

## FIRST DIVISION

**[ A.M. No. RTJ-03-1786 (Formerly OCA IPI No. 99-854-RTJ), August 28, 2003 ]**

**ALFREDO Y. CHU, COMPLAINANT, VS. JUDGE CAMILO E. TAMIN,  
PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 23,  
NINTH JUDICIAL REGION, MOLAVE, ZAMBOANGA DEL SUR,  
RESPONDENT.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This is a complaint for gross ignorance of the law, serious misconduct, and grave abuse of discretion filed by Alfredo Y. Chu ("complainant") against Judge Camilo E. Tamin ("respondent judge") of the Regional Trial Court, Branch 23, Molave, Zamboanga del Sur ("Branch 23").

#### The Facts

Complainant alleged that on 9 September 1999, Community Environment and Natural Resources Officer Michael F. dela Cruz ("CENRO dela Cruz") of the Department of Environment and Natural Resources, Region IX, applied for a search warrant with respondent judge. CENRO dela Cruz claimed that complainant was in possession of "forest products of dubious origin" in violation of Section 68 of Presidential Decree No. 705<sup>[1]</sup> ("PD 705"), as amended. On the same day, respondent judge issued Search Warrant No. 364 ordering the seizure of several pieces of mangrove lumber from complainant's fishpond in Bulawan, Payao, Zamboanga del Sur. On the strength of the warrant, CENRO dela Cruz, assisted by law enforcement agents, seized from complainant 576 pieces of *pagatpat* lumber (mangrove specie) with an estimated value of P183,790.

On 22 September 1999, complainant obtained from Branch 23 a copy of the complete records of the issuance of Search Warrant No. 364, as certified by Branch Clerk of Court Ma. Asuncion Pabatao-Lumapas ("Clerk of Court Lumapas"). On 24 September 1999, complainant again obtained, for the second time, a copy of the complete records of the case, also certified by Clerk of Court Lumapas. These certified copies did not contain any transcript of respondent judge's examination of CENRO dela Cruz or his witnesses as required under Section 4, Rule 126 of the Revised Rules of Criminal Procedure. Thus, complainant filed this administrative complaint.

Complainant pointed out that this was the fifth time that respondent judge issued, under questionable procedure, search warrants against him for violation of PD 705. Complainant recalled that on 10 November 1998, respondent judge issued four

search warrants against him (Search Warrant Nos. 281 to 284), authorizing the seizure from his compound of *pagatpat* lumber worth more than P1.5 million. Complainant alleged that the records of the four warrants did not also contain any transcript of the required examination of witnesses. Complainant therefore moved to quash the four warrants. Respondent judge, however, denied the motion on the ground that he had in fact conducted such examination but the record of the "deposition" was "misfiled in another case folder through inadvertence."<sup>[2]</sup>

In response to the directive of the Office of the Court Administrator ("OCA") of this Court to comment on the complaint, respondent judge, in his Second Indorsement ("Indorsement") dated 16 December 1999, denied complainant's allegations. Respondent judge asserted that at around 1:15 p.m. of 9 September 1999, he personally examined a certain Reynaldo Cuaresma ("Cuaresma"), allegedly a witness of CENRO dela Cruz, before issuing the warrant in question. He claimed that a transcript of the examination was included in the records of Search Warrant No. 364. However, he forwarded the records to the OCA on 30 September 1999 in connection with his request for the transfer of the case to the RTC, Branch 24, in Ipil, Zamboanga del Sur ("Branch 24"). In lieu of the original copy, respondent judge attached to his Indorsement an alleged computer printout of the transcript, claiming that the time and date of its encoding was verifiable in the computer files in his office.

Due to the conflicting factual allegations of the parties, the Court directed the Executive Judge of the RTC of Pagadian City, Zamboanga del Sur to: (1) verify from Branch 23 whether respondent judge examined any witness before issuing Search Warrant No. 364; and (2) secure from Clerk of Court Lumapas her explanation on the apparent discrepancy between the copy of the records of Search Warrant No. 364, as forwarded by respondent judge to the OCA and as obtained by complainant.

In his Report, dated 30 July 2001, RTC Pagadian City Executive Judge Franklyn A. Villegas ("Executive Judge Villegas") stated that he verified the records of Search Warrant No. 364 in Branch 23. He found on page 5 of the records a copy of the transcript of the examination conducted by respondent judge on one Reynaldo Cuaresma. He attached in his report the explanations of respondent judge and Clerk of Court Lumapas.<sup>[3]</sup>

In his explanation, dated 11 July 2001, respondent judge reiterated the claim he made in his Indorsement of 16 December 1999 that he examined a certain Reynaldo Cuaresma before issuing Search Warrant No. 364. He explained that the records of the case contained a copy of the transcript of the examination. However, respondent judge alleged, for the first time, that the legal researcher in his office who prepared the duplicate copy issued to complainant on 22 September 1999 failed, through "pure inadvertence," to recopy such transcript. Respondent judge attributed such omission to the fact that at that time, the pages of the records were not yet "physically paged." He claimed that the pages were numbered only upon preparation of the records for transmittal to Branch 24 the following week. He further asserted that the copy of the transcript in question was numbered page 5. Branch 24, however, refused to accept the referral of the case. Thus, respondent judge forwarded the records to the OCA with a request for their transmittal to Branch 24. The OCA later returned the records to respondent judge as their proper custodian.<sup>[4]</sup>

Clerk of Court Lumapas affirmed respondent judge's claims and defenses in her explanation dated 11 July 2001.<sup>[5]</sup>

In the Resolution of 10 September 2001, the Court referred this case to the OCA for evaluation, report, and recommendation.

### **OCA's Findings and Conclusions**

In its Report dated 10 December 2002, the OCA found respondent judge liable for gross ignorance of the law and recommended the imposition of a P5,000 fine. The Report reads in part:

Respondent judge stands firm on his claim that he conducted searching questions on Reynaldo Charesma [sic]. We find this claim highly suspect. First, the respondent judge [initially] failed to produce a copy of the transcript of the searching questions allegedly made on September 9, 1999 and append the same to the record of the case. x x x x The transcript of the searching questions was, in fact, produced [only] after the filing of the instant complaint. Further, it was noted that during the hearing of [complainant's motion to quash Search Warrant] Nos. 281, 282, 283 and 28<sup>[4]</sup> taken on 21 January 1999 at 9:30 a.m.[,] respondent judge apparently believes that searching questions need not be in writing. This is borne by the following exchange during the said hearing:

Atty. R. Rambuyong [Counsel for complainant Alfredo Chu]:

In other words Your Honor, they would not admit that the accused received copies?

Court:

Is there a rule that the searching question must be in writing?

Atty. R. Rambuyong:

From the Case of HATA versus BAYONA, Your Honor, the Supreme Court has required. As a matter of fact, I cited that in my supplemental motion and the Court said that, "mere affidavits of the complainant and his witnesses is not enough. There must be the deposition in writing, and under oath of the complainants and his witnesses; and searching questions should be propounded by the examining Judge." As a matter of fact, there have been several decisions of the Supreme Court to the effect that mere ceremonial searching questions and answers reiterating the contents of the affidavits will not be sufficient compliance [there] with.

x x x x.

From the foregoing, it can be concluded that respondent judge either did not conduct the required searching questions, or if he did, he did not put