

**VIVIAN T. DABU, ASSISTANT PROVINCIAL PROSECUTOR,
COMPLAINANT, VS. EDUARDO RODEN E. KAPUNAN, PRESIDING
JUDGE, BRANCH 51 AND ACTING JUDGE, BRANCH 52,+ MA. THERESA
CORTEZ, LEILA O....**

A.M. No. RTJ-00-1600. February 01, 2011*

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PER CURIAM:

Pursuant to the powers vested in the Court under Section 6, Article VIII of the 1987 Constitution,[1] the Court acts upon these two consolidated administrative cases against [1] Judge Eduardo Roden E. Kapunan (Judge Kapunan), then presiding judge of Branch 51 and acting judge of Branch 52, Regional Trial Court of Guagua, Pampanga (RTC); [2] stenographer Ma. Theresa Cortez (Cortez); [3] stenographer Leila O. Galo (Galo); and [4] Legal Researcher Suzette Tiongco (Tiongco), all of Branch 51, RTC, Guagua, Pampanga.

In A.M. No. RTJ-00-1600, complainant Vivian T. Dabu (Dabu) claimed that she was appointed 4[th] Assistant Provincial Prosecutor for Pampanga sometime in June 1999. In October of the same year, from her station in San Fernando, Pampanga, she was transferred and re-assigned to Guagua, Pampanga, to serve Branches 50, 51 and 52 of the RTC therein.

According to Dabu, just a few months into her assignment, she noticed that unlike in Branch 50, she was not being called upon to intervene or investigate cases involving annulment of marriages in Branches 51 and 52, both presided by Judge Kapunan, despite the fact that the cases for annulment of marriage were being raffled equally among the five (5) branches of the RTC, in Guagua, Pampanga.

Curious on what appeared to her as an oddity, and having previously learned that cases for annulment of marriage were being "fixed" in the said station, Dabu went to the Office of the Clerk of Court and got from its docket the list of annulment cases raffled to Branches 51 and 52 pertaining to the period from August 1, 1999 to March 2000. She then went to each branch and requested the records of the cases in the list. She then found out that the records were being falsified and made to appear that a prosecutor appeared during the supposed hearings of the annulment cases, when, in truth, the prosecutors who supposedly appeared were either on leave or had already been re-assigned to another station.

The other case, A.M. No. 01-3-138, stemmed from an article written by Atty. Emil P. Jurado (Atty. Jurado) in the November 1, 2000 issue of the Manila Standard. It reported that an RTC branch in Guagua, Pampanga, had been improperly disposing cases for annulment of marriage in "syndicated efforts involving court personnel and a public assistance office lawyer."

Determined to ascertain the truth of the allegations made in the article, then Chief Justice Hilario G. Davide, Jr. instructed Executive Judge Rogelio C. Gonzales (Judge Gonzales) of RTC, Guagua, Pampanga to submit inventories of marriage annulment cases filed in the five (5) branches of the RTC, Guagua, Pampanga, from January 1997 to November 2000.

In the evaluation[2] of the report and inventory submitted by Judge Gonzales, then Deputy Court Administrator Jose P. Perez[3] recommended that the matter be joined with the proceedings in A.M. No. RTJ-00-1600 so that "a complete picture and history of the anomalous treatment by Branches 51 and 52 of annulment of marriage cases" would be made.

In its Resolution[4] dated March 13, 2001, the Court ordered the consolidation of A.M. No. 1-3-138-RTC and A.M. OCA IPI No. 00-1028-RTJ.

During the hearing of these cases, only Judge Kapunan and Tiongco participated. Cortez manifested that she would not adduce evidence in her behalf and would submit the case for disposition/recommendation on the basis of the records and evidence adduced during the investigation. Respondent Galo, on the other hand, neither appeared nor filed any comment or pleading.

