

FIRST DIVISION

[A.M. No. RTJ-03-1808, October 15, 2003]

**RADELIA SY AND ERWIN CATO, COMPLAINANTS, VS. HON.
JUDGE ANTONIO FINEZA, PRESIDING JUDGE, RTC-BRANCH 131,
CALOOCAN CITY, RESPONDENT.**

D E C I S I O N

AZCUNA, J.:

A verified complaint^[1] dated May 22, 2001 was filed by Radelia C. Sy with the Office of the Court Administrator, charging the Presiding Judge of the Regional Trial Court of Caloocan City (Branch 131), Judge Antonio J. Fineza, of bribery, grave misconduct, conduct unbecoming of a judge and conduct prejudicial to the best interest of the service. Complainant Sy is the accused in Criminal Case No. C-53098 for *estafa* pending before Judge Fineza. According to complainant Sy, Judge Fineza exerted undue and improper pressure on her by offering to dismiss the *estafa* case in exchange for P300,000. Otherwise, he threatened to convict complainant Sy of *estafa* regardless of her innocence.

Complainant Sy declared that she delivered money to Judge Fineza six times on separate occasions. The first payment occurred on March 22, 2000, inside Steak Town Restaurant in West Avenue, Quezon City, wherein she handed over cash worth P30,000 to Judge Fineza in the presence of her lawyer, Atty. Petronilo dela Cruz and a legal researcher named Robert Cheng. The second payment took place during the first week of May 2000, this time inside Judge Fineza's chambers, where she gave P20,000. The third time was later that same week, while inside Steak Town Restaurant, where she gave P30,000 to Judge Fineza in the presence of Atty. dela Cruz, Mr. Cheng and a certain Cristy Yambao. Again in the same restaurant, for the fourth time, on or about May 19, 2000, she delivered P25,000 to Judge Fineza, as witnessed by Atty. dela Cruz, Mr. Cheng and a certain Erwin Cato. The fifth delivery occurred in the month of June 2000, through Atty. dela Cruz, who advanced the amount of P50,000, which she later reimbursed. The sixth handover took place on July 20, 2000 inside Barrio Fiesta Restaurant in Edsa, where she delivered P100,000 to Judge Fineza in the presence of Mr. Cheng.

Complainant Sy claimed that when she was unable to complete the remaining balance, Judge Fineza began harassing her. One instance of harassment she described was when Judge Fineza cited her for direct contempt on December 8, 2000. Complainant Sy recounted that after the hearing of December 8, 2000, Judge Fineza inquired if she had renewed her bail bond, in response to which complainant Sy showed a receipt issued by one Evelyn delos Santos of Pacific Union Insurance Company. Judge Fineza then directed his branch clerk of court to verify the authenticity of the receipt. In the meantime, complainant Sy was told not to leave the court room. However, complainant Sy decided to fetch Evelyn delos Santos, who was just minutes away, to attest personally to the authenticity of the bond receipt.

Upon returning with Ms. delos Santos, complainant Sy learned that Judge Fineza had cited her in contempt and had ordered her arrest for having left the court room against his instructions. Complainant Sy moved to reconsider the arrest order contending that she merely left to fetch the agent of the bonding company to manifest in person the authenticity of the bail bond. Despite the explanation, the motion was denied.

As the first order failed to mention the exact penalty imposed upon complainant Sy for contempt, Judge Fineza issued an amended arrest order directing that she be imprisoned for five days and fined in the amount of P5,000. Then on March 29, 2001, just when complainant Sy was about to finish serving her sentence for contempt, Judge Fineza increased the bail of complainant Sy from P200,000 to P1,000,000.

A second verified complaint^[2] dated July 3, 2001 was jointly filed by complainant Sy and Erwin Cato charging Judge Fineza with abuse of authority, grave misconduct and oppression. The second complaint alleged that during the hearing of complainant Sy's *estafa* case on May 21, 2001, Judge Fineza shouted the following remarks in open court:

Yan si Atty. dela Cruz, ilong lang ang walang sakit.

xxx xxx xxx

Sobra na! Abusado ang mga lawyers mo!

xxx xxx xxx

Sinungaling ka binastos mo ang Court, hindi ako ang binastos mo! Sinungaling ka!

xxx xxx xxx

O! Bumaba na ang decision sa Court of Appeals, Dismissed na! Ano pa? Ano pa? Ang (sic) susunod na ipapa-file mo? O! Sige nakahanda ako.

The second complaint further alleged that on May 23, 2001 complainant Sy's counsel in other cases, Atty. Jubay, had relayed to her that Judge Fineza warned him that morning during a hearing that she had not been paying her other lawyers. Judge Fineza added that complainant Sy had been threatening to file a case against the former, and warned that if she does so, "she could no longer appear or set foot in Caloocan City." This eventually led to the withdrawal of Atty. Jubay as complainant Sy's counsel.

The second complaint also alleged that complainant Cato was likewise harassed by Judge Fineza. As stated therein, in the morning of June 26, 2001, while waiting at the hallway, Judge Fineza came out from his office, pointed a finger at him and shouted: "*Ikaw, sinungaling ka! Gumawa ka pa ng affidavit!*" then gave him a dagger look.

