

EN BANC

[A.M. NO. MTJ-08-1702 (A.M. OCA IPI No. 01-1008-MTJ), April 08, 2008]

EDWIN LACANILAO, PETITIONER, VS. JUDGE MAXWELL S. ROSETE, AND EUGENIO TAGUBA, PROCESS SERVER, METROPOLITAN TRIAL CIRCUIT COURT, BRANCH 2, SANTIAGO CITY, RESPONDENTS.

DECISION

PER CURIAM:

A verified letter-complaint^[1] dated November 1, 1999 of complainant Edwin Lacanilao triggered this administrative case against respondents Judge Maxwell S. Rosete and Process Server Eugenio P. Taguba, of the Metropolitan Trial Circuit Court (MTCC), Branch 2, Santiago City.

Respondent Judge Rosete filed his Comment^[2] to the letter-complaint on September 19, 2000, while respondent Taguba filed his Comment^[3] on October 2, 2000.^[4]

On February 18, 2002, the Court's Second Division referred this case to Hon. Fe Albano-Madrid, Executive Judge, Regional Trial Court (RTC), Santiago City, for investigation, report and recommendation.

Subsequently, Lacanilao asked Judge Madrid to inhibit herself from this case.^[5] In a letter addressed to this Court dated June 27, 2002,^[6] Judge Madrid inhibited herself from the hearing of the case and returned the records to the Supreme Court. This Court then directed Hon. Judge Isaac R. De Alban, Executive Judge, RTC, Ilagan, Isabela, to take over and continue with the investigation of the instant case. Judge De Alban proceeded with the reception of evidence for all the parties.

Meanwhile, on November 15, 2005, Lacanilao sent a letter to then Acting Chief Justice Hon. Reynato S. Puno. Lacanilao manifested that the case had dragged on for two years due to (1) the alternate absences of respondents, and (2) the failure of the judge to take action against respondents.

On November 29, 2005, Judge De Alban likewise inhibited himself from this case and returned the records to the Office of the Court Administrator (OCA).

On July 5, 2006, this Court referred the case to the OCA for the continuation of investigation and submission of report and recommendation within sixty (60) days from receipt of the resolution. Accordingly, on September 4, 2006, the OCA sent notices of hearings to the parties and the proceedings continued. Finally, the OCA submitted its investigation report and recommendation on June 25, 2007.

The evidence for complainant consists of the combined testimonies of Edwin and his wife, Edith Lacanilao.

Edith Lacanilao testified that her husband Edwin was an accused in a criminal case for reckless imprudence resulting in homicide pending before the MTCC, Cordon Isabela, presided by respondent Judge Rosete. Edwin posted a property bond, but after two (2) months, a warrant of arrest was issued against him. Because of this, Edith and her brother went to see Judge Rosete at his office in MTCC, Santiago City. They inquired why a warrant of arrest had been issued against Edwin when he had already posted a bond. Judge Rosete told her that the warrant of arrest could not be withdrawn and asked her to just put up a P21,600.00 bond or whatever amount she could afford.

On April 8, 1997, Edith and Edwin went to MTCC, Santiago City. They saw Judge Rosete inside his chambers. When they entered, the process server, respondent Taguba, was also there. Edith told Judge Rosete that they have only P15,000.00. Judge Rosete received the money and asked Taguba to issue a receipt. Taguba issued and signed a receipt,^[7] which reads:

April
8, 1997

Received the amount of Fifteen Thousand Pesos (P15,000.00) as partial payment of bailbond of accused Edwin Lacanilao in Crim. Case #2809.

(Sgd.)

Eugenio

P. Taguba^[8]

After Judge Rosete was replaced by Judge Plata as presiding judge of the MTCC, Cordon, Isabela, Edwin was again arrested. The receipt issued by Taguba was not honored by the court. They filed another bond so that Edwin could be released.

In October 2000, Edwin wrote letters about the incident to the Court Administrator and the Ombudsman.^[9] In January 2001, after receiving notices from the Ombudsman, Taguba talked to Edith and offered to return the money. His offer ranged from P15,000.00 to P25,000.00, but Edith refused.

On April 12, 2002, Taguba went to their house in Julia Street, San Jose City, and gave Edith P25,000.00. Edith accepted the money because she needed it for her operation. She asked her brother-in-law to have the money photocopied because Taguba might deny he gave the money.

Edith and Edwin, however, did not desist from pursuing the administrative charges they filed against Judge Rosete and Taguba. Soon after, Edwin started receiving death threats.^[10]

On the witness stand, the letter-complaint of Edwin Lacanilao was adopted as his direct testimony. He disclosed that after being indicted for reckless imprudence resulting to homicide and physical injuries, he posted a bond. However, a warrant of arrest was issued against him after his failure to attend a hearing. Judge Rosete

fixed the bail for his release in the amount of P32,000.00. He pleaded for reduction of bail and it was reduced to P15,000.00. He paid the amount of P15,000.00 to Taguba. During the trial of the case, the Philippine National Police (PNP) of Cordon, Isabela, wanted to arrest him in view of a warrant issued by Judge Rosete. He was surprised because he paid for his bond as shown by the receipt.

