But to her surprise, he took a picture of her, using his cell phone. She was petrified. He then looked at the picture commenting that it was no good because she was not smiling, so he ordered her to smile as he will take another picture of her. Although she defied him, yet he did take another picture of her. She hurriedly put on her blouse while he dressed up, fixed himself and tucked his shirt and his gun.

After [Judge Pacuribot] settled the bill, he led her out of the room. Ms. Villafranca shrugged him off. At the garage, she was ushered to the front seat of the car. She was dying to go home. He drove back to Gingoog City. On their way back, she turned her back on him, closed her eyes, covered her face with hand, and pretended to be asleep. Later, he informed her of their approach to Gingoog City. She asked him to drop her off at the old Caltex gasoline station along the national highway. From there, she hailed a motorela, went home, took a long bath to wash his marks of her. At about 11 p.m., she fetched her children from her father's house. When asked where she had been, she gave her father a lame excuse that she went out with her friends.

Ms. Villafranca reported to work the next day. There had been some phone calls in their office. Like any other office, whoever has the convenience to answer at the time would pick up the phone. [Judge Pacuribot] had

called twice their office already and when her officemates answer the phone, he would just hang the line. When the phone rung again, she picked it up. It was [Judge Pacuribot] on the other end. After recognizing her voice, he belittled her yelling: “Prostitute! Devil! Animal! Why don’t you pick up the phone?” She was consumed with fear, and meekly told him that she was just busy. Days passed as he continued to threaten her with the publication of her half naked picture. She tried to pacify him sensing that he could make real his threats. Being married to an overseas worker with two kids, she was so scared of figuring in a scandal. Her fright of him was burdensome. He would send her text messages telling her of sweet nothings, but every time she would ignore them, he would burst in anger and would renew his threats. At times, she made excuses, like having no cell phone load, but he would insist that she should secure a load, otherwise he would shame her. He was far too wise to accept excuses. Her constant fear made her succumb to his blackmails.

[Judge Pacuribot] was always demanding that Ms. Villafranca send him text messages and letters expressing nonsense, a matter she could not understand then. She thought it was only to feed his ego. On cross examination, [Judge Pacuribot’s] counsel asked why she complied with these orders. She answered:

Atty. Kho:

Q:

In your affidavit, do you remember having said that the respondent is forcing you to send to him text messages?

A:

Yes.

Q:

And you complied with the sending of these text messages?

A:

Yes, because one day when I was not able to text he called me and he screamed at me over the phone and then he said: “Burikat, animal ka, yawa ka, imo gibuhat... dili ko nimo i-ignore. This will be the last time na imo ko i-ignore sa text or sa tawag nako. Otherwise, you will pay for it.”

Atty. Ignes translating:

“You whore, you devil, you animal, don’t you dare! This will be the last time you will ignore me in my call, otherwise you will pay for it.”

Atty. Kho:

Q:

Why did you allow him to do that to you?

A:

Because he constantly tells me that he will develop that picture, he will show that to my mother-in-law and then he will destroy me and he will create scandal in Gingoog City.

Q:

Is it not that you are well-connected? Your grandmother is the mayor. Did you not report it to her?

A:

My husband is not around, Attorney.

Q:

And?

A:

And what? How would I explain to them that I was there? How he took my picture? How am I going to? I don't know. I just wanted to protect my family from any shame, from any scandal. And he knew that it would be his hold to me. And he knew that I would be very careful with the name that my family had, that is why he is constantly threatening me with such same arguments, you know. "Ikaw and madaot ani. Imo ning kuan tana."

Atty. Ighes:

"You will be destroyed because of this."

Atty. Kho:

Q:

So, you admit that you sent him a lot of text messages?

A:

I did not deny it in my affidavit. I had it in my affidavit, that there were text messages and forced notes written for him.

[Judge Pacuribot] also asked her to send him cards with amorous messages. On these, she was also grilled on cross – examination. It went as follows:

Atty. Kho:

Q:

You mean you often wrote some notes?

A:

Yes. I may even have some drafts there wherein he even edited it.

Q:

What kind of notes were they?

A:

Love notes and there was a time he made me write a letter to my mother-in-law which the very next day I was posting myself at the Post Office awaiting for that letter to come so that I could intercept it

x x

x x

Q:

Also attached to the Comment of respondent are some notes already marked as Annex 9. Could you go over some of these notes and tell us if this is your handwriting? Annexes 9 and 9B.

A:

I will not deny that I wrote these letters but they were under his supervision just like the ones he made to my mother-in-law and to my husband.

Q:

You mean to say you were writing the letters?

A:

Yes. He will dictate to me what to do, what to say.

x x

x x

Q:

So you were acting like a stenographer who writes down his dictation?

A:

I did not act like a stenographer who wrote down his dictation. But I acted like a victim who is under threat by

some...

Q:

The words here in Annexes 9-A and 9-B, you mean to say all of these are his words, the respondent?

A:

As I said Attorney, yes, under his dictation, under his supervision. Do you know what is this?

Atty. Kho:

No. Do not ask me a question. You are not allowed to do that.

Witness (continuing)

While I was doing those writing, I felt that all my limbs were so tired. I felt so heavy writing those letters.

Atty. Kho:

Q:

So you admit sending the respondent a lot more letters than the ones I've presented you?

A:

I admit that I wrote those letters under his supervision, yes.

Q:

All of the letters that you sent were all under his supervision?

A:

As I said, yes, under his supervision. There were times that he would even call me to his chamber to have some cards signed.

Q:

So, aside from notes, you also sent him cards?

A:

Yes, I recall signing them because he would ask me to do so.

x x

x x

Justice Flores:

Q:

When you said that the judge would even call you to his chamber to sign cards, what kinds of cards?

A:

Greeting cards, Your Honor.

Atty. Kho:

Q:

Hallmark?

A:

I don't recall. I would just easily sign them, do whatever he wanted and then after he is done touching me I would ask myself to leave.

Q:

So, you also sent him lots of greeting cards?

A:

I did not send your client. He gave it to himself.

Q:

I am going to show you one last card. Tell me, is this one of the cards that you said you signed? I'm going to give this to you. For submission.

A:

Yes.

Q:

This is one of the cards that you signed?

A:

One of those cards that I signed.

x x

x x

Q:

Miss Witness, the handwriting on this card now marked as Exhibit 6, on the second line of the handwriting are the words “Love you, Bi.” Could you tell us what is the meaning of the word “Bi”, if you know?

A:

It has no significance with me because your client dictated it to me.

Q:

So, it was dictated only.

A:

As I said, he dictated words to me.

Ms. Villafranca’s resistance would always be met with a threat to divulge the incident in the motel. Although she yielded to these promptings of sending him text messages or cards or notes, she never understood why [Judge Pacuribot] behaved so. It was late in the day when enlightenment came to her that all his orders to her to send him amorous text messages, letters and cards were not to feed his ego but to prepare for his defense even while she was as submissive as a lamb. In his Comment to the administrative charge against him, he cited the text messages, letters and cards he induced her to send to him to deflect her charges of rape and unprofessional conduct and prove them untrue. He cited them in his Comment as her manifestation of “fatal attraction” to him.

x x x x

There had been occasions when [Judge Pacuribot] summoned Ms. Villfranca to his chambers on the pretext of discussing probation matters, but once inside his chamber, he would lock the door, grab her, kiss her, put kiss marks on her neck and chest. He would pull her hair and push her down to his crotch and demand that she performs oral sex on him. Her overpowering fear of him and the scandal he can inflict on her family made her yield to him. When she would disobey him he would call her cell phone with lots of insults like calling her “burikat” or with his threats.

Also, [Judge Pacuribot] demanded food from Ms. Villafranca which the latter had to bring to his room in Ms. Tan’s house. Her fear of dire consequences of her resistance absorbed her. When demanded to bring food, she would comply out of fear. In her words, “Yes, I went because he would put me under pressure and under fire.” She went not only because of his constant threat of making public his cell phone picture of her, half naked, but also because of “his added threat that he is going to tell my mother-in-law; that he is going to destroy me; that I am nobody; that my family is no good and he would call me ‘burikat, burikat (whore)’. He would call me that name ‘yawa ka, animal ka. Sumunod ka nako.” She was angst-ridden with the set – up. She was fearful that somebody might see her in his rented room or on her way to it or back. She was made to go there about eight (8) times. All these instances, she saw him display his gun. She found him too selfish and an ingrate. Once, on his demand to bring food, she brought him only pansit and lumpia which was no longer crisp. Unappreciative, he furiously stabbed his plate with fork, breaking it and carped that she served him food which is not fit for a judge, and suited only to her seaman husband. He also made her eat with him on occasions which she abhorred so much because according to her “he ate like a pig – eating fast with shoulders hunched, elbows on the table,

mouth noisily chewing the food.”

When grilled on those eight (8) times, the following exchanges between [Judge Pacuribot’s] counsel and Ms. Villafranca took place:

Atty. Kho:

Q:

In all of these times, 8 times which you said, you did not care to offer any resistance?

A:

I had offered a lot of resistance, Attorney, but your client would make it a point that I should not refuse him.

Q:

You tried to resist?

A:

I had evaded him many times, many times but he would always point out that I should not refuse him, otherwise he will destroy me and he did eventually when I finally had the courage to put up with him, you know.

