

ATTY. MELENCIO A. CEA, COMPLAINANT, VS. JUDGE ORLANDO C. PAGUIO, MTC-BR. 1, MEYCAUAYAN, BULACAN, RESPONDENT.*A.M. No. MTJ-03-1479 (OCA IPI No. 01-1003-MTJ). February 17, 2003*

Ponente: BELLOSILLO, J.

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ATTY. MELENCIO A. CEA, in an Affidavit-Complaint dated 23 January 2001, charged Judge Orlando C. Paguio, MTC-Br. 1, Meycauayan, Bulacan, with violation of the Code of Legal Ethics and The Anti-Graft and Corrupt Practices Act (Rep. Act No. 3019). Complainant's grievance arose from Crim. Cases Nos. 95-17285, 95-17286 and 95-17287, for violation of Batas Blg. 22, all entitled "People v. Alicia Cea Tecson," where respondent judge rendered a consolidated decision dated 3 July 2000 convicting the accused on all counts.

The Affidavit-Complaint dated 23 January 2001 alleged that complainant was the counsel of his daughter, accused Alicia Cea Tecson, in the above-entitled criminal cases. It further alleged that at the instance of respondent judge they met at the Ark's Restaurant in Marilao, Bulacan, to discuss the status of the criminal cases. During one of the meetings, respondent judge intimated that he would lose the cases and solicited P100,000.00 from him in exchange for a favorable decision. Feeling insulted by the suggestion, he retorted that he need not give "grease money" because his daughter had a meritorious case. He then dared respondent judge to proceed with the promulgation. True enough, judgment was rendered and promulgated on 4 December 2000 finding complainant's daughter guilty as charged.

The Affidavit-Complaint was endorsed for appropriate action to the Office of the Court Administrator which, by 1[st] Indorsement dated 5 March 2001, directed respondent to file his Comment thereon within ten (10) days from receipt thereof.

On 6 April 2001 respondent judge filed his Comment categorically denying the claim that he met with complainant on several occasions regarding the status of the criminal cases. According to him, the truth of the matter is that he did not know complainant's residence address or that of his law office. He denied having made any suggestion or proposal to extort money from the complainant. He argued that if, as complainant claimed, the defense in the criminal cases was meritorious, it would be futile for him to squeeze any material consideration from complainant considering that a meritorious case is always a winning case. He explained that the delayed promulgation on 4 December 2000 of the decision dated 3 July 2000 was caused not by any devious design on his part but by the continuous failure of the accused to appear in court for the promulgation.

In its initial Report dated 22 November 2001, the Office of the Court Administrator recommended the referral of the instant case to the Executive Judge of the Regional Trial Court, Malolos, Bulacan, for investigation, report and recommendation.

By way of a Resolution dated 21 January 2002, the Supreme Court directed the Executive Judge of RTC, Malolos, Bulacan, to conduct an investigation and submit his report and recommendation thereon within ninety-(90) days from receipt of the records.

In compliance therewith, Executive Judge Oscar C. Herrera, Jr., RTC-Br. 20, Malolos, Bulacan, submitted a Report dated 8 October 2002 finding respondent Judge Orlando C. Paguio[1] guilty of gross misconduct and recommended the imposition of an appropriate sanction against him. In finding complainant's testimony plausible, the Executive Judge observed that -

x x x complainant remained firm in his assertion that respondent asked to meet with him a number of times at Ark's Restaurant in Marilao, Bulacan. During these meetings, the respondent repeatedly asked for the amount of P100,000 for the acquittal of complainant's daughter in Criminal Cases Nos. 95-17285, 95-17286 and 95-17287. He refused to come across and instead asked respondent to promulgate the decision which the latter continuously delayed. One of these meetings took place on October 5, 2000, as shown by the Ark's Restaurant receipt with Invoice No. 1575 (Exh. "A"), where complainant was accompanied by his other daughter, Dr. Carmelita Cea-Mallari.