The result of the investigation revealed something not expected of a proper judicial office. As reported in detail by the Investigating Justice Eliezer R. De Los Santos[5] (Investigating Justice) of the Court of Appeals:

On August 24, 2000, Complainant Assistant Provincial Prosecutor Vivian T. Dabu executed an Affidavit citing several incidents wherein the court records of cases for annulment of marriage, lost titles and declaration of presumptive death were being falsified. The Affidavit was treated as a Complaint for falsification of court records against Judge Eduardo Roden E. Kapunan and court stenographers Ma. Theresa Cortez and Leila O. Galo. Respondent Suzette Tiongco was not included in the charge of falsification of court records as complainant ha[d] no evidence linking her thereto but the Office of the Court Administrator included her with the charge of conduct prejudicial to the best interest of the service.

Complainant alleged that during the period between November 1999 and August 2000, respondent Judge was the presiding judge of Branch 51 and the acting judge of Branch 52, both of the Regional Trial Court of Guagua, Pampanga, with three (3) of the personnel of Branch 51, namely: Leila Galo, Ma. Theresa Cortez and Suzette Tiongco.

Respondent Judge and Galo were detailed to the Regional Trial Court of Manila, Branch 48, at the same time and were returned to their original assignment at the Regional Trial Court of Guagua, Pampanga also at the same time x x x.

Respondents Galo and Cortez were appointed to the position of court stenographers for Branch 51 x x x. However, respondent Galo, during the said period, did not perform the duties of a stenographer but acted as a secretary for respondent Judge x x x. She received all communications pertaining to respondent Judge or to cases pending before Branches 51 and 52 x x x. Respondent Judge gave specific instruction on this matter to the Court's personnel x x x.

The other staff of Branch 51 (sic) holds office at the 3[rd] floor of Goseco hall, which is located across the municipal hall of Guagua, Pampanga. On the other hand, all of the staff of Branch 52 (sic) is holding office at the 2[nd] floor of Goseco Hall.

All the records of Branches 51 and 52 are being kept at the Goseco Hall except for the records of cases which have pending incidents to be resolved, or an Order/Decision for signature, or to be heard, or is needed by respondent Judge which are in the office of the respondents at the municipal hall x x x.

Prior to November 1999, the assigned prosecutor for Branch 51 is Asst. Provincial Prosecutor Domingo C. Pineda and for Branch 52 is former Asst. Provincial Prosecutor Reyes D. Manalo. Beginning 10 November 1999 up to 31 August 2000, herein complainant was the assigned prosecutor for Branches 51 and 52.

As evidence for the charge of falsification of court records, complainant presented the following cases:

1. Civil Case No. G-3655

Nonito Vitug vs. Gracita Sangan
For: Annulment of Marriage
RTC-52, Guagua, Pampanga

On 3 November 1999, there was allegedly a hearing which was held in the presence of former Asst. Provincial Prosecutor Reyes D. Manalo, wherein the plaintiff and the psychologist testified and, thereafter, the counsel of record, Atty. Ponciano C. Lobo, offered his evidence, and, without the objection of the public prosecutor, the case was deemed submitted for decision x x x. The minutes and transcript of stenographic notes were prepared by respondent Cortez.

On 9 November 1999, a Decision was rendered, which states on paragraph 3, page 1, thereof that "Prosecutor Reyes Manalo on November 3, 1999 submitted his Report that no collusion exists between the parties" but no such Report is attached to the records of the case x x x.

Former Prosecutor Reyes D. Manalo testified that as early as 25 October 1999, when he filed his Application for Leave for the month of November, he was already on leave and, from then on, has never appeared before Branch 52 of the Regional Trial Court of Guagua, Pampanga until his retirement in June 2000 x x x. This was corroborated by the stenographer of said Court, Zenaida A.C. Caraan x x x.

In the criminal cases heard on 3 November 1999, respondent Judge issued Orders declaring the hearing on said date cancelled and resetting the same to another date in view of the absence of the public prosecutor x x x.