(The witness is crying at the witness stand)

Q:

During those 8 times which you said you went to the room of respondent at Sherlita Tan’s place which is near the police station and the LTO, was there a time that you shouted?

A:

I could not shout, I’m scared.

Q:

You were scared of what?

A:

Scared of your client.

Q:

Of the person?

A:

Yes and how intimidating he could be and how evil he could be.

After eating, Ms. Villafranca would be ordered to take off her clothes; then, [Judge Pacuribot] would lay on top of her for his sexual pleasures. But penetration would be slight because, as usual, he had difficulty with erection. As a consequence, he would push her down to his organ and order her to do oral sex on him. She detested his routine of putting kiss marks on her neck and chest which he intentionally used so that, as he told her, people would know that he owned her. At times, she left his rented room wearing a hooded jacket in order to hide her face fearful that certain people might recognize her along the way. There were times she also left his room without underwear because he would not give it to her. She hated his sexual abuses, but she was more afraid of causing scandal to her family.

In April 2005, after having dinner with [Judge Pacuribot] in his rented room, Ms. Villafranca was pulled by her hair and was asked, “[w]ho owns you now?” She answered in fear – “you.” He looked very pleased. Then, he told her to leave her husband and promised to help her file a marriage annulment complaint in Gingoog City. She did not say a word. He went on top of her and pulled her hair demanding for an answer. Terrified, she said “opo”. Then, she was forced to have sex with him.

[Judge Pacuribot] wanted to destroy the relationship Ms. Villafranca has with her husband and his family. He forced her to write a letter, asking for a break up of marriage from her husband which [Judge Pacuribot] edited. He also ordered her to write to her mother-in-law with whom she had some difficulty in their in-law relationship, to say she wanted a marriage break-up. She told him she does “not need to write letters to her mother-in-law. What for?” But he insisted. Her hands felt heavy writing them, in fact it took her three drafts to write as shown in Exhibits “B”, “C” and “D” of Ms. Villafranca. Discontented with her drafts, he took away the last from her, edited it, and told her he will mail it to her mother-in-law. Thinking he will make good of his threat, the following day she posted herself outside the Gingoog City Post Office for a long time and waited for the mailing of said letter so that she can intercept it. No one came. She instructed the postal clerk that if there is a letter intended for her mother-in-law, she should not give it to her mother-in-law but to her instead.

Meantime, Ms. Villafranca’s morbid fear of [Judge Pacuribot], his threat to mire her and her family in scandal and her guilt toward her family had been sucking her into a vortex of emotional and physical collapse. She bore the immense pain of yielding to him. She seemingly could not withstand the humiliation for being involved in forced sordid incidents with [Judge Pacuribot] whom she detested.

On 9 May 2005, seemingly depressed for her accumulated frustrations for not being able to see her way out of her predicament, Ms. Villafranca, sent a text message to her husband who was then working aboard a foreign vessel. Her text message went this way: “Whatever will happen to me, you take care of the kids.” He asked: “What’s wrong?” She answered: “I cannot fully disclose to you everything but in due time I will. Whatever happens to me, just take care of the kids and that I love them.” Her disturbing message constrained her husband to pre-terminate his employment contract and rushed home to Gingoog City on 15 May 2005. She then personally told [Judge Pacuribot] to stop calling her or asking for food, but he grabbed her hair, twisted her head and planted a kiss mark on her neck, telling her that it would send a message to her husband that he, not her husband, owned her. Still, she was not prepared to make her revelations to her husband.

In the third week of May 2005, Ms. Villafranca was persistently instigated by [Judge Pacuribot] to file an annulment case against her husband. Later, he asked her to sign what Ms. Villafranca calls a “ridiculous document” he drafted wherein it purported to show that she and her husband agreed that each of them may freely cohabit with a third person. She signed it in the face of his threats. Worse, he asked her to ask her husband to sign the same document.

On 25 May 2005, at the Hall of Justice in Gingoog City, Ms. Villafranca was summoned to [Judge Pacuribot’s] chamber. Once inside, he slapped her for not filing her petition for annulment of marriage and hit

her head with clenched fist. Then, he planted on her neck kiss marks which he said he wanted her husband to see. Indeed, when her husband found her with kiss marks, she suffered from her husband's beating.

Citing her husband's beating her, Ms. Villafranca pleaded to [Judge Pacuribot] to stop molesting her. He countered with an unusual suggestion – File a rape case against him. When she refused, the threat of the dire consequences of her refusal came again. She still kept from her husband what she was going through.

But [Judge Pacuribot] seized another incident to destroy her more. On 15 June 2005, he reported in writing to the superiors of Ms. Villafranca – superiors in local office and superiors in Manila – alleging her negligence allegedly committed on 6 June 2005 in forgetting to shut off the air-con unit in their Probation Office. Her local superior in the Probation Office referred to her the letter of [Judge Pacuribot]. She prepared an explanation which her local superior used as letter to the judge. Thinking that because she authored that letter, the explanation there covered already her side, she did not write nor see the judge anymore. This further infuriated him.

x x x x

In July 2006, Ms. Villafranca's request for transfer was granted and she started working in Cagayan de Oro City on 17 July 2006. The transfer of assignment resulted in her constant separation from her nine (9) year old son and four (4) year old daughter, plus the great inconvenience of a 2½ hours bus ride from Gingoog City one way, and transportation expenses. She would usually go home to Gingoog City to be with her family and children on weekends, or every now and then, and sometimes late at night.

After her transfer to the Probation Office in Cagayan de Oro City on 17 July 2006, Ms. Villafranca was able to tell her husband what she went through. Before that, she just could not find the courage to tell him because she was scared. When she was twitted on cross examination on how so long that she was scared, she said:

Atty. Kho:

Q:

So, what you told him at that time was that you were scared?

A:

Attorney, I was walking in fear most of those times and even up to now when I came home I am walking in fear. I don't know if I'm safe. I don't know if the next day I will be dead. I don't know. Those were the times when I asked my husband to accompany me because I'm always scared all the time. Even if I just go out of the gate ask my husband to accompany me.

(At this juncture, witness is sobbing)

Ms. Villafranca decided to fight back with this administrative charge. She subscribed her Affidavit-Complaint before State Prosecutor Roberto A. Escaro on 13 December 2005. In Ms. Villafranca's Complaint she prayed that [Judge Pacuribot] be found guilty of gross violation of the Judicial Code Of Professional Responsibility (Code of Judicial Conduct) for being totally unfit to stay in the Judiciary and she prayed that he be ordered immediately dismissed from service. She also prayed that [Judge Pacuribot] be immediately ordered to cease and desist from causing any further assault on her person, in her personal and professional capacity.

On the same day, Ms. Villafranca submitted her Affidavit-Complaint to the Office of the Court Administrator. [Judge Pacuribot] filed his Comment. Among others, he cited that Ms. Villafranca was "fatally attracted to him" and that he refused to reciprocate because "he is a judge and happily married," and for the reason that

Ms. Villafranca's "misdirected adoration is atrociously immoral." Ms. Villafranca filed a Rejoinder refuting point by point the defenses of [Judge Pacuribot] and calling them lies. Ms. Villafranca said his defenses are presumptuous and revolting because in the Hall of Justice, female personnel "invariably veer away from his path in trepidation." She asserts that [Judge Pacuribot's] extramarital indiscretions are well known, if not well documented, in Gingoog City, that it is common knowledge that his mistress Sheryl Gamulo, whom [Judge Pacuribot] housed in Motomull St., Gingoog City, gave birth to two (2) children by [Judge Pacuribot] on 16 October 2004 and 02 September 2005 at the Maternity Hospital, Cagayan de Oro City; that the eldest child was baptized in Opol, Misamis Oriental with Atty. Wilfredo Bibera, his clerk of Court, and Dondi Pallugna, his driver, as baptismal sponsors. Ms. Villafranca claims therein that respondent judge is also known to have sired a daughter in Ozamiz City now about ten (10) years old whose picture has been circulated in the Hall of Justice and that [Judge Pacuribot's] immorality most probably inflicted on victimized women is a sick source of scandal and gossip in the city.

To be able to put behind her harrowing experience, Ms. Villafranca applied for leave of absence with their office to work abroad knowing that [Judge Pacuribot's] order in *People v. Anude* and his letter to her superiors have effectively made her lose that desired promotion. Eventually she left the country on 2 October 2006 for Dubai, UAE to work and forget her past even if her leave of absence in their office was not yet approved. On 18 March 2007, she returned to testify in this case after struggling against employment restrictions and financial constraints, she not having been half a year yet abroad. On 22 March 2007, when asked on the witness stand when she will leave again for Dubai, she said: "I want to leave the country as much as possible and stay out of here. I don't want to be reminded of what happened to me." At the time she testified in March 2007 in this case, her leave of absence in the Probation Office was not yet granted.

In his Comment,[9] Judge Pacuribot denied the charges of Ms. Tan and Villafranca for "lack of factual and legal bases"; and opposed the allegations on the ground that the same were motivated by revenge and were part of a comprehensive and sinister plan to drive him out of service.

Judge Pacuribot made total denial of Ms. Tan's charges against him and claimed that the alleged incidents on 20 and 21 October 2004 were "big lie[s], a fraud, a hoax and deception." He insisted that he could not have committed the acts complained of by Ms. Tan because in his first five months in office, he was busy planning what to do and how to quickly dispose of the almost 500 cases he inherited, including the new ones raffled to him.