The undersigned had observed closely the demeanor of complainant when the latter testified during the investigation. Complainant did so in a straightforward and categorical manner. He was credible and was consistent with the narrations contained in the Complaint-Affidavit dated January 22, 2001 which he filed with the OCA. In fact, respondent himself testified that he knew complainant to be a man of principle.[2]

The wheels of justice would run smoothly not only if the judiciary is purged of the debilitating presence of recreant judges, but also importantly, if the members who perform their functions conscientiously are not hampered by groundless and vexatious charges. In its attempt to cleanse the Aegean stables, so to speak, this Court must tread on with utmost circumspection and prudence to make sure that only the guilty is denounced and the innocent absolved. Thus, any administrative complaint leveled against a judge, such as the instant case, must always be examined with a discriminating eye for the consequential effects are by their very nature highly penal where the respondent stands to face the sanction of dismissal and/or disbarment. With this in mind, we carefully evaluated the evidence on record and have come to the conclusion that the complainant has not veritably proved his case.

In his Affidavit-Complaint, complainant adamantly asserted that he and respondent judge, at the latter's instigation, met a number of times at the Ark's Restaurant, and that during one of these conferences respondent solicited P100,000.00 from him in exchange for the acquittal of the accused, his daughter, in Crim. Cases Nos. 95-17285, 95-17286 and 95-17287. In corroboration, complainant presented a receipt dated 5 October 2000 indicating the food items which were supposedly ordered by respondent. Complainant's daughter, Dr. Carmelita Cea-Mallari, was also made to testify about her alleged presence at the meeting between complainant and respondent at the Ark's Restaurant to discuss the criminal cases of accused Alicia Cea Tecson.

We are not persuaded. Other than the oral testimony of complainant and that of his daughter, there is no extant proof adequately showing that several meetings had indeed transpired between the contending parties. The receipt, which is purportedly a proof of the alleged 5 October 2000 meeting, cannot be given any evidentiary weight since it does not indicate the identity of the individual or individuals to whom it was issued, or of the person or persons who might have ordered the food items therein enumerated. If indeed the several meetings occurred at the Ark's Restaurant, which is a public place, complainant could have easily gathered enough extrinsic evidence, such as the testimonies of waiters, restaurant employees, or other disinterested witnesses, rather than rely merely on his uncorroborated oral testimony, or on a receipt which is a dubious piece of documentary evidence. Dr. Carmelita Cea-Mallari merely testified that she was in that meeting between her father, complainant herein, and respondent judge, and faintly heard the figure P100,000.00 mentioned while the two (2) were conversing. She did not even say who uttered that figure and whether it was preceded by any demand from anybody. Moreover, if respondent indeed made the corrupt overtures and even blatantly demanded money from the complainant, his good sense would dictate that he report the matter to the authorities and set up

entrapment operations against the culprit. Despite myriad opportunities, complainant failed to come up with a reliably substantial proof to give flesh to his charges.

In *Co v. Calimag*[3] where the factual backdrop is analogous to the instant case, we dismissed the charge of serious misconduct for bribery because of complainant's failure to go beyond his narrative of accusations and present substantial evidence. We held -

With respect to the charge of extortion, complainant's allegation is supported only by the affidavit and testimony of Norma Cariño to the effect that she delivered an envelope containing money to respondent on December 27, 1998, but that the same was returned allegedly because it was not in the amount agreed upon by complainant and respondent. In corroboration, complainant presented in evidence the envelope, which purportedly contained the money delivered to respondent.

Firstly, there is no proof that said envelope was even handled by respondent, complainant not having subjected the same to fingerprint analysis by experts. Without the envelope, this case becomes a matter of Norma Cariño's word against that of respondent.

