

## EN BANC

[ A.M. No. MTJ 02-1444, July 20, 2004 ]

**JORDAN P. OKTUBRE, COMPLAINANT, VS. JUDGE RAMON P. VELASCO, MUNICIPAL TRIAL COURT, MAASIN, SOUTHERN LEYTE, RESPONDENT.**

### D E C I S I O N

#### PER CURIAM:

This is a complaint for Grave Misconduct, Abuse of Authority, Oppression, and Gross Ignorance of the Law filed by Jordan P. Oktubre ("complainant") against Judge Ramon P. Velasco ("respondent Judge") of the Municipal Trial Court, Maasin City, Southern Leyte ("MTC Maasin").

Complainant is the attorney-in-fact of one Peggy Louise D'Arcy vda. De Paler ("D'Arcy"), a non-resident American. D'Arcy is the widow of Abraham Paler ("Abraham"), a resident of Maasin City, Southern Leyte. Respondent Judge is Abraham's nephew.

During his lifetime, Abraham built a four-storey commercial and residential building ("Paler building") in Maasin City on a lot he owned in common with his siblings. After Abraham died, none of his heirs petitioned for the settlement of his estate. D'Arcy, through complainant, administered the Paler building. At the time material to this case, three tenants<sup>[1]</sup> occupied the Paler building with some rooms reserved for Abraham's relatives. While he had a room in the Paler building, complainant rarely used it as he stayed most of the time in Javier, Sogod, Southern Leyte. The tenants pay their rent to complainant.

Shortly after his appointment to the MTC Maasin in March 1998, respondent Judge, with D'Arcy's permission, stayed in the Paler building for a few days. He sought an extension of his stay but D'Arcy turned down his request since during her next visit to the country she would use the room respondent Judge then occupied. Nevertheless, respondent Judge was able to continue staying in the Paler building by transferring to a room reserved for a sister of Abraham.

Complainant alleges that D'Arcy's refusal to grant extension to respondent Judge's stay triggered the following series of events narrated in his Complaint:

6. In April 2000[,], Judge Velasco in a surprise move sent letters xxx to the tenants of the building in which he passed himself off as the administrator of the estate of Gaspar Paler [Abraham's father] and co-heir of Abraham Paler, and directed said tenants to deposit their monthly rentals to his office at [the] Municipal Trial Court (MTC) of Maasin City despite the fact that no action has been filed yet for that matter in court;

xxx

10. In August 2000[, ] Judge Velasco sent a strongly worded letter to Dr. [D'Arcy] with the very obvious purpose of intimidating the latter. The letter contains categorical declarations that he is taking over possession of the building, misrepresentation among others of Judge Velasco that he did it in collaboration with his other relatives, legal arguments, and mostly intimidating words coming from a Judge-Lawyer. Worse, he used his office's (MTC) letterhead [for] this personal but threatening 5-page letter xxx;

xxx

12. [On September 9, 2000], Judge Velasco without my knowledge and permission moved out from the garage [of the Palar building] the service jeep owned by Dr. [D'Arcy] and put it outside of the building causing it to be exposed to the sun and rain;

xxx

14. Worried about the vehicle, Dr. [D'Arcy] right away instructed me to return the vehicle (jeep) to the garage and to do something in such a way that it could not anymore be removed by Judge Velasco;
15. On September 15, 2000, I proceeded to Maasin City with the sole intention of having the vehicle returned to its rightful place. Upon arrival, I was thankful that Judge Velasco was then at Cebu City so that I could be able to return the jeep without fear of opposition by or confrontation with him. With the assistance of xxx two [others], I returned the vehicle to the garage and removed one of its wheels and placed it inside the computer room of the building;

xxx

17. On September 22, 2000, Judge Velasco destroyed the padlock of my room and changed it with another one including the second floor entrance padlock to the third floor with the precise purpose of controlling the ingress and egress of the said building;<sup>[2]</sup>

