

JUVELYN D. KILAT, COMPLAINANT, VS. JUDGE MARIANO S. MACIAS, RTC, BRANCH 28, LILOY, ZAMBOANGA DEL NORTE, RESPONDENT.*A.M. NO. RTJ-05-1960. October 25, 2005*

Ponente: TINGA, J.

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This is an administrative complaint charging respondent Judge Mariano S. Macias, Executive Judge of the Regional Trial Court, Branch 28, Liloy, Zamboanga del Norte, with immorality, conduct unbecoming of a judicial officer, rape, and violation of the Anti-Child Abuse Law.[1]

According to complainant, she was a sixteen (16) year-old working high school student in Ipil, Zamboanga del Sur when she met respondent in November 1999. One time, respondent fetched her from her school and had dinner with her in a local restaurant. After dinner, respondent brought her to his vehicle where he kissed and fondled her, assuring her that he will take care of her, her studies, her expenses and her future. Later, she was brought to a hotel. Despite her plea to be driven home, respondent refused, telling her that he just wanted her company while he was resting. Complainant tried to go out of the room but respondent caught up with her and threatened her with a gun. Respondent removed her clothes and succeeded in having sexual intercourse with her. Respondent asked complainant to be his live-in partner, but she did not reply. Respondent threw at complainant P1,500.00 worth of bills and warned her not to tell any person what had transpired.[2]

Because of the incident, complainant was forced to quit her job and stop with her schooling. She went back to the house of her parents in Salug, Zamboanga del Norte. Respondent still managed to find out her whereabouts and offered her a job in Sindangan, Zamboanga del Norte, which she accepted. However, while in Sindangan, respondent brought her to his house where he again succeeded in having sexual intercourse with her. Afterwards, he gave her money and threatened to have her killed should she tell anyone what happened. From that time onwards, complainant became respondent's kept woman, spending Saturday nights with him and he gave her money every time they had sexual intercourse. Complainant claims that she left respondent when she found out that he was having another affair. She went back to her parents and told them what respondent did to her. They sought the help of Salug officials to seek justice for what respondent had done.[3]

For his part, respondent claims that complainant was just being used by his ex-wife, Margie Corpus Macias, and several other personalities who he believed had "selfish and personal axes to grind"[4] against him. He denies the accusation of raping and having illicit relations with complainant whom he knew only as a passing acquaintance. He claims that he had been in contact with complainant only once, when he bought her cellular phone, and only because he pitied her. Respondent asserts that complainant informed him that she was kidnapped and merely forced to sign the documents used in the instant administrative complaint. To find out the veracity of complainant's story, respondent and his counsel asked her to narrate her plight in the presence of a pastor of the Adventist Church, a lawyer, and a public prosecutor-all respected members of the community.[5] In support of his defense, respondent annexed the following documents: (i) letter addressed to the Chief Justice signed by complainant withdrawing the instant administrative complaint; (ii) letter to Ombudsman Aniano Desierto signed

by complainant, filing administrative charges against those who conspired to kidnap her; (iii) Sinumpaang Pamamahayag[6] executed by complainant dated 21 August 2001; (iv) Apas-Sumpay Nga Pamamahayag,[7] dated 23 August 2001 among others.

Complainant confessed[8] that she was approached by Vice Mayor Edgar Saldia and Mayor Jesus "Siote" Lim of Salug, Zamboanga del Norte and offered to help her prepare a case for rape against respondent. She refused because respondent did not do anything wrong to her. Later that day, Mrs. Margie Macias talked to complainant, telling her that she was "heaven-sent," because Mrs. Macias wanted respondent to be dismissed from his work. Two days later, Vice Mayor Saldia promised her mother that he will give complainant's father a job in the municipal hall if they agree to the filing of a rape case against respondent. When complainant's mother refused, Vice Mayor Saldia threatened her with a lawsuit. Reluctantly, complainant was left in the vice mayor's house where she was locked in one of the rooms. After two or three days, she was brought to the house of Atty. Selda, where she was forced to sign the affidavit-complaint against respondent. Afterwards, accompanied by the vice mayor's daughter known to her as "Blanca," they had the affidavit notarized by a public prosecutor. Complainant claims that she attempted to tell the public prosecutor about the untruthfulness of the affidavit, but she was afraid of Blanca who was then glowering at her.[9]