In the same case, citing *Castañeros v. Escaño Jr.*,[4] we stressed the primordial importance of meeting the requirement of proof -

x x x an accusation of bribery is easy to concoct and difficult to disprove, thus, to our mind, the complainant must present a panoply of evidence in support of such an accusation. Inasmuch as what is imputed against the respondent judge connotes a misconduct so grave that, if proven, it would entail dismissal from the bench, the quantum of proof required should be more than substantial. In the same case, we further declared that "[i]n order that the allegation of a charge of this nature may not be considered a fairy tale, evidence other than the doubtful and questionable verbal testimony of a lone witness should be adduced. Entrapment should have been pursued. Evidence of a reasonable report to police authorities should have been presented. Record of where the bribe money came from, its specific denominations and the manner respondent accepted and disposed of it should have been clearly shown."

It bears noting that complainant had indicated that respondent exhibited bias and partiality when the latter convicted his daughter in the criminal cases because he refused to accede to the demand for money. In fact, complainant declared with confidence that he could not lose the criminal cases because he had a meritorious defense.

Sad to say, these allegations should be treated for what they really are - mere allegations founded on speculation and conjecture, if not sheer bravado. Bias and impartiality cannot be presumed. When the opinion of counsel is at variance with that of the judge, the former cannot use it as an excuse to hurl imputations of unfairness and partiality in the absence of clear and convincing proof. No one can arrogate infallibility unto himself.

The dearth of evidence to substantiate the charge of serious misconduct against respondent justifies his being absolved. Surely, we cannot allow ourselves to be a medium in destroying the reputation of any member of the bench, by pronouncing his guilt with alacrity on a mere accusation based on tenuous, if not a nonexistent, evidentiary support. In administrative proceedings, the burden of proof that respondent committed the act complained of rests on the complainant. Failing in this, the complaint must be dismissed.

During the investigation, complainant mentioned the fact that although the decision was dated 3 July 2000, it was only on 4 December 2000 that the same was promulgated. According to him, the delay in the promulgation of the judgment was a ruse employed by respondent to give him time to come up with the required amount. Respondent, on the other hand, attributed the delay to the continued absence of the accused who was then abroad.

Although we take exception to complainant's speculative imputations, respondent has not shown enough

justification to stay our hand in exercising disciplinary powers. As pointed out by the investigating judge, the delay in the promulgation of the criminal cases could have been avoided had respondent judge resorted to the remedy provided in Sec. 6, Rule 120, of the Revised Rules of Criminal Procedure, which is to promulgate the decision in absentia by recording the judgment in the criminal docket and a copy thereof served upon counsel of the accused.

For his inexcusable delay in promulgating Crim. Cases Nos. 95-17285, 95-17286 and 95-17287, respondent deserves to be sanctioned as his action is contrary to the mandate of the Constitution, which enshrines the right of the accused to a speedy disposition of their cases. The Court observes that this is not the first time that respondent judge was made subject of an administrative proceeding. In A.M. No. MTJ-00-1335, he was found guilty of delay in deciding criminal cases and was accordingly fined.[5]

WHEREFORE, the Complaint against respondent Judge Orlando C. Paguio for violation of the Code of Legal Ethics and Rep. Act No. 3019 is DISMISSED for insufficiency of evidence. However, considering the delay in the promulgation of the consolidated Decision in Crim. Cases Nos. 95-17285, 95-17286 and 95-17287, respondent Judge is meted a fine of P3,000.00, the amount to be deducted from whatever retirement benefits may be due him.

SO ORDERED.

Mendoza, Quisumbing, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Respondent Judge Orlando C. Paguio retired compulsorily on 13 February 2002.

[2] Report, p. 8.

[3] Adm. Matter. No. RTJ-99-1493, 20 June 2000, 334 SCRA 20.

[4] Adm. Matter No. RTJ-93-955, 12 December 1995, 251 SCRA 174.

[5] The subject criminal cases were submitted for decision on 30 July 1996. A decision thereon should have been rendered on or before 28 October 1996. Respondent judge however rendered a joint decision only on 28 January 1998 and promulgated on 5 February 1998 (*Floro v. Judge Paguio*, A.M. No. MTJ-00-1335, 27 November 2000, 346 SCRA 1).

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