On 28 September 2000, complainant filed a complaint against respondent Judge with the *Punong* Barangay of Abgao, Maasin City. Complainant charged respondent Judge for changing the lock of his room and of the door leading to the third floor of the Palar building. Complainant also charged respondent Judge for taking the jeep out of the garage of the Palar building. On 2 October 2000, complainant and respondent Judge met at the Office of *Punong* Barangay of Abgao for mediation but there was no settlement as respondent Judge questioned complainant's residency in Abgao. Complainant described what transpired after the meeting thus:

20. xxx After the hearing, a police officer approached and informed me that the chief of Police of Maasin City wanted to talk to me. As expected [of] every law-abiding citizen, I went with them [to] the

Police Station. Thereat, the Chief of Police confronted me with a warrant of [a]rrest. The warrant and the supporting documents show[ed] that I was charged with Robbery in relation to the wheel I removed [from the jeep] and it was issued/signed by Judge Velasco. While still [in a] state of shock because of this malicious prosecution, the police authorities placed me behind bars;

21. That upon further examination of the complaint docketed as Criminal Case No. 5485 of [the MTC Maasin] as well as the attached document thereto, it was found out to the surprise of everyone that the complaint of Robbery filed by the Chief of Police was supported by the sole affidavit dated September 29, 2000 of a witness in the person of no other than Judge Ramon Velasco himself, xxx;
22. That I was locked up in jail for about six (6) hours before I was able to put up a cash bond of P24,000.00 before the RTC, Br. 25, Maasin City. As I was about to be released in the afternoon of the same day, a subpoena was served at me in the City Jail which required me to file my counter-affidavit to the complaint [for Robbery] xxx;
23. That on October 16, 2000, I received another Order dated October 4, 2000 issued by the respondent [J]udge directing me to submit [a] counter-affidavit in another case [for] Malicious Mischief docketed as Crim. Case No. R-5486 of [MTC Maasin]. The Complaint xxx was supported by the same and only affidavit of Judge Velasco dated September 29, 2000 which he used in the aforecited criminal Complaint of Robbery xxx;
24. That about the first week of November 2000, I received another subpoena dated October 23, 2000 issued by Judge Velasco. This time a Criminal Case of Falsification by Private Individuals and Use of Falsified Documents was filed against Dr. [D'Arcy], my principal. The Complaint docketed as Criminal Case No. 5493 of [MTC Maasin], was supported by xxx yet [another] xxx affidavit of Judge Velasco xxx dated October 18, 2000 xxx;<sup>[3]</sup>

Complainant sought to annul the warrant of arrest in Criminal Case No. 5485 by filing a petition for certiorari in the Regional Trial Court ("RTC"), Branch 25, Maasin City. The RTC granted the petition and annulled the warrant in its Order of 7 December 2000.<sup>[4]</sup>

Because of these events, complainant filed this complaint on 18 January 2001. Complainant prays that the Court discipline respondent Judge for using his sala's letterhead, for his failure to inhibit himself from his own criminal complaints, and for his issuance of the warrant of arrest in Criminal Case No. 5485.

In his Comment dated 18 April 2001, respondent Judge admitted doing the acts complainant recounted about the Paler building, its tenants, and D'Arcy's jeep. Respondent Judge claimed, however, that he merely acted to protect his maternal co-heirs' interest in the Paler building and in the other properties claimed by D'Arcy.

Respondent Judge also stated the following qualifications: (1) he changed the padlock of the grill door leading to the third floor as this was already "worn-out"; (2)

he had to open forcibly complainant's room to clean it as it was already "stinking"; (3) he temporarily transferred the jeep out of the Paler building because the garage had to be cleaned; and (4) he sent the demand letters to the Paler building's tenants based on Rule 73<sup>[5]</sup> of the Rules of Court. Respondent Judge added that complainant illegally destroyed the lock of the garage gate when he returned the jeep.<sup>[6]</sup>

On his filing and taking cognizance of his own complaints for Robbery, Malicious Mischief, and Falsification and Use of Falsified Documents, respondent Judge alleges:

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That construing the actuation of the complainant [in filing the complaints before the Barangay Captain] to be deliberate in defiance of my order and utmost disrespect of my person and my official capacity [sic] and to vindicate my name, honor and reputation, and evident infractions of our penal laws, I filed the criminal complaint for ROBBERY against the private complainant Jordan Oktubre and docketed as Crim. Case No. 5485 and another criminal complaint for MALICIOUS MISCHIEF docketed as Crim. Case No. R-5486 xxx;