In particular, Judge Pacuribot denied the alleged rape incidents on 20-21 October 2004 in Cagayan de Oro City, and interposed the defense of alibi. He contended that he was in faraway Gingoog City, which is 120 kilometers away from Cagayan de Oro City. He stated that on Mondays, he reports for his duties in Gingoog City, and goes home to Cagayan de Oro City only on Fridays. He maintained that on 20 October 2004, a Wednesday, at 7:00 p.m., he went out of his chambers with his court aide Placido Abellana, Jr., and his security officer SPO1 Ronald Espejon. They proceeded to Garahe Sugbahan Grill for dinner. After dinner, Espejon and Abellana escorted him back to his boarding house. Abellana left him at 9:00 p.m. while Espejon went home at about 11:00 p.m.

Judge Pacuribot admitted that he did not hold trial on 21 October 2004, a Thursday, because the scheduled settings were all cancelled that day which cancellation was made a week before. He averred that on the same day, he was writing decisions in his chambers. In the evening, he asked Abellana to buy food and they ate supper with Espejon. Abellana left him about 8:00 p.m. while Espejon left at about 10:00 p.m.

He, thus, concluded that it was impossible for him to be with Ms. Tan on 20 and 21 October 2004, a Wednesday and a Thursday, respectively. He argued that no proof existed to show his physical presence in Cagayan de Oro City on those dates; hence, the presumption of his continuing physical presence in his station during the inclusive period alluded to ran in his favor.

Judge Pacuribot also cited several factors which made Ms. Tan's allegations unbelievable:

- Ms. Tan's behavior was not reflective of a rape victim. Ms. Tan did not immediately report the incident to the authorities. As a 43-year-old lady who is no longer naïve and having assisted as stenographer in countless rape cases, she should know how important it is to immediately report the incident.

- Judge Pacuribot pointed to Ms. Tan's admission that she did not put up a struggle when he allegedly brought her to City Lodge Motel and Discovery Hotel. Had she wanted to catch the attention of employees, she could have done so. He also stressed that what Ms. Tan called a headboard where he allegedly put his gun in the motel room was merely less than one inch in width, too narrow for a .45 cal. gun to rest.

- On 25 November 2004, a month and three days after the alleged rape, Ms. Tan invited all her officemates, including him, to her birthday party held at her home, where she sang and danced. She displayed her dancing skills then. She even taught him how to dance the swing. Again, during the Court's Christmas Party in December 2004, she socialized with her fellow workers, including him, and even performed the "kikay dance" during the program.

- On 1 Septemeber 2005, all the staff of Judge Pacuribot, including Ms. Tan, attended his birthday party at his house in Cagayan de Oro City, where she merrily danced with dance instructors and posed with Judge Pacuribot's wife.

- On May 2006, five months after she filed the administrative charge against Judge Pacuribot, Ms. Tan joined the Search for Mrs. Gingoog City Contest as one of the candidates and she paraded in the gymnasium, all smiles, while attired in an elegant gown.

- Judge Pacuribot alleged that Ms. Tan and her husband were publicly known to be putting up a façade that all was well with them, although they constantly quarreled and had been sleeping in separate rooms already.

Judge Pacuribot disputed Ms. Tan's version of how he became the lessee of a room at Ms. Tan's house. He claimed that in January 2005, she came to know that he was looking for a new boarding house and she offered two small rooms at her house available for rent. He chose the one facing the Police Station of Gingoog City, which he claimed to be only about five meters more or less from the room he rented. He paid an advance rental of P5,000.00.

Judge Pacuribot denied sexually harassing Ms. Tan. In refuting her claim that he sexually harassed her in his chambers, he countered that this could not have happened as his court aide, Placido Abellana, was always in his chamber with him. If Abellana was out on an errand, his security officer, SPO1 Ronald Espejon, temporarily took over. There had never been any moment in his chambers that he was without companion. There was always either his court aide or his security officer with him. Even when he had visitors, his court aide was still in his chambers to maintain transparency and avoid unwarranted talk. Once in a while, his branch clerk of court, Atty. Willfredo Bibera, Jr., would go to his chambers to confer with him regarding cases. Sometimes, too, his security officer Espejon would take his blood pressure in his chambers. Under these circumstances, Judge Pacuribot argued that no sexual harassment could have occurred. He also called attention to the fact that Ms. Tan's affidavit and testimony presented the dates of the alleged sexual harassments as follows:

27 October 2004 06 January 2005

03 November 2004 08 August 2005

25 November 2004 03 October 2005

08 December 2004 04 October 2005

09 December 2004 11 October 2005

05 January 2005 13 October 2005[10]

The 6 January 2005 alleged incidents were followed only on 8 August 2005, thus, belying Ms. Tan's claim that the sexual harassments were done regularly. Also, Ms. Tan's allegation that he sexually harassed her on 25 November 2005 was incredible, because on that date she was on her birthday leave, and was busy preparing the dishes she was going to serve them during her party. He emphasized that the criminal complaints for rape, acts of lasciviousness and sexual harassments filed by Ms. Tan against him with the City Prosecutors Office in Gingoog City and Cagayan de Oro City were all dismissed.

Judge Pacuribot explained that these administrative and criminal charges filed against him by Tan and Villafranca were part and parcel of a grand plot hatched by Ronnie Waniwan, a radio commentator, to oust him from office. He claimed that Waniwan was then facing four counts of libel in his sala. The City Prosecutor recommended P50,000.00 bail for each. When Waniwan filed a motion to reduce bail bond, respondent denied it for several reasons, i.e., (1) there was a previous conviction, (2) he was not from Gingoog City, and (3) when a warrant for his arrest was issued, he went into hiding instead of surrendering. Waniwan filed a motion for respondent to inhibit himself, which the latter denied. As a consequence, Waniwan spent 13 days in jail for failure to put up a bail bond. Judge Pacuribot learned that Waniwan had contacted the NPA for Judge Pacuribot's "liquidation" as revealed in the affidavits of two captured NPA sparrow unit members. He discovered that Waniwan with Mesdames Tan and Villafranca plotted and conspired to destroy him after his personal talk with other media men including Jonas Bustamante, Jerry Orcullo and Jessie Mongcal.

Judge Pacuribot believed that Ms. Tan succumbed to the egging of Waniwan to jump the gun on him. Ms. Tan knew that her job was in danger because of her growing inefficiency, a subject of his several warnings, since her inefficiency would essentially affect the performance of his court, a scenario which he abhorred, having been a consistent performer in the disposal of cases during his days as labor arbiter. In fact, he considered Ms. Tan the most inefficient among the four stenographers he had. She was allegedly lazy, inarticulate in the English language, and flawed in spelling, which hampered her effectiveness in preparing transcriptions. Worse, due to her moonlighting as manager of the Tan-Hoegee Internet Café, she would usually go home during office hours to catch some sleep. He believed that his good relationship with her soured when he asked Ms. Tan to be more focused on the job; that he was going to move to a new house; and when he did not let her borrow P200,000.00, or at least be a guarantor of her loan.

Anent the written charges of Ms. Villafranca, Judge Pacuribot specifically denied all material allegations therein for being untrue. In particular, he denied the alleged rape incident on 22 February 2005 in Butuan City. He asserted that he never went out alone at night in Gingoog City, knowing the place to be dangerous, and the fact that PNP confirmed to him that he was in the list of those slated for "liquidation" by the NPA. Hence, he insisted that he neither invited Ms. Villafranca for dinner, nor did he travel from Gingoog City to Butuan City during night time.

Judge Pacuribot claimed that on 22 February 2005, at 5:00 o'clock more or less in the afternoon, he asked a certain Fil Sumaylo to buy and cook a big fish and ten pieces of small octopus because they would have dinner at the latter's house. At about 6:30 p.m., respondent went with his security officer Espejon and court aide Abellana to Sumaylo's house. His branch clerk of court, Atty. Bibera, was also there. After dinner, Espejon and Abellana escorted him back to his boarding house at about 11:00 p.m. Abellana left ahead, while Espejon left at about 11:30 p.m.

Also, Judge Pacuribot gave several reasons why he would not venture at all to go to Butuan City alone. He said he

was security conscious, considering that he handled drug cases and other high-profile cases. He had also received NPA threats on his life. He claimed that Butuan City was about 80 kilometers from Gingoog City and he would not go there and risk his life for a woman he barely knew.

In denying Ms. Villafranca's allegations of sexual harassment and acts of lasciviousness, Judge Pacuribot pointed out that the acts of grabbing, kissing and performing oral sex in his chambers could not have happened as his court aide, Abellana, who is the uncle of Ms. Villafranca, was always present in his chambers, aside from the fact that his chamber was just beside the room of the staff.