After a few days, complainant was brought to Manila and made to stay in the house of Atty. Reynaldo Llego in Cubao, Quezon City. She was locked up in the house for almost three weeks and was provided with a guard. However, she was able to escape through the help of her cousin, Carmen Manlangit, who was then working in Quezon City.[10]

On 5 August 2002, respondent filed a Manifestation[11] informing the Court of the Resolution of the Office of the Ombudsman-Mindanao which dismissed the criminal complaint for rape filed by the complainant.

Meanwhile, complainant filed charges against those accused of kidnapping her, which complaint was endorsed by the Deputy Ombudsman for Mindanao to the Office of the Provincial Prosecutor of Zamboanga del Norte. The Provincial Prosecutor initially suspended the resolution of the complaint, but the Department of Justice reversed the resolution and ordered the filing of informations for grave coercion and serious illegal detention against Mayor Jesus Lim, Vice Mayor Edgar Saldia, Atty. Alanixon Selda, Margie Corpus-Macias, Ma. Blanca Urongan, Sidney Sy, Dolbert Panangitan, Victorie Panangitan, Salque Bulado, Robert Abella, Atty. Reynaldo Llego, Tony Gallara, Rick "Doe", and Gingging Enriquez.[12] On 1 December 2003, the Provincial Prosecutor filed the corresponding information and the case was docketed as Criminal Case No. L-00727, raffled to RTC Branch 28, Liloy, Zamboanga del Norte presided by respondent judge. On 2 December 2003, respondent issued an order for the arrest of the persons named in the information.[13] The next day, accused moved for the inhibition of respondent from the criminal case on the ground that respondent is directly involved in the said case. Respondent thus issued an order inhibiting himself from the criminal proceedings and recommended to the Court that another judge be designated in his place.[14]

The accused in Criminal Case No. L-00727 filed a special civil action for certiorari and prohibition (docketed as CA-G.R. SP No. 80984) with the Court of Appeals, questioning: (i) the DOJ resolution ordering the filing of informations against them; (ii) the information filed; and (iii) the warrant of arrest issued by respondent judge. The Court of Appeals granted the petition, nullifying the information and quashing the warrant of arrest earlier issued. It also recommended to the Office of the Court Administrator (OCA) a separate investigation into respondent judge's administrative culpability for his acts of coercion and harassment and in precipitously issuing the arrest warrant despite being intimately involved in the criminal case.[15]

Meanwhile, on 8 March 2004, this Court granted respondent's application for disability retirement under Republic

Act No. 910, as amended. However, payment of disability benefits was held in abeyance pending resolution of the administrative complaints against him.[16]

The OCA required respondent to file his comment on the matter,[17] and on 20 April 2004, respondent complied with the directive, denying any administrative culpability or guilt for acts of coercion, harassment, or unlawful detention of complainant.[18] He claimed that he was merely performing a ministerial function when he issued the subject arrest warrants. Besides, said warrant had not been implemented and accused could still resort to procedural remedies.[19]

On 14 May, 2004, the OCA submitted its findings and recommendation, to wit:

- This matter be RE-DOCKETED as a regular administrative complaint against respondent Judge;
- The charge of immorality, conduct unbecoming of a judicial officer, rape and violation of the Anti-Child Abuse Law against the respondent be DISMISSED for lack of sufficient evidence;
- Respondent Judge be found GUILTY of bias and abuse of authority for issuing the warrant of arrest in Criminal Case No. L-00727 and that he be meted with the penalty of FINE in the sum of Two Thousand Pesos (P2,000.000) pesos to be deducted from his disability retirement benefits. [20]

The case was referred to Court of Appeals Associate Justice Jose Mendoza for investigation, report and recommendation. However, Justice Mendoza prayed to be excused from conducting the investigation since he was a member of the division which decided CA-G.R. SP No. 80984. The case was then referred to Associate Justice Remedios Salazar-Fernando, likewise asked that she be allowed to recuse herself since she was the ponente in a case related to CA-G.R. SP No. 80984. The case was thus referred to Associate Justice Martin S. Villarama, Jr.