Atty. Ponciano C. Lobo, on the other hand, testified that none of the parties is his client and that he never appeared in the said case x x x.

2. Civil Case No. G-3675

Meriam Vitug vs. Edgar Faeldon
For: Annulment of Marriage
RTC-51, Guagua, Pampanga

On 12 November 1999, Asst. Provincial Prosecutor Domingo C. Pineda allegedly issued a Manifestation finding no collusion between the parties x x x. He, however, testified that he did not issue any "Manifestation" in connection with this case x x x.

On 15 November 1999, a hearing was allegedly conducted in the presence of the said public prosecutor wherein the plaintiff testified and the case was re-set on 29 December 1999 for the presentation of the psychologist x x x. The minutes and transcript of stenographic notes were both prepared by respondent Cortez x x x.

However, the Orders in the criminal cases heard on the same date, 15 November 1999, which were also prepared by respondent Cortez and signed by respondent judge, stated that the hearing was cancelled in view of the absence of the public prosecutor x x x.

Asst. Provincial Prosecutor Domingo C. Pineda testified that he was, as of 8 November 1999, assigned to Branches 54 and 55 of the Regional [T]rial Court of Macabebe, Pampanga, and from then on, never appeared before Branch 51 of the Regional Trial Court of Guagua, Pampanga x x x. This was corroborated by the OIC-Branch Clerk of Court of the said Court, Eduardo P. Carlos x x x.

Atty. Ponciano C. Lobo again testified that none of the parties is his client and he never appeared in such case x x x.

The Decision in this case was included in the cases reported as having been decided or disposed of for the month of March 2000 x x x.

3. Civil Case No. G-3659

Ricardo Layug vs. Zerlina Arteta
For: Annulment of Marriage
RTC-52, Guagua, Pampanga

On 3 November 1999, a Manifestation was allegedly issued by former Asst. Provincial Prosecutor Reyes D. Manalo x x x but he testified that he did not issue the same x x x.

On 5 November 1999, a hearing was allegedly held in the presence of the said public prosecutor wherein the plaintiff and a psychologist testified, the counsel on record, Atty. Ponciano C. Lobo, offered his evidence and without the objection of the public prosecutor, the case was submitted for resolution x x x.

Again former Asst. Provincial Prosecutor Reyes D. Manalo and Atty. Ponciano C. Lobo denied any participation in the case.

4. LRC Case No. G-73

In re: Petition for Issuance of
Owner's Duplicate Copy of
TCT No. 217416-R,
Rev. Fr. Francisco R. Lansang,
Petitioner,
RTC-51, Guagua, Pampanga

5. LRC Case No. G-74

In re: Petition for Issuance of
Owner's Duplicate Copy of
TCT Nos. 441074-R to 441089-R,
Beatriz Lansang, Petitioner.
RTC-51, Guagua, Pampanga

On 25 November 1999, a hearing was allegedly held wherein the petitioners were presented, the counsel on record, Atty. Ponciano C. Lobo offered his evidence, and, thereafter, these cases were deemed submitted for resolution x x x. The minutes of hearing and transcript of stenographic notes were prepared by respondent Cortez x x x.

On December 6, 1999 separate Orders were issued granting the petitions favorably x x x. These cases were reported in June 2000 to have been decided or disposed of x x x.

Atty. Ponciano C. Lobo proffered the same testimony x x x.

6. Civil Case No. G-2579

Benito Samia, Jr. vs. Josephine L. Lorenzo-Samia
For: Annulment of Marriage
RTC-51, Guagua, Pampanga

On 21 February 2000, a Decision was rendered stating therein that a Psychological Evaluation Report was submitted but none appears on the record x x x.

Likewise, between 13 December 1999 and 21 February 2000, no other hearing was conducted despite the fact that the Order dated 13 December 1999 indicated the next hearing on 17 January 2000 and the dorsal side of page 111 of the record states "Reset 2/21/00" x x x. There was also no record that plaintiff offered his evidence, rested his case, or submitted the case for resolution x x x.