Judge Pacuribot contended that Ms. Villafranca's charges were improbable. He assessed her to be a very intelligent woman with a strong personality. Ms. Villafranca is well connected, because she is a recognized illegitimate daughter of a certain Polkem Motomull, a one-time member of the Provincial Board of Misamis Oriental and nephew of Mrs. Ruthie Guingona, incumbent City Mayor of Gingoog City. A sister of her father is the Assistant City Auditor of Gingoog City, while Judge Pacuribot's predecessor, Judge Potenciano de los Reyes, is her father's first cousin-in-law. RTC Judge Downey Valdevilla of Cagayan de Oro City is also her uncle; and even Judge Pacuribot's court aide, Abellana, is her father's first cousin. Considering the big family of Ms. Villafranca, anyone will think, not just twice, but several times, before doing anything against her. Ms. Villafranca will not just allow herself to be raped and beaten by a stranger like him in Gingoog City. He found out that, as indicated in the police blotter of Gingoog City, Ms. Villafranca reported that she was raped and mauled by Mr. Ricky Lee Villfranca, her husband, who carted away important belongings at about 2:00 a.m. of 26 May 2005. He claimed that if Ms. Villafranca could report her husband to the police for said offense, then she should have reported him also to the police if her allegations were true.

Judge Pacuribot denied calling Ms. Villafranca through her cellphone. On the contrary, it was she who was calling him. She also sent him adoring or alluring text messages including seductive notes and poems. He claimed that being a happily married man, he ignored the flirtatious and seductive advances of Ms. Villafranca, to her consternation and bewilderment. He claimed that her adulation of him came to an abrupt end and metamorphosed into an intense hatred and dislike after he issued the 6 June 2005 Order in Criminal Case No. 2004-2879 entitled, "People v. Anunde" pointing out her incompetence, inexperience and unprofessional attitude toward her work. He opined that the charges of Ms. Villafranca are typical under the adage, "Hell hath no fury than a woman scorned."

Judge Pacuribot further complained that Ms. Villafranca would follow up cases of her relatives in his sala.

After weighing the evidences and arguments of all the parties, Investigating Justice Dy-Liacco Flores found:

FATHERHOOD UNPROVEN

On the Anonymous Letters about [Judge Pacuribot's] illegitimate fatherhood, the Investigator finds the claim unsupported by any documentary evidence. Although the certification of the hospital's administrative officer proves correct the claim in the anonymous letter as to (1) the hospital; (2) the identity of the mother; (3) the number of children delivered; and (4) the date of birth of the two children, but it did not shed light on the identity of the children's father. In this case, the certificates of birth of the two (2) children mentioned in the anonymous letter showing [Judge Pacuribot's] fatherhood would be the best evidence adequate to prove the claim. With no-record-of-birth-certifications issued by the local civil city registrar and the office of the Civil Registrar General, no finding of guilt can be made.

RAPE AND SEXUAL HARASSMENTS PROVEN BEYOND REASONBLE DOUBT

Ms. Villafranca's story of rape and repeated sexual harassments is credible. [Judge Pacuribot's] defense of denial and alibi failed to overcome complainants' evidence.

On the rape in Butuan City motel, [Judge Pacuribot] insists on the improbability of his presence at the scene of the crime because he alleges that he does not go out at night in Gingoog City without company for two (2) reasons – that he is security conscious and that there is an NPA threat on his person.

Firstly, [Judge Pacuribot's] being security conscious is no proof of improbability in going to Butuan City. So many criminals are security conscious yet they go out alone at night to commit a crime. Hence, his being security conscious could not have deterred him to go out.

Secondly, his claim of an NPA threat on his person is suspect. He claims that he learned he was marked for NPA liquidation when he was given a copy of the affidavits of two (2) captured NPAs named Marvin Lumod and Rico Roselem marked as Exhibits “22” and “23” respectively. Unfortunately, these two (2) affidavits will not help [Judge Pacuribot]. Marvin E. Lumod's Affidavit is dated 20 June 2006 while Rico A. Roselem's Affidavit is dated 19 June 2006. The incident in Butuan City occurred on 22 February 2005. The reason, therefore, in not wanting to go out at night without company on 22 February 2005 was still absent. [Judge Pacuribot's] alibi that he was in Gingoog City on 22 February 2005 is backed up by the testimonies of SPO1 Ronald Espejon and Placido Abellana. But these two are his loyalists aside from the fact that Abellana, as his court aide, is also one whose employment is under control and supervision of [Judge Pacuribot]. Thus, on that account, their testimony must be taken with grain of salt. Their testimony cannot discredit the straightforward testimony of Ms. Villafranca on how [Judge Pacuribot] deceived her twice – on the purpose and on the place. He invited her for dinner but ravished her instead. They agreed on The Mansion in Gingoog City for the dinner, yet drove her to a Butuan City motel.

[Judge Pacuribot] asks: Why did Ms. Villafranca not report to the authorities that he sexually assaulted her, if true, when she even reported to the police that her husband raped her on 26 May 2005? [Judge Pacuribot], to prove that Ms. Villafranca reported to the Police, presented Annex “3”, a certified copy of an entry in the Police Blotter of Gingoog City. [Judge Pacuribot] should have noted that in that certified copy, it is shown that it was his security officer, SPO1 Ronald Espejon, not Ms. Villafranca, who had the report entered in the police blotter. The certification did not say that Ms. Villafranca appeared at all in the Police Station and had the incident blotted. All that Ms. Villafranca did was to ask Espejon for assistance because he was beaten by her husband.

[Judge Pacuribot] claims that the administrative charge is Ms. Villafranca's reprisal against him. He claims that Ms. Villafranca appears to be “fatally attracted to him” and that he “remains steadfast in his refusal to reciprocate he atrociously immoral and misdirected adoration to him.” He claims the administrative charge is proof of the fury of a woman scorned. On the “fatal attraction” [Judge Pacuribot] cited the text messages, notes and cards he claims Ms. Villafranca sent him. Ms. Villafranca explained how he has always demanded of her to send him those, the reason for which she could not fathom then. He would even have cards in his chamber and then summon her to sign them. When she resists, he would let out a barrage of insults and threats. [Judge Pacuribot's] possession of those letters, cards, and text messages was adequately explained by Ms. Villafranca.

[Judge Pacuribot's] theory of Ms. Villafranca's “fatal attraction” and “misdirected adoration” of him is funny. He never disputed the testimony of the two (2) complainants that [Judge Pacuribot] is reputed in the Hall of Justice as “terror”, that he is fond of humiliating people in public, using excoriating language on his victim, that female employees avoid him and veer away from him when they meet in the Hall of Justice. He also failed to specifically deny the claim of Ms. Villafranca that he housed his mistress, Sheryl Gamulo, in Motomul St., Gingoog City. He also failed to specifically deny her claim that he sired a ten (10) year old daughter in Ozamis City. Will all the dark side of his character publicly known, hardly would a twenty-nine (29) year-old, very pretty married woman who [Judge Pacuribot] claims is very intelligent fall for such character. Thus, [Judge Pacuribot's] claim of Ms. Villafranca's “fatal attraction” and “misdirected adoration” of him becomes incredible.

[Judge Pacuribot] asks why did Ms. Villafranca allow herself to be raped and victimized over a prolonged

period of time when there were people capable of helping or protecting her considering her illustrious, although illegitimate, lineage? Further, if he committed sexual abuses on Ms. Villafranca at his rented room which was very near the police station, why did she not shout or report to the police?

The fact that Ms. Villafranca is well connected in Gingoog City was actually not a boon but a bane. It was on that account that she wanted to protect at all costs their family from any scandal. [Judge Pacuribot] capitalized on it with his constant threat that he will bring scandal to them by making public her half naked picture taken in the motel. Her wanting to protect her family from shame cowed her into silence and submission. Her testimony demonstrates that. It reads:

Atty. Kho:

Q:

A cellphone picture that is what you are afraid of?

A:

No, also his added threats that he is going to tell my mother-in-law, that he is going to destroy me, that I am nobody, that my family is no good, and that he would call me “burikat, burikat.” He would call me that name. “Yawa ka. Animal ka. Sumunod ka nako.”

(Atty. Ignes – Div. Clerk of Court interpreting:)

“Burikat” means a whore. “You lewd devil, and you have to follow me.”

x x

x x

Q:

Why did you allow him to do that to you?

A:

Because he constantly tells me that he will develop that picture, he will show that to my mother-in-law and then he will destroy me and he will create a scandal in Gingoog City.

Q:

Is it not that you are well-connected?

A:

My husband is not around, Attorney.

Q:

And?

A:

And what? How could I explain to them that I was there? How he took my picture? How am I going to? I don't know. I just wanted to protect my family from my shame, from any scandal. And he knew that it would be his hold to me. And he knew that I would be very careful with the name that my family had, that is why he is constantly threatening me with such same argument, you know: "Ikaw and madaot ani. Ino ning huan tanan."

(Atty. Ignes:)

"You will be destroyed because of this."

Ms. Villafranca said she was scared of [Judge Pacuribot's] person and "how intimidating he could be and how evil he could be." She feared him because when she resists him he would tell her "madaot ka ani." (You will be destroyed because of this.) So she had to yield to him because she knew he could do what he threatens to do – to destroy her. She points to the Order dated 6 June 2005 in *People v. Anude* of how indeed he had destroyed her.

[Judge Pacuribot] claims in his Comment and Consolidated Memorandum that Ms. Villafranca is a very intelligent girl and with strong personality, reasons why it is improbable to make her a victim of rape and sexual harassments. And yet, when he issued the Anude Order, he made her look like she is an irredeemable incompetent who "cannot spell", who "uses high falutin words in her Post Sentence Investigation Report which she herself may not have understood," whose sentence construction is horrendous," "her proper noun is written with small letter" and that "her adjectives or adverbs do not fit the things or persons described." [Judge Pacuribot] engages in double – talk.