In his Report and Recommendation[21] dated 4 August 2005, Justice Villarama found that complainant's Sinumpaang Pamamahayag and Apas-Sumpay Nga Pamamahayag created serious doubts as to whether respondent committed the acts complained of. There was no evidence of compulsion or duress in the execution of her affidavits of recantation. Her affidavits of retraction were executed in the presence of respected members of the community, with corroborating sworn statements from other persons. On the other hand, complainant's counsel of record failed to present any satisfactory explanation to support the charges. He was also unable to comment on complainant's affidavits of retraction. There being no substantial evidence to establish the commission of the acts complained of, the Investigating Justice recommended the dismissal of the administrative complaint for immorality.[22]

On the charge of abuse of authority, the Investigating Justice opined that respondent should be held administratively liable for issuing the warrant of arrest in Criminal Case No. L-00727. According to him, respondent should have voluntarily inhibited himself from the case, as per Sec. 1, Rule 137 of the Rules of Court, his wife being one of the accused therein. Moreover, the rest of the accused were the very same persons implicated by herein complainant as those who instigated the present administrative complaint. His belated inhibition, after he had issued the arrest warrant, is indicative of the propensity to use his office to get back at those responsible for filing the administrative charges against him. The Investigating Justice recommended the penalty of fine in the amount of P20,000.00 in accordance with Secs. 9 and 11 (B), Rule 40 of the Rules of Court.[23]

We express our concurrence with the findings and recommendation of the Investigating Justice.

Administrative charges against members of the judiciary must be supported at least by substantial evidence,[24] or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. In the present case, save for the Affidavit-Complaint dated 24 July 2001, no other document or evidence was submitted to

substantiate the charges of immorality, conduct unbecoming of a judicial officer, rape, and violation of the Anti-Child Abuse Law against respondent judge. More importantly, complainant herself executed sworn statements recanting her charges against respondent. As observed by the Investigating Justice, while the Complaint-Affidavit may have been executed with great detail, the affidavits of retraction are equally detailed and impressed with greater coherence and spontaneity, and supported by affidavits from people who had knowledge of the events which actually transpired. Interestingly also, even as complainant had already retracted her charges, her counsel of record, Atty. Alexander Versoza, merely stated that "when there is smoke, there is fire." [25] Considering these, the complaint for immorality has no leg to stand on and should be dismissed.

Now on the issue of abuse of authority. Rule 137 of the Rules of Court mandatorily disqualifies a judge or judicial officer to sit in any case in which: (a) he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise; (b) he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of civil law; (c) he has been executor, administrator, guardian, trustee or counsel; or (d) he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record. [26]

There is no dispute that Mrs. Margie Corpus-Macias, accused in Criminal Case No. L-00727, is the estranged wife of respondent judge. This circumstance makes it mandatory for respondent to inhibit himself from the case, but this he unfortunately did not do. He cannot exercise his discretion whether to inhibit himself or not. It was a clear case of violation of the Rules of Court.

As properly observed both by the OCA and the Investigating Justice, the issuance of a warrant of arrest is not ministerial in nature, but rather requires the exercise of judicial discretion on the part of the issuing magistrate. [27] The Revised Rules of Criminal Procedure requires the judge's personal evaluation of the resolution of the prosecutor and its supporting evidence within ten (10) days from the filing of the complaint or information. Only when he finds probable cause should he issue a warrant of arrest or a commitment order. [28] In Criminal Case No. L-00727, however, respondent judge issued the warrant of arrest a mere day after the filing of the information charging accused therein with grave coercion and serious illegal detention. Such undue alacrity casts doubt on the motive of respondent, especially since the accused were known to him to be the same people who instigated the present administrative case against him, and against whom he filed a civil suit for damages. Moreover, these were the same people whom respondent claims to have "axes to grind" against him. Respondent's swift issuance of the arrest warrant suspiciously smells of vengeance and vindication. He might have been prejudiced by the malicious acts of the accused, but he should not use his position in the