Judge Fineza denies the allegations contained in the two complaints. He argues that the circumstances under which the bribes were allegedly given to him are too

incredible and preposterous to be believed. He admits having increased the bail bond from P200,000 to P1,000,000 but claims that this was done well within the performance of his official duty. As for the second complaint, Judge Fineza denies having uttered such remarks in open court and presented the affidavits of two of his court employees in support of his denial. He admits having chanced upon complainant Cato in the hallway on June 26, 2001 and having called him "*sinungaling*" for executing a false affidavit, but he denies shouting at him, or pointing a finger or throwing dagger looks at him.

On March 13, 2002, Deputy Court Administrator Christopher O. Lock filed his report^[3] and recommended that the case be referred to an Associate Justice of the Court of Appeals for investigation, report and recommendation. The Court in a resolution^[4] dated June 5, 2002 referred the case to Associate Justice Eugenio S. Labitoria.

During the hearing of the case before the investigating Justice, both parties agreed to forego with the reception of evidence.^[5] They submitted instead position papers, attaching documentary evidence and the affidavits of witnesses. In accordance with the agreement, complainants Sy and Cato filed their memorandum^[6] on November 26, 2002. Judge Fineza filed his Reply^[7] thereto on January 14, 2003. A Rejoinder^[8] was filed by complainants Sy and Cato on February 12, 2003 which was answered by Judge Fineza with his own Rejoinder on February 27, 2003.

After assessing the pleadings and memoranda filed, along with the documents and affidavits attached, the investigating Justice saw no merit in the charge of bribery but found Judge Fineza guilty of simple misconduct. He, therefore, recommended that Judge Fineza be reprimanded and fined one month's salary. The pertinent portions of Associate Justice Labitoria's Report state, as follows:

1. The complaint for bribery must fail.

The undersigned gives scant consideration on the complaint for bribery. As found by the Supreme Court, bribery is easy to concoct and difficult to disprove, thus complainant must present a panoply of evidence in support of such an accusation. Complainant herein has only her friends to support her claims who would naturally testify in her favor. Again, following the ruling in Calimag case (id), the Supreme Court said -

"x x x In order that the allegation of a charge of this nature may not be considered a fairy tale, evidence other than the doubtful and questionable verbal testimony of a lone witness should be adduced. Entrapment should have been pursued. Evidence of a reasonable report to police authorities should be presented. Record of where the bribe money came from, its specific denominations and the manner respondent accepted and disposed of it should have been clearly shown."

Complainant has not shown any of the above, except the affidavits of her friends, who are expected to side with her.

However, respondent Judge's acts of harassing the complainant by citing her in contempt of court for a very trivial reason; putting her in prison

and ordering her to pay fine of P5,000; raising the bail from P200,000.00 to P1,000,000.00; are clearly acts which show abuse of authority.

A reading of respondent Judge's Order of December 8, 2000 shows that the reason for the issuance of the Order of Arrest was complainant's leaving the court room while her official receipt for the renewal of her bailbond was being verified. Respondent Judge did not even care to listen to the explanation of one Evelyn delos Santos, the agent of the insurance company, who personally went to him to explain and confirm the authenticity of the official receipt, which if he only did he would be more humane, benevolent, just and fair. Even the urgent motion for reconsideration of said Order of December 8, 2000 filed by complainant, attaching therewith the renewed bailbond and affidavit of said Evelyn delos Santos was never taken into consideration.

In respondent's haste in issuing the Order of Arrest, he failed to state the penalty for allegedly defying the order of the former, and the manner by which complainant would serve the penalty. It was only corrected when respondent issued an Order on January 24, 2001 denying the motion to suspend the execution of the Order of Arrest earlier issued and issuing an Amended Order of Arrest.

On the issue of raising the bailbond from P200,000.00 to an unconscionable and excessive P1,000,000.00 without hearing therefore, at the time when complainant was about to be released from detention due to her 5-day imprisonment on the contempt order, the same is motivated by malice and bad faith and constitutes misconduct. It is emphasized that "excessive bail shall not be required."

Respondent [relies] on -

1. the amount involved in the Estafa case is as big as P4,600,000.00;
2. Radelia Sy had tried to mislead the Court that she had renewed her bailbond by presenting a fake receipt;
3. Radelia Sy had jumped bail and remained in hiding from December 8, 2000 until her arrest on March 27, 2001 and thus the presence of the risk of her jumping bail again,

for increasing complainant's bailbond. The first reason is not among the guidelines set forth by the Revised Penal Code on Criminal Procedure. No. 2 reason has been sufficiently explained and respondent's opinion of "fake receipt" had been aptly refuted and contested by the agent of the insurance company. There was no showing that complainant jumped bail. The date December 8, 2000 was the date of the issuance of the contempt order and order of arrest. From said date up to March 27, 2001, was the period when complainant was trying to move for the reconsideration of the aforesaid arrest order and the putting up of the increased bailbond. Undersigned could not find any reason why respondent would resort to