In the three – paged Anude Order, [Judge Pacuribot] tried to show that Ms. Villafranca's incompetence is toxically mixed with acute haughtiness because Ms. Villafranca refuses to consult the judge or see him or refused to come to him even when summoned repeatedly. [Judge Pacuribot] should not gripe. He summoned Ms. Villafranca to his chamber on 25 May 2005. Once inside, [Judge Pacuribot] slapped her for not filing her petition for annulment of marriage and her head with his clenched fist. He planted on her neck kiss marks which he said he wanted her husband to see. When Ms. Villafranca's husband saw them later, he beat her. At 2:00 am of 26 May 2005, SPO1 Ronald Espejon claims that Ms. Villafranca called him for assistance. It was the start of Ms. Villafranca's growing defiance to [Judge Pacuribot], a fact that roiled him to point of issuing the Anude Order eleven (11) days later.

[Judge Pacuribot] also belittled Ms. Villafranca repeatedly in said Order by referring to her as "MERE Clerk II/understudy Johanna M. Villafranca of Gingoog City Parole and Probation Office," calling her "visibly inexperienced mere clerk," "very raw," and that her report was atrocious. He ordered her Post Sentence Investigation Report returned "OFFICIALLY" to the superior of Ms. Villafranca for proper corrections. [Judge Pacuribot] stated therein that Ms. Villafranca cannot be located in her office as she is always absent per information in her office. He stated that she should not be allowed to practice making post sentence investigation in preparation for a desired promotion.

The Anude Order is the classic proof of how Ms. Villafranca's disobedience to [Judge Pacuribot] ended up in

her destruction – “Madaut ka ani.” The Order destroyed her person and her career. Therein, he has beaten Ms. Villafranca’s career to a pulp. Any superior of Ms. Villafranca who will read the Anude Order will block any desire of Ms. Villafranca for promotion which the latter was aiming for at the time. She rued with tears how the Anude Order displaced her from her job.

[Judge Pacuribot’s] repeated harping in said Order about Ms. Villafranca’s failure to consult him and to come to him even when summoned, rendered more believable Ms. Villafranca’s claim that [Judge Pacuribot] would summon her to his chamber on the pretext of official matters and thereafter subject her to his lasciviousness conduct.

[Judge Pacuribot’s] claim that Ms. Villafranca was part of Ms. Waniwan’s conspiracy was unproven. All the Sun Star pictures of Ms. Tan’s filing of the criminal complaint before the City Prosecutor’s Office did not show at any instance the face of Ms. Villafranca. Also, she made it clear in her testimony that sometime in February 2006, when Ms. Tan filed her criminal complaint with the Office of the City Prosecutor, two other media men called her up to see if they can get a copy of her Affidavit-Complaint. But she refused to prevent the public from knowing what she went through.

Indubitably, Ms. Villafranca’s testimony and the anguish that came with it can only come from a very sad experience. Even on the very delicate matters where [Judge Pacuribot] had stripped her mercilessly of her dignity and womanhood, Ms. Villafranca was frank and straightforward, proof of how outraged she was when [Judge Pacuribot] had raped her and had sexually harassed her repeatedly.

Her spontaneity in answering the cross examination questions, the anguish she revealed in court, her very natural and coherent way of telling how she was ravished and abused repeatedly as an underling leaves no room to doubt her testimony and the things she said under oath in her Affidavit – Complaint, her Rejoinder, and her Sworn Statement. Her tears could only be the clues to her righteous indignation against the indignities she suffered from [Judge Pacuribot]. Indeed, the conviction to reveal the truth must have been so strong that she had to come back to the country hurdling employment restrictions and the difficulty of not having saved enough yet for her trip back just to testify in this case.

[Judge Pacuribot’s] claim that her administrative charge is a fabrication is unacceptable against the avalanche of Ms. Villafranca’s evidence. The Investigator cannot find any valid reason to sustain [Judge Pacuribot’s] denial and alibi as a defense.

[Judge Pacuribot] is guilty beyond reasonable doubt of the charge of rape in Butuan City and guilty of multiple sexual harassment committed inside respondent judge’s chamber and in his rented room in Gingoog City. His claim that Ms. Villafranca’s charge is a fabrication is unacceptable considering the avalanche of evidence against him.

While [Judge Pacuribot] committed physical assault on Ms. Villafranca on 25 May 2005 when after summoning her to his chamber, he slapped her for not filing the petition to annul her marriage and hit her head with his clenched fist, the same is deemed absorbed by the offense of sexual harassment considering that brute force and intimidation had always been used by [Judge Pacuribot] to commit said offenses.

On the eight (8) occasions that [Judge Pacuribot] had carnal knowledge of Ms. Villafranca in his rented room while [Judge Pacuribot’s] gun was always displayed on the table, implying the commission of rape, the same are treated as sexual harassments only for Ms. Villafranca’s failure to state when they were committed and to provide details on those occasions.

Ms. Tan’s agony started with [Judge Pacuribot’s] deception. He made her believe he will bring her in his car to the bus terminal from Pryce Plaza Hotel, only to surprise her after riding with him by bringing her to the City Lodge Motel to ravish her. Again, while about to leave City Lodge Motel, he deceived her again by telling her that he will bring her now to the bus terminal, only to bring her to the Discovery Hotel, so that he can

ravish her some more later. Aside from deception, [Judge Pacuribot] uses extravagantly another tool – intimidation. Immediately after Ms. Tan settled herself on the front seat on that infelicitous night of 20 October 2004, he immediately had his bag between them, the bag Ms. Tan knows contains [Judge Pacuribot's] gun. Also, he used on her an uncouth language in a loud voice, an irrational temper, a fake message of urgency to rattle Ms. Tan and make her jump to obedience without thinking. By the time Ms. Tan realized [Judge Pacuribot's] repulsive intentions, it was too late to fight back because she had been trapped in the motel.

His repeated intimidating warnings on Ms. Tan that she could harm her if she disobeys were indeed proven true. On 24 November 2004, Ms. Tan was severely and publicly scolded before her office mates, a fact that was affirmed by Atty. Wilfredo Bibera. Her performance rating from “Very Satisfactory” slipped down to “Satisfactory” in 2005.

[Judge Pacuribot] uses force and cruelty on his hapless victims. When he ordered her to do oral sex on him and she refused, he pulled her hair and pushed her face to his penis with an order: “Suck it. Let it in till deep your throat. Let my penis reach your throat.” He tightened his hold on her that she was frightened he might break her neck. In pain, she had to plead: “Don’t pull my hair, sir. It’s very painful. What a sadist you are.” While he was sucking her nipple and mashing her breasts, he was telling her: “This is the breast of a lustful woman.” While he was planting vile kisses on her neck to produce “chiquinini” on her, he told her: “I am going to plant lots of kiss marks here to let the people know that you passed through my hands.” Upon hearing it, Ms. Tan cried. Indeed, [Judge Pacuribot] is a sadist beyond description capable of declaring his unconcealed intention to parade her to the public as his victim.

At the trial, when issues would touch on her tender feelings towards her family or when it would recall [Judge Pacuribot's] cruelty that crushed her respectability or the delicateness of her womanhood, she would invariably sob on the witness stand. The way he ravished her and sexually harassed her showed how irrationally lewd or unbearably cruel he was.

Even when Ms. Tan was already abused, still the thought that he is her superior had never been lost to her. Ms. Tan has always addressed him – “Sir.”

“Why did you bring me here, Sir? Didn’t I tell you I will just take a taxi to Agora Terminal?”

“Don’t pull my hair, Sir. It is very painful. What a sadist you are.”

“You are so rude, Sir, we work in the same office yet you disgrace me.”

“Sir, I just take a taxi to Agora.”

[Judge Pacuribot's] moral ascendancy over Ms. Tan was an undeniable factor to her blind submission to his depravity.

[Judge Pacuribot] pointed to Ms. Tan's inefficiency, her not being a happily married woman, that her husband is a wife beater and a violent man, that she is in financial straits who even run to him for help. It is precisely these weaknesses, personal problems, and economic difficulties which added to Ms. Tan's inability to fight back and made her so submissive. She was the ideal prey. As she was made to admit during her cross examination, she is the lone breadwinner in the family with two (2) children to support.

[Judge Pacuribot] challenges Ms. Tan's claim of rape and repeated sexual harassments by arguing, to wit:

“Why did she not refuse to go with respondent when he allegedly fetch her at Pryce Plaza Hotel on 20 October 2004 and instead go voluntarily with him?”

“At the Discovery Hotel, if indeed she stayed and slept there all by herself, why did she not escape or call for help and instead wait for respondent to arrive the next morning? So that he can sexually assault her again? Or why did she fail to ask for help from any of the hotel staff or from anybody while in the Discovery Hotel?”

“If she immediately reported to the police authorities the maltreatment of her son by her husband, why did she not complain of the alleged incidents of sexual harassments and acts of lasciviousness she experienced from the respondent?”

Despite her claims of having been subjected to rape, sexual harassment and acts of lasciviousness, why did she gleefully socialize with respondent during their Christmas party and respondent’s birthday celebration?”