The said Decision was included in the monthly report of cases disposed of in June 2000 x x x.

7. Civil Case No. G-3717

Tomas Tamayo vs. Adoracion Sampang

For: Annulment of Marriage

RTC-52, Guagua, Pampanga

The plaintiff, Tomas Tamayo, testified that the case was filed by respondent Cortez before the Regional Trial Court of Guagua, Pampanga, after the latter agreed to help him in the "processing" of the annulment of his marriage; that he never appeared before any lawyer for the notarization of his Verified Petition; that he was initially told that there would be no hearing in his annulment case and it will be granted within three (3) months; that he gave the amount of Php 15,000.00 in connection thereto which was returned to him after he withdrew his case; that respondent Galo took from him Php4000.00 in payment of the "psychologist fee" which amount was not returned to him; that he gave the amount to respondent Galo after she identified herself as a court employee and even presented an identification card of respondent Judge x x x.

In his testimony, Atty. Ponciano C. Lobo stated that the plaintiff is not his client x x x.

8. Civil Case No. G-3677

Joseph Voltaire Datu vs. Marissa S. Tamariz

For: Annulment of Marriage

RTC-52, Guagua, Pampanga

On 11 April 2000, a Manifestation and Motion was filed by Atty. Ponciano C. Lobo denying his signature appearing on the said Complaint and claiming it to be a forgery x x x.

On the witness stand, Atty. Ponciano C. Lobo reiterated that none of the parties is his client and that the signature appearing in the Complaint is not his x x x.

9. Sum. Proc. No. G-1205

In re: Petition for Summary Proceeding

For Declaration of Presumptive Death of

Absentee Felicitas Jabilona,

Joselito Flores, Petitioner.

RTC-51, Guagua, Pampanga

On 27 July 2000, a hearing was allegedly held wherein the counsel on record, Atty. Romeo B. Torno offered his evidence x x x.

Atty. Romeo B. Torno, however, testified that he did not appear before the said Court on the said time and date as he was then appearing before Branch 50; that after his ex parte presentation of evidence, the next hearing was scheduled on 27 July 2000 at 3:30 o'clock in the afternoon but the same was cancelled since he has no witness to present; and that, thereafter, there was no other hearing held or conducted in this case x x x.

On August 7, 2000, an Order was issued granting the Petition x x x.

Atty. Torno suspected that respondent Cortez prepared the same and when he confronted her, she replied that "everything is okay" x x x.

10. Civil Case No. G-3730

Ofelia Enal vs. Francisco Enal Jr.

For: Annulment of Marriage

RTC-51, Guagua, Pampanga

On 30 June 2000, an Order was issued stating that a hearing was allegedly held wherein the plaintiff testified, the Psychological Evaluation Report filed, and the case deemed submitted for resolution x x x. The records of the case, however, bear an Order dated 9 June 2000 with the same contents x x x.

On even date, 9 June 2000, a Decision was issued in favor of the plaintiff x x x.

Refuting the charges against him, respondent Judge averred in his Comment[6] that:

a) his signatures appearing in the records of "Ofelia Enal vs. Francisco Enal, Jr., docketed as Civil Case Nos. G-3730, and "Meriam Vitug vs. Edgar Faeldon," docketed as Civil Case No. G-3675, were forgeries;

b) after the said cases were made known to him during the latter part of July 2000 and since he received complaints [from] litigants about the "activities" of respondent Galo, he conducted a discreet investigation, but stopped the same upon the filing of this complaint;

c) he is a victim of falsification and did not conspire or connive with the other respondents in the commission thereof.

On May 28, 2001, Judge Kapunan suffered from cardio-pulmonary arrest and died at the age of fifty-four. According to his heirs, the evidence of the complainant was insufficient to support the charges against their late father and, thus, sought the dismissal of the complaint.

