

EN BANC

[**A.M. NO. RTJ-03-1780 (FORMERLY OCA IPI NO. 03-1709-RTJ), September 14, 2005**]

AMADO L. DE LEON, COMPLAINANT, VS. JUDGE PATROCINIO R. CORPUZ, REGIONAL TRIAL COURT, BRANCH 44, SAN FERNANDO CITY, PAMPANGA, RESPONDENT.

DECISION

SANDOVAL-GUTIERREZ, J.:

In a complaint^[1] dated April 12, 2002, one Amado L. De Leon charged Judge Patrocinio Corpuz of the Regional Trial Court (RTC), Branch 44, San Fernando City (Pampanga), with grave abuse of authority.

The complaint alleges that on April 10, 2002, respondent judge approved the application for bail of Noe dela Fuente, accused of fourteen (14) counts of swindling (*estafa*) and fourteen (14) violations of Batas Pambansa Blg. 22^[2] before the Municipal Trial Court (MTC), Branch 2, Guagua, Pampanga, docketed as Criminal Cases Nos. 18143 to 18170. At the time respondent approved the bail posted for the accused, Judge Jesusa Mylene C. Suba-Isip, Presiding Judge of the MTC of Guagua, Branch 2, where the cases were filed, was in her court the whole day. Hence, she should have been the one to act on the accused's application for bail, not respondent judge.

On April 18, 2002, the Office of the Court Administrator (OCA) referred the complaint to Executive Judge Isagani M. Palad of the RTC of Guagua, Pampanga for discreet investigation and report.

In his Report dated April 30, 2002, Executive Judge Palad stated:

"That on April 10, 2002, the arrest of accused Noe dela Fuente was effected by SPO2 Enrico Nonato, Warrant Server, PNP Guagua Police Station. Certification is hereto attached as Annex "D";

That likewise on even date April 10, 2002, the accused filed his personal bail bonds, provided by Summit Guaranty & Insurance Company, Inc., which were approved by Judge Patrocinio R. Corpuz, RTC, Branch 44, City of San Fernando, Pampanga; **on said date Judge Jesusa Mylene C. Suba-Isip reported for duty and very much available for the purpose of approving said question subject bail bond of the accused.** Copies of the Order, the Certification and Court Calendar are hereto attached as Annexes "E," "F," "G," "H," & "I," respectively.

x x x" (Underscoring ours)

In his comment on the complaint, respondent denied the charge or any irregularity in approving the 14 bailbonds of accused Noe dela Fuente. Respondent explained that the accused, accompanied by SPO2 Nonato Enrico, appeared before him in his court "at about the close of office hours" on April 10, 2002. They **told** him that there were no more judges in the courts of Guagua and that he was the only judge present in the courts of San Fernando City. The accused then presented his bail furnished by the Summit Guaranty & Insurance Co., Inc. After finding that the bail is in order, he (respondent) issued an Order approving the same.

Eventually, Deputy Court Administrator Jose P. Perez submitted his Report with the following recommendation:

- "1. The instant complaint against Judge Patrocinio Corpuz, RTC, Branch 44, San Fernando City, Pampanga be RE-DOCKETED as a regular administrative matter; and
2. Judge Corpuz be FOUND GUILTY of Grave Abuse of Authority for fixing and approving bail bonds in Criminal Case Nos. 18143 to 18170 despite the presence of the judge before whom the said cases are pending, in clear abuse of Section 17, Rule 114 of the Rules of Court and that he be FINED in the amount of Ten Thousand Pesos (P10,000.00) with a STERN WARNING that a repetition of the same or similar offense in the future shall be dealt with more severely."^[3]

In our Resolution dated April 7, 2003, we required the parties to manifest, within twenty (20) days from notice, whether they are submitting the case for decision on the basis of the pleadings/records submitted.

Only respondent submitted the required manifestation. On April 18, 2004, he retired compulsorily.

Sec. 17, Rule 114 of the 2000 Rules of Criminal Procedure provides:

"SEC.17. *Bail, where filed.* – (a) Bail in the amount fixed may be filed with the court where the case is pending, or in the absence or unavailability of the judge thereof, with any regional trial judge, metropolitan trial judge, municipal trial judge, or municipal circuit trial judge in the province, city, or municipality, If the accused is arrested in a province, city, or municipality other than where the case is pending, bail may also be filed with any Regional Trial Court of said place, or if no judge thereof is available, with any metropolitan trial judge, municipal trial judge, or municipal circuit trial judge."

In *Cruz v. Yaneza*,^[4] we held:

"The foregoing provision anticipates two (2) situations. First, the accused is arrested in the same province, city, or municipality **where his case is pending**. Second, the accused is arrested in the province, city, or municipality other than where his case is pending. **In the first situation**, the accused may file bail in the court where his case is pending or, in the absence or unavailability of judge thereof, **with**

another branch of the same court within the province or **city**. In the second situation, the accused has two (2) options. First, he may file bail in the court where his case is pending or second, he may file bail with any regional trial court in the province, city, or municipality where he was arrested. When no regional trial court judge is available, he may file bail with any metropolitan trial judge, municipal trial judge, or municipal circuit trial judge therein."

In the instant case, accused Noe dela Fuente was arrested by virtue of the warrants of arrest^[5] all dated April 9, 2002 issued by Judge Isip of the MTC of Guagua, Pampanga, Branch 2, where the cases were then pending. The accused was arrested in the same municipality. Following the above Rule and our ruling in *Cruz*, the application for bail should have been filed with the MTC of Guagua, Branch 2. Significantly, respondent does not dispute that Presiding Judge Isip was then present the whole day. If she was absent or unavailable, then the accused should have filed his application for bail **with another branch of the same court** within the Province of Pampanga or San Fernando City.

Here, we cannot understand why respondent approved the accused's application without first determining whether MTC Judge Isip is absent or unavailable, and if so, whether there are other MTC or MTCC Judges within the province of Pampanga or San Fernando City. Considering his long service in the judiciary, he must have known he has no authority to act on the accused's application for bail.

In his Report, DCA Perez stated in his Evaluation that:

"The undersigned believes that the issue here is whether on the basis of the previous approval of bailbonds by Judge Patrocinio Corpuz, Section 17, Rule 114 of the Rules of Court was abused by the said judge.

After a careful evaluation of the record of this case, the undersigned is of the opinion that there are good grounds to believe that the aforementioned section of the Rules of Court was indeed abused by Judge Corpuz. Section 17, Rule 114 provides that:

'SEC.17. *Bail, where filed.* – (a) Bail in the amount fixed may be filed with the court where the case is pending, or in the absence or unavailability of the judge thereof, with any regional trial judge, metropolitan trial judge, municipal trial judge, or municipal circuit trial judge in the province, city, or municipality. x x x"

Under the afore-cited section, it is very clear that Judge Corpuz can only act on applications for bailbond in the absence or unavailability of the judge of the court where the cases are pending. The latter is primarily responsible for approving/disapproving such applications for bail due to the pendency of the said cases in his/her court. Judge Corpuz can only act secondarily. Also, it must be shown that the judge of the Court where the cases are pending is indeed absent or unavailable before another judge can act on applications for bail lodged before him. **The undersigned believes that Judge Corpuz failed in this aspect. He should have called first the presiding judge of MTC, Branch 2, Guagua, Pampanga (Judge Jesusa Mylene C. Suba-Isip) and**