Ms. Tan had only two (2) options –

“Lose her job by promptly fighting back at [Judge Pacuribot]; or

“Keep her job tolerating him with muffled defiance.

Ms. Tan had correctly assessed the far reaches of his influence. When she was looking for a lawyer to help her file the administrative charge, no lawyer in Gingoog City would like to accept her case. She had to look for one in Cagayan de Oro City. She was thus correct to wonder while she was in Discovery Hotel whether anyone there would come her aid if [Judge Pacuribot] will start harming her.

Ms. Tan as a victim cannot be put in the same footing as other rape victims where the offender holds no control on the victim’s survival and has no moral ascendancy over her. Fighting back immediately against the offender is a rational move. In the case at bench, [Judge Pacuribot’s] moral ascendancy and influence over her was a given. It was that together with his flair to humiliate people and his blackmails which made her succumb to his sexual abuses. Ms. Tan values her job; in fact, she consciously keeps track of her performance ratings. An underling who believes that her immediate superior wields control over her continued employment or sudden separation from service will cower in fear to the point of tolerating the indignities committed on her. As [Judge Pacuribot] impressed on her, looking for a new job at her age is not easy.

At the time that [Judge Pacuribot] was taking advantage of Ms. Tan, [Judge Pacuribot’s] proverbial explosives temper and short fuse were being put to good use to terrorize her with remarkable frequency. That dark spot in his character which has been brought up front in other people’s consciousness in the months following his arrival in the Hall of Justice as a “terror” is enough intimidation. To Ms. Tan, to “submit now and complain later” is a good, albeit temporary, shelter against immediate public humiliation or job separation. Thus, Ms. Tan’s failure to report to the police is understandable.

Also, [Judge Pacuribot] seems to have a masterful skill on how to exploit his victim’s weaknesses. Ms. Tan is a stenographer, a position she has difficulty coping with because as [Judge Pacuribot] noted, her spelling, her grammar and her knowledge of the English language are not at par with the demands of her job. He has warned her of her “inefficiency” and of staying late in the evening as manager of the internet café. He pointed to her joining without prior SC permission a trip to Hongkong on a weekend in a packaged tour for stenographers in Cagayan de Oro City. Thus, with such faults and difficulties, she is the ideal prey. Her fear of losing a source of livelihood has made her behave submissive to him.

[Judge Pacuribot’s] alibi that on October 20 and 21, 2004, he was in Gingoog City and it was impossible for him to be in Cagayan de Oro City on those days does not impress. It fails to establish the impossibility of his presence at the scene of the crime. With the convenience of his car, [Judge Pacuribot] could travel and be in different places, one after another in a short time. After all, the incidents on October 20 and 21, 2004 were all beyond office hours.

To support [Judge Pacuribot’s] claim that he was present on those days in Gingoog City, he presented his Certificate of Service for the month which shows that he was only on leave on October 4 to 7, 2004.

Noteworthy is the testimony of Ms. Tan stating that when she met [Judge Pacuribot] on Monday in their office after the rape incident, the latter told her not to file anymore her leave for October 20 and 21, 2004 and bragging, “Ako na gud ni, kinsay magbuot nako?” (It is me, who will prevail against me). If he can forego the

filing of application for leave for his subordinates, much more is there reason for him not to submit an application for leave for his own absence reason why his Certificate of Service for the month of October is not reliable.

On 21 October 2004 – a Thursday, all schedule of hearing were cancelled and [Judge Pacuribot] said that they were cancelled the week before. Was the cancellation the week before due to the fact that [Judge Pacuribot] received the notice of their Masonic Conference scheduled on October 20 in Cagayan de Oro City? It was [Judge Pacuribot] who informed Ms. Tan of that Masonic Conference that evening of October 20. Ms. Tan could not just have invented that idea of a Masonic Conference. That is the reason why the cancellation of hearing on October 21 casts doubt on [Judge Pacuribot's] alibi.

Mere denial cannot prevail over the positive testimony of a witness. A mere denial, like alibi, is a self-serving negative evidence, which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters. As between a categorical testimony that rings of truth on one hand, and a bare denial on the other, the former is generally held to prevail.

[Judge Pacuribot] cites Ms. Tan's merry behavior during the Christmas Party and his Birthday Party in Cagayan de Oro City as hardly the behavior of a rape victim or a victim of repeated sexual harassments. Normally, such a victim is expected to behave with animosity and grievance toward the offender. Unfortunately for her, she cannot afford to display such animosity and grievance unless it is at the cost of her job. If she cannot defy his demands when he victimizes her, shouldn't her economic realities prompt her to win her war with friendship? [Judge Pacuribot] should be reminded that in sexual harassments under Section 3 of RA No. 7877, an offense is committed regardless of whether the demand, request or requirement for submission is accepted by the subject of said act.

Ms. Tan's testimony was clear, frank and consistent. Her candid and clear-cut account of how respondent judge had been deceitful and intimidating in his dealings with her that evening has inspired belief. And throughout her testimony, she succeeded in revealing how [Judge Pacuribot] took full advantage of his moral ascendancy over her as his underling, destroying whatever resistance she could put up by belittling her, outwitting her and insulting her to reduce her to submission.

There is no standard reaction of a victim in a rape incident. In fact, not every victim of rape can be expected to act in conformity with the expectations of anyone who has not been subjected to the same danger at any time. The workings of a human mind placed under emotional stress are unpredictable; people react differently.

Investigator, thus, finds [Judge Pacuribot] guilty beyond reasonable doubt of the charges of rape committed on October 20 and 21, 2004 in Cagayan de Oro City, and guilty of sexual harassments committed in respondent judge's chamber in RTC, Branch 27, Hall of Justice, Gingoog City against Ms. Sherlita O. Tan.

One can see in these two cases a common strategy used by [Judge Pacuribot] in achieving his vile purposes. He used deceit on Ms. Tan. He used deceit on Ms. Villafranca. He used intimidation on Ms. Tan and he used it on Ms. Villafranca. He makes use of a substantial blackmail against both.

In the case of *People v. Fernandez*, the Supreme Court had occasion to instruct us on the effects of intimidation, thus:

Physical resistance need not be established in rape when threats and intimidation are employed, and the victim submits herself to her attackers because of fear. Besides, physical resistance is not the sole test to determine whether a woman involuntarily succumbed to the lust of an accused. Rape victims show no uniform reaction. Some may offer strong resistance while others may be too intimidated to offer any resistance at all. The use of a weapon, by itself, is strongly suggestive of force or at least intimidation, and threatening the victim with a gun is sufficient to bring her into submission. Thus, the law does not impose upon the private complainant the burden of proving resistance.

[Judge Pacuribot] computed nine (9) months, twenty-one (21) days as interval from the time Ms. Villafranca claimed she was raped on 22 February 2005 to 13 December 2005 when she filed the complaint. Ms. Tan also filed her administrative charge only thirteen (13) months of being his superior's prey. Did delay cast doubt on the truthfulness of their claim?

In the case of *People v. Aguero, Jr.*, where there was a two (2) years delay in the filing of the complaint for rape, the Supreme Court said:

As to the alleged two-year delay in the filing of the complaint, suffice it to say, that complainant's failure to promptly report the incident does not sufficiently detract from her credibility and cannot be taken against her. It has been held that a rape victim's delay or hesitation in reporting the crime does not destroy the truth of the complaint and is not an indication of deceit as it is common for a rape victim to prefer silence for fear for her aggressor and lack of courage to face the public stigma of having been sexually abused.

In the case of *People v. Espinosa*, where the criminal complaint was filed about one and a half years from commission of the offense, the Supreme Court said:

x x x Delay in revealing the commission of rape is not an indication of a fabricated charge. Many victims of rape never complain or file criminal charges against the rapist, for they prefer to silently bear the ignominy and pain, rather than reveal their shame to the world or risk the offender's making good on his threats. This is understandable, considering the inbred modesty of Filipinas and their aversion to the public disclosure of matters affecting their honor.

Delay in the filing of the charges does not necessarily undermine the credibility of witnesses.

The Supreme Court has deemed delay as justified when there is fear of reprisal, social humiliation, familial considerations and economic reasons. In the case of Ms. Tan, her tormentor is her superior who constantly dangles his influence and power over her and her job. As regards Ms. Villafranca, the threat to destroy her, her family and her family's good name was ever present; thus, haunting her emotionally and psychologically. The delay in reporting the rape cases committed by [Judge Pacuribot] has been justified.

On the repeated sexual harassments and violence committed separately on the persons of Ms. Tan and Ms. Villafranca within the chamber of [Judge Pacuribot], the latter deems them improbable because of the situation in his chamber. He points out that outside his chamber is the staff room and there is a glassed window that divides them. Ms. Villafranca cited the incident on 13 October 2005 where [Judge Pacuribot] did lascivious acts on her inside the chamber in the presence of Placido Abellana, the court aide, and the latter's just turned his back and pretended to see nothing.

In the case of *People v. Lavador*, the rapist-appellant argued that rape was impossible due to the presence of the victim's son on her side. The Supreme Court said:

Nor can we accept the argument that the rape was improbable due to the presence of Noniluna's sons by her side. This Court has repeatedly declared that lust is no respecter of time and place and rape can be committed even in places where people congregate: in parks, along the roadside, within the school premises, inside the house where there are several occupants and even in the same room where other members of the family are sleeping. x x x.