On cross-examination, Edwin testified that he prepared the letter-complaint and submitted it to Hon. Alfredo Benipayo.^[11] His cousin Emily Gabriel typed the letter in San Jose, Nueva Ecija.

He further testified on cross-examination that there were two (2) warrants of arrest issued against him by the Municipal Trial Court (MTC), Cordon, Isabela. The second warrant of arrest was issued because he failed to attend the hearing of the case. He posted a cash bond in the MTC, Santiago City, on April 8, 1997. His wife Edith was the one who handed the amount of P15,000.00 to Judge Rosete.

Upon the other hand, the defense anchored on denial was presented by respondent Judge himself.

In his defense, Judge Rosete testified that he is the presiding judge of MTCC, Branch 2, Santiago City. Complainant was an accused in a criminal case in the MTC of Cordon, Isabela, when Judge Rosete was the acting presiding judge there. He only came to know of the subject complaint when the OCA required him to file his comment to the letter-complaint.^[12]

Judge Rosete further declared that the allegations of Lacanilao are nothing but fabrications and lies. Lacanilao had three (3) different versions of the events: first, in the complaint, Lacanilao claimed that he gave the money to Taguba upon instruction of Judge Rosete; and second, in the supplemental affidavit,^[13] Lacanilao claimed that he personally gave Judge Rosete the amount of P15,000.00 by leaving it on top of the table in the chambers of MTCC, Cordon, Isabela, and that Judge Rosete pocketed the money.

According to Judge Rosete, he merely advised the spouses Lacanilao to proceed to Santiago City to secure a bail bond. According to respondent Judge, there was no bonding company operating in Cordon. He later learned that Taguba tried but failed to secure a bail bond for Edwin. The money given to Taguba was not sufficient. Taguba informed him that he returned the money to Lacanilao. He had no participation whatsoever in the acts complained of, except that he advised Lacanilao to go to Santiago City.

On cross-examination Judge Rosete said that it was unusual for Taguba who was only a process server to receive the money for the bail bond. He did not reprimand Taguba when he learned that the former accepted the sum of P15,000.00 from complainant.

The OCA found Judge Rosete guilty of grave misconduct for misappropriating said amount to the prejudice of complainant. In the same breath, the OCA found no basis to hold Taguba administratively liable. The pertinent portion of the OCA report and recommendation reads:

The fact is that Edith talked to respondent judge one (1) week before 08 April 1997 in connection with the warrant of arrest the latter issued for failure of the complainant to attend a hearing. Respondent judge told Edith that her husband should post another bond, that was why on 08 April 1997, accompanied by the complainant, she returned to MTCC, Santiago City and delivered the P15,000.00 to the former, but the receipt was signed by Taguba.

Complainant failed to prove that Taguba benefited from the P15,000.00 given to respondent Judge. There is no proof that Taguba conspired with respondent Judge in depriving complainant of the P15,000.00 which was only borrowed from a relative so that the arrest warrant issued can be recalled or set aside. While it appears on record that it was Taguba who talked to Edith and his mother and worked hard for the withdrawal of the complaint, it does not mean that he conspired with the respondent Judge in committing the illegal act. Obedience to an order does not mean concert of design. Conspiracy must be proved clearly and convincingly as the commission of the offense itself.

The P15,000.00 was delivered to the respondent Judge for the purpose of paying the premium for the surety bond of the complainant who was at that time had a standing warrant of arrest for failure to attend a hearing. The money, therefore, was received by the respondent Judge on commission. When no bond was secured for any reason, it was respondent Judge's obligation to return the same without demand.

Taguba gave Edith Lacanilao P25,000.00 in payment for the withdrawal of the complaint on 12 April 2002 in her residence in San Jose City. Edith Lacanilao's acceptance of the P25,000.00 which was more than what was given to respondent Judge after almost five (5) long years (from 08 April 1997) did not extinguish the latter's administrative and criminal liabilities. It did not also divest the Supreme Court of its jurisdiction over the case to determine whether respondent Judge is guilty or innocent of the charge. The return of the money, albeit belatedly may be considered a mitigating circumstance. "Court personnel, from the Presiding Judge to the lowest clerk, are required to conduct themselves always beyond reproach circumscribed with heavy burden of responsibility to free them from any suspicion that may taint the good image of the judiciary." In *Arturo v. Peralta and Larry de Guzman*, the Court ruled:

Employees of the judiciary should be living example of uprightness not only in the performance of their duties, but also in their personal dealings with other people, so as to preserve, at all times, the good name of the courts in the community. The administration of justice is a sacred task and by the very nature of their responsibilities, all those involved in it must faithfully to (*sic*) and hold inviolable the principle that public office is a public trust.

Respondent Judge tainted the image of the judiciary when he received the P15,000.00 and misappropriated it to the prejudice of the complainant. Under Section 8, Rule 140 of the Rules of Court, as