From a mere examination of the signatures of Judge Kapunan on the questioned court records, it is clear that his signatures were not forged. As correctly pointed out by the complainant and the Investigating Justice, except for the abovementioned cases of Enal and Vitug, Judge Kapunan failed to specifically deny under oath his participation in the anomalous cases or to challenge the genuineness of his signature appearing in the court records of the questioned cases enumerated by Dabu. Thus, following Section 8, Rule 8 of the 1997 Rules of Civil Procedure,[7] this amounts to an admission by Judge Kapunan that he indeed signed the questioned orders, decisions and court records.

Also, in all the questioned cases pointed out by Dabu, including the cases of Enal and Vitug, Judge Kapunan failed to offer any evidence to support his defense that his signatures therein were forged. The rule is that he who disavows the authenticity of his signature on a public document bears the responsibility of presenting evidence to that effect.[8] Mere disclaimer is not sufficient. Under Section 22, Rule 132 of the Rules of Court,[9] the genuineness of handwriting may be proved in the following manner: [1] by any witness who believes it to be the handwriting of such person because he has seen the person write; or he has seen writing purporting to be his upon which the witness has acted on or been charged; [2] by a comparison, made by a witness or the court, with writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge. At the very least, he should present corroborating witnesses to prove his assertion. At best, he should present an expert witness.[10] As a rule, forgery cannot be presumed and must be proved by clear, positive and convincing evidence and the burden of proof lies on the party alleging forgery.[11] This, unfortunately, Judge Kapunan failed to do.

At any rate, contrary to the assertions of Judge Kapunan, in the case of Vitug, the records show that as early as May 31, 2000, he already issued an order granting the appeal of the Solicitor General. He could not, therefore, claim that he was only made aware of the anomalies in Vitug after it was decided.

Further, as noted by the Investigating Justice, Judge Kapunan himself confirmed in his June 2000 report of decided cases that the cases of Lansang and Samia were among those he had decided. Thus, he could not claim that his signatures in the decisions of those cases were forged.

The Court finds specious the allegation of Judge Kapunan that the "processing" of cases were committed by Galo all by herself, and that he conducted a "discreet investigation" when he learned of her activities. Judge Kapunan offered no plausible reason why he failed to finish his investigation other than the lame excuse that he stopped his investigation due to the filing of the complaint. The reason is clear. There was no investigation conducted. As opined by the Investigating Justice,[12] had there been an investigation, Judge Kapunan should have completed it, found the culprit, filed the appropriate charges, and cleared his name.

With respect to Galo, she failed to appear in the proceedings below or file any comment, or any pleading. The proceedings below established that she received payments from litigants as "psychologist fee." She even admitted to Dabu on at least two occasions that she had "processed" certain cases involving annulment of marriage with the "go signal" of Judge Kapunan. In fact, she admitted to Dabu that she was "processing" one case where one of the parties was a friend of Judge Kapunan, upon orders of the latter.

On the other hand, Cortez admitted preparing the questioned orders, decisions, minutes of hearings, and transcripts. She tried to justify her actions by claiming that she only acted upon the instructions of Galo. Unfortunately, these circumstances do not justify her acts at all.

Taking all these into consideration, it is undeniable that Judge Kapunan, Galo and Cortez acted together in issuing questionable orders and decisions through falsification of public documents.

With regard to Tiongco, however, there is no evidence against her. The inclusion of Tiongco in this case was only upon the initiative of the Office of the Court Administrator. As the record is bereft of any evidence to hold her liable, her exoneration is in order.