[Judge Pacuribot's] defense of "improbability" cannot, therefore, be accepted.

[Judge Pacuribot] declares that the charges against him are complainants' tools of revenge against him. He cites his Order in *People v. Anude* and his letter reporting Ms. Villafranca's negligence as reasons from Ms. Villafranca's anger and resentment. Against Ms. Tan, he cites his warning against her inefficiency as stenographer, her moonlighting in her internet café his refusal to grant her a loan of P200,000.00 or being her guarantor.

In the case of *Simbajon v. Esteban*, the Supreme Court in believing the testimony of the complainant saying:

“The investigating judge correctly disregarded the respondent’s imputation of ill motive on the part of complainant. No married woman would cry sexual assault, subject herself and her family to public scrutiny and humiliation, and strain her marriage in order to perpetuate a falsehood.

Indeed, it is against human nature for a married woman to fabricate a story that would not only expose herself to a lifetime of dishonor, but destroy her family as well. Besides, there is no sufficient evidence of any ill-motive imputable to Mesdames Tan and Villafranca to narrate anything other than their respective desire to tell the truth and seek redress for the wrong inflicted on each of them. For the kind of reputation [Judge Pacuribot] has in the Hall of Justice and by his behavior where he projects himself as full of influence and power, these two women will be the last to even cross the path of respondent judge without just cause. Thus, the presumption applies that, one will not act and prevaricate “and cause damnation to one who brought him no harm or injury.

[Judge Pacuribot’s] theory that all these charges are part of the sinister plan to oust [Judge Pacuribot] from office at the instigation of Ms. Waniwan is far fetched.

On 8 December 2005, or earlier, when Ms. Tan filed her complaint, there was no Mr. Waniwan to speak of. Mr. Waniwan only materialized in February 2006 when she filed the same charges against [Judge Pacuribot] before the City Prosecutor of Gingoog City. Media men at the slightest clue of a “scoop” hound without let up those who could be sources of information. When the media men became noseey, it was already in February 2006 when Ms. Tan filed the case in the Prosecutor’s Office. By then, the filing of the administrative charge of Ms. Tan and Ms. Villafranca was fait accompli. In the case of Ms. Villafranca, the Waniwan theory is patently absurd. Two media men were eager in February 2006 to take hold of Ms. Villafranca’s affidavit but she refused them staunchly. It is incredible that two (2) married women would prevaricate against a person who has power and control over their jobs at the mere urging of Mr. Waniwan is irrelevant. In *People v. Mortales*, the Supreme Court, speaking through now Chief Justice Renato Puno, appositely said:

No married woman would subject herself to public scrutiny and humiliation to foist a false charge of rape. Neither would she take the risk of being alienated from her husband and her family. The fact that the victim resolved to face the ordeal and relate in public what many similarly situated would have kept secret evinces that she did so to obtain justice. Her willingness and courage to face the authorities as well as to submit to medical examination are mute but eloquent confirmation of her sincere resolve.

Finally, it may be true there are minor and trivial discrepancies in Ms. Tan’s testimony, but they neither impair the integrity of the victim’s evidence as a whole nor reflect negatively on the witness’ honesty. Such inconsistencies, which might have been caused by the natural fickleness of memory, even tend to strengthen, rather than weaken the credibility of the witness, for they shake off the suspicion of a rehearsed testimony.

In sum, [Judge Pacuribot] should be made administratively liable for the charges against him in A.M. Nos. RTJ-06-1982 and RTJ-06-1983.

Black’s Law Dictionary defines integrity to mean “soundness or moral principle and character.” It is said to be synonymous with “probity,” “honesty,” and “uprightness.” The evidence adduced indubitably show that [Judge Pacuribot] lacks the honesty in dealing with his two subordinates herein. Not only did he fail to live up to the high moral standard expected of a member of the Judiciary but he has transgressed the norms of morality expected of every person.

[Judge Pacuribot’s] offenses in raping his victims and sexually harassing them were committed with aggravation. He knew they were married but instead of helping strengthen or protect their marriage, he tried his best to destroy their marital bonds.

Indeed, [Judge Pacuribot’s] reprehensible acts amount to gross misconduct, and immorality the depravity of

which is quite rare. They undoubtedly violated the Code of Judicial Conduct. They are classified as severe charges under Section 8, Rule 140 of the Rules of Court.

Under Section 22 of the same Rules, any of the following sanctions may be imposed if the respondent is guilty of a serious charge:

- Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government owned or controlled corporations. Provided, however, That the forfeiture of benefits shall in no case include accrued leave credits;
- Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
- A fine of more than P20,000.00 but not exceeding P40,000.00.

In *Simbajon v. Esteban*, the respondent Judge Esteban, for his sexual advances on one of his female subordinates which consisted of “grabbing her, kissing her all over her face, embracing her and touching her right breast” was preventively suspended for the duration of the investigation until further notice AND was subsequently dismissed from service with forfeiture of all retirement benefits except leave credits and with prejudice to reemployment in any branch or instrumentality of the government, including government – owned or controlled corporations.

Herein [Judge Pacuribot’s] conduct is far worse than those of Judge Esteban. [Judge Pacuribot’s] acts indubitably went far beyond the bounds of decency and morality. He raped and repeatedly sexually assaulted, not only one, but two female, married subordinates. He did not only violate his victims’ womanhood and their dignities as persons but he aimed to weaken, then eventually destroy two families. By such act, [Judge Pacuribot] disgraced his noble office, as well as the judiciary, in the eyes of the public. He has shown himself unworthy of the judicial robe.

When the fading sobs of two tearful women finally died down and their copious tears dried in the numerous hankies that absorbed them what emerges is a figure that unmistakably exudes the abominable torpedo of marital bonds, a practicing deceiver and a merciless pervert whose face is unrecognizable as he is hooded with a judicial robe that helps conceal his dark side. His family, wife and children may have all been innocently kept away from knowing this dark side and to spare them from the afflictive and crushing humiliation of having a husband and father of such a character, may the foregoing description be a “for your eyes only” to the members of the highest court and the court administrator.

Thus, Investigating Justice Dy-Liacco Flores recommended:

This finding is made with full awareness of the recent Supreme Court ruling on quantum of evidence required in the cases at bench. In the 7 August 2007 case of *Alquizar v. Carpio, et al.*, the Supreme Court pronounced that:

x x x. In administrative or disciplinary proceedings, the burden of proving the allegations in the complaint rests on the complainant. While substantial evidence would ordinarily suffice to support a finding of guilt, the rule is a bit different where the proceedings involve judges charged with grave offense. Administrative proceedings against judges are, by nature, highly penal in character and are to be governed by the rules applicable to criminal cases. The quantum of proof required to support the administrative charges or to establish the ground/s for the removal of a judicial officer should thus be more than substantial; they must be proven beyond reasonable doubt. To borrow from *Reyes v. Mangino*:

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

It is doctrinal that the requirement of proof beyond reasonable doubt in criminal law does not mean such a degree

of proof as to exclude the possibility of error and produce absolute certainty. Only moral certainty is required or that degree of proof which produces conviction in an unprejudiced mind. The evidence adduced here overwhelmingly established moral certainty that respondent judge raped and sexually harassed complainant Mesdames Tan and Villafranca on separate and repeated occasions.

x x x x

Having found [Judge Pacuribot] guilty beyond reasonable doubt of the offenses of rape and repeated sexual harassments, the penalty of dismissal from service with forfeiture of retirement benefits except accrued leave credits is hereby recommended.[11]

We agree in the recommendation of the Investigating Justice.

We have reviewed the record of this case and are thereby satisfied that the findings and recommendations of the Investigating Justice are in truth adequately supported by the evidence and are in accord with applicable legal principles. We therefore resolve to adopt such findings and recommendations relative to the administrative liability of the respondent judge for grave misconduct and immorality.

The integrity of the Judiciary rests not only upon the fact that it is able to administer justice, but also upon the perception and confidence of the community that the people who run the system have administered justice. At times, the strict manner by which we apply the law may, in fact, do justice but may not necessarily create confidence among the people that justice, indeed, has been served. Hence, in order to create such confidence, the people who run the judiciary, particularly judges and justices, must not only be proficient in both the substantive and procedural aspects of the law, but more importantly, they must possess the highest integrity, probity, and unquestionable moral uprightness, both in their public and in their private lives. Only then can the people be reassured that the wheels of justice in this country run with fairness and equity, thus creating confidence in the judicial system.

With the avowed objective of promoting confidence in the Judiciary, the Code of Judicial Conduct has the following provisions:

Canon I

Rule 1.01: A Judge should be the embodiment of competence, integrity and independence.

Canon II

Rule 2.00: A Judge should avoid impropriety and the appearance of impropriety in all activities.

Rule 2.01: A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.

We have repeatedly reminded members of the Judiciary to so conduct themselves as to be beyond reproach and suspicion, and to be free from any appearance of impropriety in their personal behavior, not only in the discharge of their official duties but also in their everyday lives. For no position exacts a greater demand on the moral righteousness and uprightness of an individual than a seat in the Judiciary. Judges are mandated to maintain good moral character and are at all times expected to observe irreproachable behavior so as not to outrage public decency. We have adhered to and set forth the exacting standards of morality and decency, which every member of the judiciary must observe.[12] A magistrate is judged not only by his official acts but also by his private morals, to the extent that such private morals are externalized.[13] He should not only possess proficiency in law but should likewise possess moral integrity for the people look up to him as a virtuous and upright man.

