

## EN BANC

[ A.M. No. MTJ-04-1521, July 27, 2004 ]

**ROMEO B. ALMOJUELA, JR., COMPLAINANT, VS. JUDGE REVELINO M. RINGOR AND AMALIA L. DIRECTO, CLERK OF COURT, MUNICIPAL TRIAL COURT, BALAOAN, LA UNION, RESPONDENTS.**

### DECISION

#### YNARES-SANTIAGO, J.:

In a sworn complaint<sup>[1]</sup> dated November 12, 2003, Romeo B. Almojuela, Jr. charged Judge Revelino M. Ringor, Acting Presiding Judge, Municipal Trial Court, Balaoan, La Union with Grave Misconduct, Gross Ignorance of the Law, Dishonesty and Violation of Judicial Ethics, as well as his Clerk of Court, Amalia L. Directo, with Grave Misconduct and Dishonesty.

Complainant is one of the accused in Criminal Cases Nos. 4941, 4942 and 4943, all pending before respondent Judge.<sup>[2]</sup> He alleges that on November 12, 2002, the private offended party, Belinda Enriquez, executed a waiver<sup>[3]</sup> exculpating him from the charges. Thus, on January 2, 2003, complainant filed an Omnibus Motion in Criminal Case No. 4941 praying, among others, for the quashal of the complaint.<sup>[4]</sup>

At the hearing of the Omnibus Motion on January 8, 2003, neither the Chief of Police of Balaoan, La Union who filed the Criminal Complaints, nor Belinda Enriquez appeared to oppose the motion.

On January 15, 2003, respondent Judge issued an Order<sup>[5]</sup> granting complainant's motion to quash, reasoning thus:

[T]he move and request of accused thru counsel to be present at the preliminary investigation is no longer necessary in view of the WAIVER executed by complainant.

The Motion to Quash or dismiss the charges against accused Romeo B. Almojuela, Jr. is meritorious and in order, considering the execution by complainant of the WAIVER exculpating him of the charges.

The prayer of the accused thru counsel for quashal of the charge against accused Romeo B. Almojuela, Jr. is in order, hence, it is granted.

Let therefore accused Romeo B. Almojuela, Jr. be discharged and removed as accused in the above-mentioned case.

The PNP, Balaoan, La Union, meanwhile is ordered and directed to cause the criminal complaint to exclude accused Romeo B. Almojuela, Jr. from

the complaint.

Furnish a copy of this Order to accused and counsel and to the complainant for their information and guidance. xxx

Subsequently, on March 24, 2003, respondent Judge issued another Order, which reads in pertinent part:

Accused's counsel and mother before this case was set for preliminary examination were constantly following for the resolution of the Court on the pleadings filed re: the OMNIBUS MOTION and the counter affidavit of accused Romeo B. Almojuela, Jr. Because of their insistent follow ups, the Court has issued an Order dated January 15, 2003 acting on the pleadings filed. However, when the private complainant, Belinda Enriquez came to Court inquiring into the status of her case, she was informed of the alleged WAIVER she signed before the barangay officials of their place. She alleged that she was forced, coerced and threatened to sign the WAIVER and does not even know its content. So on this information given by the private complainant, on the Order dated January 15, 2003 which was issued and prepared by the Court, there was an instruction to the staff of the Court to withhold and not to be released the Order as it will be cancelled because of the allegation of the private complainant. The Court learned later that the said Order issued and prepared dated January 15, 2003 somewhat leaked or was furnished the accused, Romeo B. Almojuela, Jr. despite orders or instruction to the court's staff to withhold or not to release it.

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In the event that the Order dated January 15, 2003 issued and prepared by the Court leaked or was furnished accused Romeo B. Almojuela, Jr. despite instructions to the court's staff that it be withheld and not to be released as it will be cancelled, the said Order dated January 15, 2003 is now hereby ordered cancelled, annulled and reconsidered.

Furnish a copy each of this Order to the accused, Romeo B. Almojuela, Jr., his counsel Atty. Rolando S. Bala, the private complainant Belinda Enriquez and counsel Atty. Francisco R. Collado and to the Honorable Court Administrator, Supreme Court of the Philippines, Manila for their information and guidance.

SO ORDERED.<sup>[6]</sup>

Complainant avers that, as gleaned from the March 24, 2003 Order, respondent Judge privately communicated with Enriquez, during which she told him matters affecting the case. In doing so, he accorded undue consideration to her *ex parte* allegations regarding the execution of the waiver and, on the basis thereof, directed his staff to withhold the Order dated January 15, 2003.

Complainant further alleges that the March 24, 2003 Order was irregular because the private prosecutor's Opposition to Motion to Quash was filed after the said Motion had already been granted. Worse, herein complainant or his counsel was not

furnished copy of the said Opposition.

Complainant, moreover, claims that on February 21, 2003, respondent Judge conducted a preliminary investigation but did not propound searching questions to the private offended party regarding the circumstances surrounding the execution of the Waiver. Respondent Judge further manifested bias against herein complainant when he denied the latter's repeated requests to submit clarificatory questions to Belinda Enriquez.

Respondent Directo filed her Comment dated February 21, 2003,<sup>[7]</sup> wherein she declared that she did not receive any directive from respondent Judge to withhold the January 15, 2003 Order; that she released the Order as part of her ministerial functions; and that she had no official participation in the conduct of the preliminary investigation.

In his Comment dated June 23, 2003,<sup>[8]</sup> respondent Judge alleges that after he issued the Order dated January 15, 2003 granting the Motion to Quash, Belinda Enriquez inquired about the status of the case. When she learned that the complaint had been quashed on the basis of her waiver, she claimed that she was forced, coerced and threatened into signing the same by their Barangay Captain. She asserted that she was not even aware of its contents. Hence, respondent Judge instructed his staff not to release the Order dated January 15, 2003. However, despite such instruction, a copy of the said Order had been furnished the accused.

On March 24, 2003, respondent Judge issued an Order cancelling and annulling the Order of January 15, 2003. He contends that it was still within his authority to do so. Moreover, complainant could have filed a motion for reconsideration, but instead he chose to file an administrative complaint against him, a petition for certiorari and prohibition with the Regional Trial Court of Balaoan, La Union, and a Motion for Inhibition with the Municipal Trial Court of the same town.

Respondent Judge avers that the *ex parte* hearing referred to by complainant is actually the preliminary examination he conducted to determine probable cause, wherein defense counsel and complainant's mother were present.

The complaint was referred to the Office of the Court Administrator, which submitted its Report to this Court recommending dismissal of the administrative complaint against Amalia L. Directo, and imposition on respondent Judge of a fine in the amount of Ten Thousand Pesos (P10,000.00) for Gross Ignorance of the Law and Ten Thousand Pesos (P10,000.00) for Violation of Rule 10.03 of the Code of Professional Responsibility.<sup>[9]</sup>

Upon being required by this Court, both complainant<sup>[10]</sup> and respondent<sup>[11]</sup> manifested their willingness to submit the case for resolution on the basis of the pleadings filed.

There is no question that the Order of January 15, 2003 granting the Motion to Quash was issued prematurely by respondent Judge. The proper procedure should have been to summon the private offended party to ascertain whether she executed the waiver voluntarily.