

## SECOND DIVISION

[ A.M. No. MTJ-02-1419, December 27, 2002 ]

**EDUARDO M. MARTINEZ, SR. AND RUPERTO G. MARCELO,  
COMPLAINANTS, VS. JUDGE ORLANDO C. PAGUIO, MTC, BRANCH  
1, MEYCAUAYAN, BULACAN, RESPONDENT.**

### D E C I S I O N

#### **CALLEJO, SR., J.:**

The Meralco Village Homeowners Association, Inc. (MVHAI) is composed of employees of the Meralco Electric Company residing in Meralco Village Phase I, a residential subdivision located in Lias, Marilao, Bulacan. The MVHAI was the donee of a vacant lot located in the periphery of Meycauayan, Bulacan and adjacent to Marilao, Bulacan, identified as Lot 22, Block 16. The said lot has an area of 7,504 square meters and is covered by Transfer Certificate of Title No. 225920. The MVHAI used the said lot for basketball games of the homeowners and their dependents and for other sports activities. The MVHAI since then paid the realty taxes thereon. Among the members of the MVHAI were Ruperto Marcelo and his wife Lucita Marcelo, an Assistant Provincial Prosecutor, and Engineer Eduardo Martinez, Sr.

On April 10, 1998, at about 2:00 p.m., Bernabe Antonio, his sister Lita Antonio and others caused the construction of a barbed wire and coco lumber perimeter fence on a portion of the lot. Martinez had the incident recorded in the Meycauayan Police Station blotter. Antonio and his sister continued the construction in the morning of the next day. Martinez again reported the incident to the police authorities. The MVHAI secured a certification from the municipal engineer that there was no building permit for the construction of the fence. On April 14, 1999, Martinez, in behalf of MVHAI, filed a criminal complaint, docketed as I.S. No. 99-1454, against Bernabe Antonio, Lita Antonio, Ric Faustino and Danilo Corteza for violation of Republic Act No. 7279 with the Office of the Provincial Prosecutor of Bulacan.

On April 22, 1999, the homeowners circulated open letters calling the attention of the police authorities and other municipal officials to and complaining against the incursion of Bernabe Antonio, his sister and others into the lot. Obtaining no immediate relief from the police authorities and municipal officials, the homeowners gathered together on May 6, 1999, at around 4:00 p.m., and confronted Antonio. They demanded that he demolish his perimeter fence. Antonio refused, claiming that he inherited the property where he constructed the fence from his deceased grandfather, Ceferino Antonio. Forthwith, the homeowners themselves demolished the fence. Antonio reported the incident to the police authorities and on May 10, 1999, he executed a sworn statement complaining against Martinez, Marcelo and the other homeowners for the demolition of his perimeter fence. On the same day, a criminal complaint for malicious mischief was filed by Antonio with the Municipal Trial Court (MTC) of Meycauayan, Bulacan presided by Judge Orlando C. Paguio. The case was entitled *People vs. Eduardo Martinez, Sr., et al.* and docketed as Criminal Case No. 99-28365. The complaint therein reads:

"That on the 6th day of May 1999, at around 4:00 o'clock in the afternoon more or less in Brgy. Pandayan, Municipality of Meycauayan, Province of Bulacan, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused by conspiring, confederating and mutually helping one another, motivated by anger, with deliberate intent to cause damage, did then and there willfully, unlawfully and feloniously strike and destroy the house and barb wire owned by one CEFERINO ANTONIO represented by BERNABE ANTONIO Y JURADO, which cause damages to said house and barb wire in the amount of ONE HUNDRED THOUSAND PESOS (P100,000.00) Philippine Currency, to the damage and prejudice of the undersigned complainant on the aforesaid amount."<sup>[1]</sup>

The preliminary examination was set on June 2, 1999 but was reset to June 25, 1999 at 9:00 a.m. However, before the examination commenced, Marcelo filed a motion for inhibition alleging *inter alia* that, on several occasions, Judge Paguio commented that the accused before the MTC took the law unto their hands when the perimeter fence of Antonio was demolished causing damage to the latter. Martinez joined the motion of Marcelo for the inhibition of Judge Paguio.

On June 3, 1999, the provincial prosecutor of Bulacan issued a Resolution in I.S. No. 99-1454 finding probable cause against Bernardo Antonio, *et al.* for violation of Republic Act 7279 and filed an Information against respondents therein with the MTC of Meycauayan, Bulacan presided by Judge Paguio for said crime. The case was docketed as Criminal Case No. 99-52953.