We explained the rationale for requiring judges to possess impeccable moral integrity, thus:

The personal and official actuations of every member of the Bench must be beyond reproach and above suspicion. The faith and confidence of the public in the administration of justice cannot be maintained if a judge who dispenses it is not equipped with the cardinal judicial virtue of moral integrity, and if he obtusely continues to commit an affront to public decency. In fact, moral integrity is more than a virtue; it is a necessity in the judiciary.[14]

We also stressed in *Castillo v. Calanog, Jr.*[15] that:

The code of Judicial Ethics mandates that the conduct of a judge must be free of [even] a whiff of impropriety not only with respect to his performance of his judicial duties, but also to his behavior outside his sala and as a private individual. There is no dichotomy of morality: a public official is also judged by his private morals. The Code dictates that a judge, in order to promote public confidence in the integrity and impartiality of the judiciary, must behave with propriety at all times. As we have very recently explained, a judge's official life can not simply be detached or separated from his personal experience. Thus:

Being the subject of constant public scrutiny, a judge should freely and willingly accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen.

A judge should personify integrity and exemplify honest public service. The personal behavior of a judge, both in the performance of official duties and in private life should be above suspicion."

Judge Pacuribot miserably failed to measure up to these exacting standards. He behaved in a manner unbecoming a judge and model of moral uprightness. He betrayed the people's high expectations and diminished the esteem in which they hold the Judiciary in general.

It is well settled that in administrative proceedings, the complainant has the burden of proving by substantial evidence the allegations in his complaint. Substantial evidence is that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion.[16] In the cases at bar, the complainants Ms. Tan and Ms. Villafranca were able to adequately substantiate their allegations.

We find totally unacceptable the temerity of Judge Pacuribot in subjecting the complainants, both his subordinates, to his unwelcome sexual advances and acts of lasciviousness. Over long periods of time, he persistently solicited sexual favors from Ms. Tan and Ms. Villafranca. When they refused, he made their working conditions so unbearable that Ms. Tan was eventually forced to transfer to another office and Ms. Villafranca to seek employment abroad. Certainly, no judge has a right to solicit sexual favors from any court employee, even from a woman of loose morals.[17] Judge Pacuribot's conduct indubitably bears the marks of impropriety and immorality. Not only do his actions fall short of the exacting standards for members of the judiciary; they stand no chance of satisfying the standards of decency even of society at large. His severely abusive and outrageous acts, which are an affront to women, unmistakably constitute sexual harassment because they necessarily "x x x result in an intimidating, hostile, or offensive environment for the employee[s]."[18]

We need not detail again all the lewd and lustful acts committed by Judge Pacuribot in order to conclude that he is indeed unworthy to remain in office. The narration of the Investigating Justice was sufficiently thorough and complete. The audacity under which the sexual violation of the complainants were committed and the seeming impunity with which they were perpetrated by Judge Pacuribot shock our sense of morality. All roads lead us to the conclusion that Judge Pacuribot has failed to behave in a manner that will promote confidence in the Judiciary. His actuations, if condoned, would damage the integrity of the Judiciary, fomenting distrust in the system. Hence, his acts deserve no less than the severest form of disciplinary sanction -- dismissal from the service.

On his part, Judge Pacuribot put up the defense of denial, attributing ill feelings and bad motives to Ms. Tan and Ms. Villafranca.

Already beyond cavil is the evidentiary rule that mere denial does not overturn the relative weight and probative value of an affirmative assertion. Denial is inherently a weak defense. To be believed, it must be buttressed by strong evidence of non-culpability; otherwise, such denial is purely self-serving and is with no evidentiary value. Like the defense of alibi, denial crumbles in the light of positive declarations.[19] Denial cannot prevail over the positive identification of the accused by the witnesses who had no ill motive to testify falsely. Moreover, in the case at bar, there is utter lack of basis to sustain the purported ill motives attributed by Judge Pacuribot to the complainants. The Investigating Justice correctly disregarded Judge Pacuribot's imputation. No married woman would cry sexual assault, subject herself and her family to public scrutiny and humiliation, and strain her marriage in order to perpetrate a falsehood.[20] The only plausible and satisfactory explanation for us is that the charges against respondent are true.

Judge Pacuribot and his witnesses failed to overcome the evidence presented by the complainants.

Let it be remembered that respondent has moral ascendancy and authority over complainants, who are mere employees of the court of which he is an officer. His actuations are aggravated by the fact that complainants are his subordinates over whom he exercises control and supervision, he being the executive judge. He took advantage of his position and power in order to carry out his lustful and lascivious desires. Instead of acting in loco parentis over his subordinate employees, he was even the one who preyed on them, taking advantage of his superior position.[21]

In sum, we concur with the Investigating Justice in holding that complainants were able to muster the requisite quantum of evidence to prove their charges against Judge Pacuribot. By having sexual intercourse with Ms Tan and Ms. Villafranca, his subordinates, respondent violated the trust reposed on his high office and completely failed to live up to the noble ideals and strict standards of morality required of members of the Judiciary.

Having tarnished the image of the Judiciary, we hold, without any hesitation, that Judge Pacuribot be meted out the severest form of disciplinary sanction - dismissal from the service for the charges of sexual harassment against him.

We, however, find the complaints of the Anonymous Letter Writers without merit. Beyond the bare allegations that Judge Pacuribot maintained an illicit relationship with a certain Sheryl Gamulo and fathered two children with her, there is nothing in the records that would indicate that he, indeed, committed the crime charged. We have stressed time and again that allegations must be proven by sufficient evidence. Mere allegation is not evidence and is not equivalent to proof.[22] The letter dated 4 April 2005 from "concerned citizens" asking for the relief of Judge Pacuribot on the grounds that he has been terrorizing and harassing most of the employees has been rendered moot by the disposition of these cases.

All those who don the judicial robe must always instill in their minds the exhortation that "[T]he administration of justice is a mission. Judges, from the lowest to the highest levels are the gems in the vast government bureaucracy, beacon lights looked upon as the embodiments of all that is right, just and proper, the ultimate weapons against injustice and oppression. The Judiciary hemorrhages every time a Judge himself transgresses the very law he is sworn to uphold and defend at all costs. This should not come to pass." [23]

WHEREFORE, Judge Rexel M. Pacuribot is hereby DISMISSED from the service for gross misconduct and immorality prejudicial to the best interests of the service, with forfeiture of all retirement benefits and with prejudice to re-employment in any branch of the government, including government- owned and controlled

corporations, except the money value of accrued earned leave credits. Respondent judge is hereby ORDERED to cease and desist immediately from rendering any order or decision; or from continuing any proceedings, in any case whatsoever, effective upon receipt of a copy of this Decision. Lastly, respondent judge is REQUIRED to SHOW CAUSE why he should not be disbarred as a member of the Philippine Bar.

Let a copy of this Decision be furnished the Department of Justice for appropriate action.

This Decision is immediately executory. The Office of the Court Administrator shall see to it that a copy of this resolution be immediately served on respondent.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Austria-Martinez, Corona, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, and Leonardo-De Castro, JJ., concur.
Carpio, J., On leave.

[1] Rollo, pp. 8-13.

[2] Id. at 330-331.

[3] Id. at 303.

[4] Id. at 475.

[5] Id. at 1-6.

[6] Id. at 6.

[7] Id. at 14-23.

[8] CA rollo, pp. 1-86.

[9] Rollo, pp. 124-154.

[10] CA rollo, p. 44.

[11] Id. at 57-86.

[12] *Sicat v. Alcantara*, A.M. No. R-6-RTJ, 11 May 1988, 161 SCRA 284, 288-289.

[13] *Junio v. Rivera, Jr.*, A.M. No. MTJ-91-565, 30 August 1993, 225 SCRA 688, 706.

[14] *Dy Teban Hardware and Auto Supply Co. v. Tapucar*, A.M. No. 2300-CFI, 31 January 1981, 102 SCRA 493, 504.

[15] A.M. No. RTJ-90-447, 12 July 1991, 199 SCRA 75, 83-84.

[16] *Jugueta v. Estacio*, A.M. No. CA-04-17-P, 25 November 2004, 444 SCRA 10, 15-16.

[17] *Madredijo v. Loyao, Jr.*, A.M. No. RTJ-98-1424, 13 October 1999, 316 SCRA 544, 559.

[18] *Dawa v. De Asa*, A.M. No. MTJ-98-1144, 22 July 1998, 292 SCRA 703, 726.

[19] *Jugueta v. Estacio*, *supra* note 16 at 16.

[20] *Simbajon v. Esteban*, A.M. No. MTJ-98-1162, 11 August 1999, 312 SCRA 192, 200.

[21] Talens-Dabon v. Judge Arceo, 328 Phil. 692, 708 (1996).

[22] Nedia v. Laviña, A.M. No. RTJ-05-1957. 26 September 2005, 471 SCRA 10, 20.

[23] Employees of the RTC of Dagupan City v. Judge Falloran-Aliposa, 384 Phil. 168, 191 (2000).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.