Court employees, from the presiding judge to the lowliest clerk, being public servants in an office dispensing justice, should always act with a high degree of professionalism and responsibility. Their conduct must not only be characterized by propriety and decorum, but must also be in accordance with the law and court regulations. No position demands greater moral righteousness and uprightness from its holder than an office in the judiciary. Court employees should be models of uprightness, fairness and honesty to maintain the people's respect and faith in the judiciary. They should avoid any act or conduct that would diminish public trust and confidence in the courts. Indeed, those connected with dispensing justice bear a heavy burden of responsibility.[13]

Falsification of an official document such as court records is considered a grave offense. It also amounts to dishonesty. Under Section 23, Rule XIV of the Administrative Code of 1987, dishonesty (par. a) and falsification (par. f) are considered grave offenses warranting the penalty of dismissal from service upon commission of the first offense.

Furthermore, falsification of an official document is punishable as a criminal offense under Article 171 of the Revised Penal Code and dishonesty is an impious act that has no place in the judiciary.

The penalty of dismissal, however, can no longer be imposed and carried out with respect to the late Judge Kapunan. The administrative complaints against him have become moot and academic and the case should be deemed closed and terminated following our ruling in *Loyao, Jr. v. Caube*[14] and *Apiag v. Cantero*. [15]

WHEREFORE, finding respondents, Ma. Theresa Cortez and Leila O. Galo, GUILTY of falsification of official documents and dishonesty, the Court hereby orders their DISMISSAL from the service, with forfeiture of all retirement benefits and privileges, except accrued leave credits, if any, with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.

The case against respondent Judge Eduardo Roden E. Kapunan is hereby dismissed for being moot and academic

due to his untimely demise.

Respondent Suzette O. Tiongco is EXONERATED of the charges.

SO ORDERED.

Corona, C.J., Carpio, Carpio Morales, Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Mendoza, and Sereno, JJ., concur.

Velasco, Jr.,^[**] J., no part due to prior action in OCA.

Perez,^{**} J., no part.

+ Passed away on May 28, 2001.

[*]Formerly OCA I.P.I. No. 00-1028-RTJ.

[1] Section 6. The Supreme Court shall have administrative supervision over all courts and the personnel thereof.

[2] Rollo (A.M. No. 01-3-138-RTC), pp. 1-19.

[3] Now an Associate Justice of the Court.

[4] Rollo (A.M. No. 01-3-138 RTC), p. 20.

[5] The investigation was first assigned to then Associate Justice of the Court of Appeals Romeo J. Callejo, Jr. who became a member of the Court in 2003.

[6] Rollo (RTJ 00-1600), pp. 275-284.

[7] Sec. 8. How to contest such documents. - When an action or defense is founded upon a written instrument, copied in or attached to the corresponding pleading as provided in the preceding Section, the genuineness and due execution of the instrument shall be deemed admitted unless the adverse party, under oath, specifically denies them, and sets forth what he claims to be the facts; but the requirement of an oath does not apply when the adverse party does not appear to be a party to the instrument or when compliance with an order for an inspection of the original instrument is refused.

[8] *Libres v. Delos Santos*, G.R. No. 176358, June 17, 2008, 554 SCRA 642, 655.

[9] Sec. 22. How genuineness of handwriting proved. -- The handwriting of a person may be proved by any witness who believes it to be the handwriting of such person because he has seen the person write, or has seen writing purporting to be his upon which the witness has acted or been charged, and has thus acquired knowledge of the handwriting of such person. Evidence respecting the handwriting may also be given by a comparison, made by the witness or the court, with writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge. (23a)

[10] *Pan Pacific Industrial Sales Co., Inc. v. Court of Appeals*, G.R. No. 125283, February 10, 2006, 482 SCRA 164, 176.

[11] *Heirs of Severa P. Gregorio v. Court of Appeals*, 360 Phil. 753, 763 (1998).

[12] Report and Recommendation, Rollo (A.M. No. 01-3-138-RTC), p. 12.

[13] *Office of the Court Administrator v. Juan*, 478 Phil. 823, 829 (2004), citing *Albion v. Auguis*, 452 Phil. 936 (2003) and *Castelo v. Florendo*, 459 Phil. 581 (2003).

[14] 450 Phil. 38, 47 (2003).

[15] 335 Phil. 511, 526 (1997).

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