P-LIX

That the xxx institution of the criminal complaint for Robbery was not a malicious suit as it was anchored on facts as conveyed and attested by [witnesses] and the corpus delicti of the crime of Robbery and Malicious Mischief are established as shown by the destroyed garage padlock and the fact of loss of the right wheel rim and tire of the jeep;

P-LX

It is further qualified admitted [sic] that the institution of the suit against the private complainant Jordan Oktubre was by way of protecting the interest of my co-heirs and to enforce the law as my judicial mandate dictates;

P-LXI

That it is likewise admitted that another criminal case for FALSIFICATION OF DOCUMENT BY PRIVATE INDIVIDUALS AND USE OF FALSIFIED DOCUMENT was filed against the principal of Jordan P. Oktubre in the person of Dr. Peggy D'Arcy Paler and docketed as Crim. Case No. R-5493 on the basis of the unearthed evidently fraudulent and deliberate act of falsification by non-disclosure of a material fact relative to her citizenship, she being an American citizen, on her Affidavit of Sole Adjudication xxx;

P-LXII

That after proper evaluation of the Complaint for Robbery against complainant Jordan P. Oktubre and referral to jurisprudence on this matter, particularly the cited cases of PP. vs. Abapo, 239 SCRA 373,

Webb vs. De Leon, et al., GR 121234, 63 SCAD 196, in utmost good faith, with the end in view of dispensation of justice expeditiously [sic] and not to frustrate the ends of justice and finding probable cause thereof for the issuance of a Warrant of Arrest, [I] verily issued the Warrant of Arrest against complainant Jordan Oktubre;

P-LXIII

That it is further admitted that the Court [in the complaint for Robbery] issued a subpoena to the complainant to submit his counter-affidavit and other controverting evidences pursuant to Rule 112, Sec. 3, Rules of Court xxx;<sup>[7]</sup>

Respondent Judge inhibited himself from the three criminal cases in his Orders of 4, 6, and 25 October 2000.

In its Report ("Report") dated 13 March 2002, the Office of the Court Administrator ("OCA") recommends that respondent Judge be fined ₱10,000 for Grave Misconduct, Gross Ignorance of the Law and Grave Abuse of Authority. The Report reads:

The records of this case show that complainant Mr. Jordan Oktubre was arrested and detained pursuant to a Warrant of Arrest xxx and a Commitment Order xxx issued by the respondent [J]udge, the basis for which is a Criminal Complaint for Robbery supported by an affidavit executed by the respondent Judge Ramon Velasco. Also, in Criminal Case No. 5486 for "Malicious Mischief", records show that the complaint is supported by [the] lone affidavit of Judge Ramon Velasco xxx and in an Order marked Annex "I", accused Jordan Oktubre was directed to submit his counter-affidavit by the respondent.

Aggrieved by the issuance of respondent [J]udge [of the warrant of arrest], herein complainant elevated the matter to the Regional Trial Court, Branch 25, Maasin, Southern Leyte via "Certiorari and/or Prohibition with Application for Temporary Restraining Order and Writ of Preliminary Injunction". The RTC in its Order dated December 7, 2000 xxx ruled that "respondent [J]udge in issuing a warrant of arrest violative of [Rule 112, Sec. 6, par. 2 of the Rules of Court] may not only be committing grave abuse of discretion but gross ignorance of the law xxx". Consequently, the warrant of arrest was declared null and void.

Considering that respondent [J]udge is the complainant o[f] the cases, his issuance of the warrant of arrest is in violation of Sec. 6, Rule 112 of the Rules of Court and Sec. 37 of the Judiciary Act of 1980. Having resorted to such act, he acted as the private complainant, xxx judge and executioner.

It was also noted that in [the] letters xxx sent to the tenants of the Paler Building and to Dr. [D'Arcy], respondent [Judge] used the letter head of his Office "Municipal Trial Court of Maasin, Southern Leyte" and signed the same as its Presiding Judge. This to our mind, constitutes undue influence.<sup>[8]</sup>