On September 15, 1999, Judge Paguio issued an Order denying the motion for inhibition filed by Marcelo and Martinez in Criminal Case No. 99-28365. He denied having declared during the proceedings on June 2, 1999 that Martinez, Marcelo and the other homeowners took the law unto their own hands. Judge Paguio set the arraignment and pre-trial on September 23, 1999 at 8:00 a.m. On September 21, 1999, subpoenae were issued by the clerk of court for the arraignment of Marcelo and Martinez and for pre-trial. Marcelo and Martinez received their copies of the subpoenae only in the afternoon of September 22, 1999.

The case was called on September 23, 1999 for the arraignment of Martinez and Marcelo. Martinez appeared without counsel and explained to the court that because he received the subpoena only in the afternoon of the previous day, he was unable to contact his counsel. Assistant Provincial Prosecutor Lucita Marcelo made a special appearance for her husband Marcelo, praying that the arraignment of the accused be cancelled. She insisted that in her copy of the court calendar of cases for the day, Criminal Case No. 99-28365 was not included. The judge denied the motion for a resetting but allowed Assistant Provincial Prosecutor Marcelo to assist her husband during his arraignment and appointed a counsel *de officio* for Martinez. The two (2) were arraigned and entered a plea of not guilty. The court then called the case for pre-trial but Martinez and Marcelo prayed for a continuance to enable them to contact their respective counsels.

In the meantime, Martinez and Marcelo filed a petition for injunction with the Regional Trial Court (RTC) of Bulacan, entitled *Eduardo Martinez, Sr., et al. vs. Hon. Orlando C. Paguio, et al.* and docketed as Civil Case No. 08-M-2000. They sought to enjoin Judge Paguio from further taking cognizance of Criminal Case No. 99-28365. However, on January 31, 2000, Martinez and Marcelo filed a notice of withdrawal of

petition. The RTC issued an order on the same date, dismissing the petition conformably with Section 3, Rule 17 of the 1997 Rules of Civil Procedure.

In February 2000, the MVHAI filed a complaint against Antonio and the Estate of Ceferino Antonio, docketed as Civil Case No. 89-M-2000, for quieting of title with the RTC of Bulacan, praying that after due proceedings judgment be rendered in their favor as follows:

**"WHEREFORE**, premises considered, it is respectfully prayed that the Honorable Court renders judgment:

1. Quieting the title or removing the cloud over the title or interest of the plaintiff over property covered by TCT No. T-225920 and the Deed of Donation dated April 29, 1997.
2. Ordering the defendants to pay to the plaintiff the sum of:
  - 2.1 P320,000.00 by way of actual compensatory damages;
  - 2.2 P100,000.00 by way of exemplary damages;
  - 2.3 P100,000.00 by way of attorney's fees and P1,000.00 per appearance as appearance fee.
3. Granting such other relief as may be just and equitable."<sup>[2]</sup>

Martinez and Marcelo forthwith filed a motion to suspend proceedings in Criminal Case No. 99-28365 on the ground of a prejudicial question in Civil Case No. 89-M-2000.

During the proceedings in Criminal Case No. 99-28365 before Judge Paguio on March 2, 2000, the private prosecutor manifested to the court that accused Martinez and Marcelo had not yet posted any bail bond and prayed that the court fix the bail bond for each of the said accused. On the same date, the court issued an order fixing the bail bond at P10,000.00 each for Martinez and Marcelo and gave them until 12:00 noon on said date to post their respective bonds. The judge also issued an addendum order denying the motion to suspend proceedings filed by Martinez and Marcelo and setting the trial of the case on its merits on March 23 and 30, 2000. When Martinez and Marcelo failed to post their bail bonds, the court issued a warrant for their arrest. On March 3, 2000, Martinez and Marcelo filed a motion for the reconsideration of the March 2, 2000 Order of the MTC and for the quashal of the warrant of arrest issued by said court. They contended that the imposable penalty for the crime is *arresto mayor* in its medium and maximum period and hence there was no need for them to post bail bonds. Moreover, under the Rules on Summary Procedure and Republic Act 6036, they were not required to post bail.

On April 15, 2000, Martinez and Marcelo filed an administrative complaint against Judge Paguio with the Office of the Court Administrator (OCA), docketed as A.M. MTJ-02-1419, charging him with gross ignorance of the law, grave abuse of authority and gross partiality, alleging *inter alia* that:

- (a) Instead of requiring Antonio to establish a *prima facie* case against Martinez and Marcelo for malicious mischief as required by the Rules on Summary Procedure, the Judge required them to refute Antonio's baseless claim of ownership over the property;