judiciary for his personal concerns. In order to avoid suspicions of wrongdoing, a respect for traditional and prevailing rules must be observed and kept constantly in mind. A judge should, in fine, administer his office with due regard to the integrity of the judicial system. He must not be perceived as being a repository of arbitrary power but as one dispensing justice under the sanction of the rule of law. [29] That he inhibited himself after they moved for his inhibition cannot extenuate his culpability. At the outset, he should have inhibited himself from the case if only to avoid any doubt or suspicion of bias and partiality against the accused.

Section 9 of Rule 140 of the Rules of Court [30] provides that a violation of Supreme Court rules, directives or circulars is a less serious charge which

merits the penalty of either suspension from office without salary and other benefits for not less than one (1) month not more than three (3) months; or a fine of more than P10,000.00 but not exceeding P20,000.00. [31] Because of the clear violation by respondent of the rule on mandatory inhibition, as well as the bias and abuse of authority, the recommended fine of P20,000.00 is proper.

WHEREFORE, the administrative complaint for immorality against respondent Judge Mariano Joaquin S. Macias is DISMISSED for insufficiency of evidence. However, he is hereby held administratively liable for abuse of authority in issuing the warrant of arrest in Criminal Case No. L-00727 and for violation of Sec. 1, Rule 137 of the Rules of Court, and FINED in the amount of Twenty Thousand Pesos (P20,000.00), to be deducted from his disability benefits.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, and Callejo, Sr., JJ., concur.
Chico-Nazario, J., on leave.

[1] Rollo, Vol. 1, p. 2.

[2] Affidavit-Complaint, id. at 3-6.

[3]Id. at 6-9.

[4] Id. at 55.

[5]Verified Comment and Answer, id. at 47-63.

[6] Id. at 68-85.

[7] Id. at 88-90.

[8]Sinumpaang Pamamahayag and the Apas-Sumpay Nga Pamamahayag were originally executed in the local dialect. Subsequently, English translations were submitted to the Court; id. at 113-146.

[9] Id. at 113-116.

[10] Id. at 116-117.

[11] Id. at 241-244.

[12] Rollo, Vol. 2, pp. 374-379.

[13] Id. at 397.

[14] Id. at 398.

[15]Id. at 549-556.

[16] Administrative Matter No. 11432-Ret., id. at 488.

[17]Id. at 365.

[18] Id. at 355-363.

[19] Id. at 361.

[20] Id. at 557-572.

[21] Id. at 639-673.

[22]Id. at 665-668.

[23] Id. at 668-672.

[24] Portic v. Villalon-Pornillos, A.M. No. RTJ-02-1717, 28 May 2004, 430 SCRA 29, 34, citing Lachica v. Judge Flordeliza, 324 Phil. 534 (1996).

[25] Rollo, Vol. 1, p. 100.

[26] Rules of Court, Rule 139, Sec. 1.

[27] Rollo, Vol. 1, p. 100; Vol. 2, p. 671.

[28] RULES OF COURT, Rule 112, Sec. 6(a).

[29] Tapiru v. Judge Biden, 386 Phil. 235, 243 (2000).

[30] As amended by A.M. No. 01-8-10-SC, 11 September 2001;

Sec. 9. Less Serious Charges. - Less serious charges include:

- Undue delay in rendering a decision or order, or in transmitting the records of a case;
- Frequent and unjustified absences without leave or habitual tardiness;
- Unauthorized practice of law;
- Violation of Supreme Court rules, directives, and circulars;
- Receiving additional or double compensation unless specifically authorized by law;
- Untruthful statements in the certificate of service; and
- Simple Misconduct.

[31] RULES OF COURT, Rule 140, Sec. 11.

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