

## SECOND DIVISION

[ G.R. NO. 151344, September 26, 2006 ]

**EMELITA A. DORAN, PETITIONER, VS. EXECUTIVE JUDGE JIMMY HENRY F. LUCZON, JR., REGIONAL TRIAL COURT, BRANCH 1, TUGUEGARAO CITY, CAGAYAN, AND JUDGE SALVADOR B. CAMPOS, MUNICIPAL CIRCUIT TRIAL COURT, AMULUNG-IGUIG, CAGAYAN, RESPONDENTS.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.:**

Before us for resolution is the Petition for Certiorari<sup>[1]</sup> (with prayer for a writ of preliminary prohibitory injunction) assailing the Resolutions dated December 10, 2001 and January 7, 2002 issued by Executive Judge Jimmy Henry F. Luczon, Jr. of the Regional Trial Court, Branch 1, Tuguegarao City, in OCA IPI No. 99-766- MTJ, entitled "Emelita A. Doran v. Judge Salvador B. Campos, MCTC, Amulung-Iguig, Cagayan."

The facts are:

Emelita A. Doran, petitioner, is a court stenographer detailed with the Municipal Circuit Trial Court, Amulung-Iguig, Cagayan presided by Judge Salvador B. Campos, respondent.

On August 17, 1999, petitioner filed with the Office of the Court Administrator (OCA) an affidavit- complaint charging respondent Judge Campos with grave misconduct, docketed as Administrative Matter OCA IPI No. 99-766-MTJ. Petitioner alleged that respondent committed the following acts: (1) scandal- mongering; (2) certifying as correct the June 1999 Daily Time Record of Geraldson F. Trinidad, court aide, despite knowing that the latter was absent during the first three weeks of that month as he was then harvesting *palay* in respondent's rice land; (3) utilizing Geraldson as overseer of his rice land; (4) causing the preparation of a "facsimile of a logbook" containing false entries and substituting the same in place of the genuine logbook to favor his favorite employees, particularly Geraldson; (5) disregarding a preliminary examination conducted in a case, yet finding that no probable cause exists and, thereafter, conducting another preliminary examination whereby he answered his own questions; (6) accepting bribes from litigants; and (7) habitual absenteeism.<sup>[2]</sup>

In his counter-affidavit dated October 8, 1999, respondent denied petitioner's allegations. He submitted the logbook of the court employees' attendance, as well as the affidavits of Petronilo Capili, clerk of court, Rizalina Aquino, stenographic reporter, Servando Bangayan, farmer-overseer, Geraldson Trinidad and Raquel Arimas, court stenographer.

Upon recommendation by then Court Administrator Alfredo I. Benipayo, we referred

the administrative matter to Executive Judge Jimmy Henry F. Luczon, Jr., Regional Trial Court (RTC), Tuguegarao City, for investigation, report, and recommendation within sixty (60) days from receipt of the records.

After the petitioner had completed the presentation of her evidence, respondent, through counsel, asked the opinion of Investigating Judge Luczon whether it is procedurally permissible for him to file a demurrer to evidence or a motion to dismiss. Judge Luczon answered in the affirmative with the advice that counsel must first seek leave of court.

Accordingly, respondent filed a Motion and Manifestation<sup>[3]</sup> praying that he be allowed to file a demurrer to evidence since petitioner failed to substantiate the allegations in her complaint. Petitioner opposed the motion arguing that such pleading is not permitted since the administrative proceeding is investigative in nature. She cited Section 5, Rule 139-B (Disbarment and Discipline of Attorneys) of the Rules of Court which provides:

**SEC. 5. Service or dismissal.-** If the complaint appears to be meritorious, the Investigator shall direct that a copy thereof be served upon the respondent, requiring him to answer the same within fifteen (15) days from the date of service. If the complaint does not merit action, or if the answer shows to the satisfaction of the Investigator that the complaint is not meritorious, the same may be dismissed by the Board of Governors upon his recommendation. A copy of the resolution of dismissal shall be furnished the complainant and the Supreme Court which may review the case *motu proprio* or upon timely appeal of the complainant filed within 15 days from notice of the dismissal of the complaint.

**No investigation shall be interrupted or terminated by reason of the desistance, settlement, compromise, restitution, withdrawal of the charges, or failure of the complainant to prosecute the same.**

In his Resolution dated December 10, 2001,<sup>[4]</sup> Investigating Judge Luczon allowed respondent to file his demurrer to evidence and petitioner to file her opposition thereto.

Forthwith, petitioner filed a Motion for Reconsideration, but it was denied in a Resolution dated January 7, 2002<sup>[5]</sup> holding that Rule 139-B applies only to disbarment cases or other disciplinary actions against lawyers; and that there is no prohibition against the filing of a demurrer to evidence in an administrative case.

On January 24, 2002, petitioner, in an unusual move, challenged Judge Luczon's ruling before this Court via the instant Petition for Certiorari with prayer for the issuance of a writ of preliminary prohibitory injunction. She alleged that the Investigating Judge, in allowing respondent to file a demurrer to evidence, committed grave abuse of discretion.

In his comment,<sup>[6]</sup> respondent countered that during the presentation of petitioner's evidence, he "was able to illicit admissions from complainant and her witness which readily refute the charges against him"; that the purpose of allowing the filing of a demurrer to evidence or motion to dismiss is to hasten the proceedings; that it is a