

EN BANC

[A.M. No. RTJ-00-1530 (Formerly OCA IPI No. 99-725-RTJ), March 14, 2001]

**DR. EDGARDO ALDAY, MERCEDES FAVIS, MARNA VILLAFUERTE,
AND CHRISTOPHER GARCIA, COMPLAINANTS, VS. JUDGE
ESCOLASTICO U. CRUZ, JR., BRANCH 58, REGIONAL TRIAL
COURT, MAKATI CITY, RESPONDENT.**

DECISION

QUISUMBING, J.:

Complainants seek the dismissal of respondent judge allegedly for threatening them with a gun during a traffic incident.

In their verified complaint,^[1] complainants alleged that on May 6, 1999, the van they were riding was about to exit the Cityland Condominium at Pioneer St., Mandaluyong City. When they reached the entrance/exit ramp, respondent arrived in his car and blocked the ramp. As a result, neither vehicle could move. Respondent alighted from his car and went over to the van. He shouted "*Putang ina ninyo, anong gusto ninyo mangyari?*," while brandishing a gun and pointing it at the occupants of the van.

On June 14, 1999, the OCA required respondent to comment.^[2] Respondent admitted that there was a traffic altercation. However, he claimed that it was complainants' van which blocked the ramp. He said that he merely alighted from his car to vent his ire at the inept security guard who did not even help them untangle the traffic snarl. He categorically denied any gun-poking incident.

The complaint was re-docketed as a regular administrative matter and referred to Office of the Court Administrator Consultant, Justice Romulo S. Quimbo, for investigation, report and recommendation.^[3]

During the hearing, the parties presented conflicting versions of the incident. These are succinctly summarized by the OCA Consultant, and we present both sides for better appreciation of the facts.

On one hand, complainants testified as follows:

1. **Dr. Edgardo S. Alday**, 67 years old, a physician by profession, identified and affirmed the truth of the sworn statement (Exhibit A, Rollo, pp. 5-6) he executed at the Eastern Police District Headquarters on May 7, 1999. Said statement was submitted as part of his direct testimony. In said statement, Dr. Alday declared that on May 6, 1999, and he and several companions were aboard his Mercedes

Benz van. As they were leaving the parking area of the Cityland Condominium (Cityland for brevity) at Pioneer St., Mandaluyong City, shortly after noon, a car with Plate No. 16 NCR 58 met them blocking their way out. At this juncture, the security guard motioned to them to back up so that the incoming vehicle could enter. While the van was slowly backing up, the respondent who was driving his car was going forward almost pushing the van and at the same time pointing a gun at them through the car's windshield. Upon respondent's car coming alongside and parallel to the van, respondent stopped his car, alighted and with his gun pointed at the occupants of the van, shouted three times saying "Putang ina ninyo, anong gusto ninyo mangyari". Examined further by his counsel, Dr. Alday declared that prior to the incident, he did not know the respondent not having ever met him.

On cross-examination by respondent's counsel, Dr. Alday insisted that what he related in his statement was what actually happened. He gave a more detailed description of the happening. Asked to specify the firearm respondent allegedly used to point at them, Dr. Alday insisted that it was black automatic pistol not a chrome-plated revolver which the cross-examiner suggested.

2. **Ms. Marna Villafuerte-Judan**, 32 years old, businesswoman, was the second complainant to testify. She identified and affirmed Exhibit "B" (Rollo, pp. 9-10) as the sworn statement she gave at the Eastern Police Headquarters on May 7, 1999. The same was offered as her direct testimony. She declared that shortly after noon on May 6, 1999, she was in a Mercedes Benz van with Dr. Edgardo Alday and his wife, Dr. Mercedes Favis. The said van was being operated by Dr. Alday's driver. As the vehicle was about to leave the parking area of Cityland on Pioneer St., Mandaluyong City, a red car driven by a man in a business suit who they later found out was respondent Judge Escolastico Cruz, blocked their way. The security guard on duty motioned Dr. Alday's driver to back up. As they were backing up, the respondent was advancing and almost pushing the van. She saw Dr. Alday, who was seated in front next to the driver, open his window and inform the respondent, who was inside his car, that we were just going out but the respondent berated (nagmura) Dr. Alday saying that he did not care but he was coming in. When respondent's car came alongside their van, she saw the respondent point his firearm at them. After that the respondent went his way. She saw that respondent's car had Plate No. 16 NCR. Asked additional questions by their counsel, Ms. Judan declared that she had not met respondent before the incident which occurred on May 6, 1999. She only found out his identity at the police station when she learned that Plate No. 16 is issued only to judges.

Answering the undersigned, Ms. Judan stated that she was a resident at Cityland. She admitted that although she is not related to either Dr. Alday or his wife, she is close to them and she addresses them "tito" and "tita".

Cross examined by respondent's counsel, complainant Judan admitted that after she boarded the van next to Dr. Favis, she was engrossed in conversation with her that she did not notice the arrival of respondent's car near the "tali", which she described as the rope slung across the driveway. She first noticed the respondent after he had already crossed the "tali". She said she did not notice respondent alight from his car as she only became aware of the incident when the red car was already in front of her. She stated further that there was an exchange of words between Dr. Alday and respondent and that immediately after they left the area, they had proceeded directly to the police. Although there was a police station nearer Cityland than the one to which they had repaired, it was a spot choice they made at that moment to go to the Eastern Police District Headquarters on Meralco Avenue.

3. The third and last complainant to testify was **Dr. Mercedes A. Favis**, 66 years old, also a physician. She identified and affirmed the truth of the sworn statement (Exhibit C, Rollo, pp. 7-8) she executed on May 7, 1999, at the Eastern Police District Headquarters. Answering additional questions posed by their counsel, she stated that she did not know nor had she ever encountered the respondent before May 6, 1999. In Exhibit "C" which was submitted as her direct testimony, Dr. Favis declared that they had gone to the police headquarters to file a complaint against Judge Escolastico Cruz who was identified to them by the security guard. In the same statement she declared that on May 6, 1999, between 12:10 and 12:15 in the afternoon, she, together with her husband, a guest and their driver were egressing from the parking area of the Cityland, at Pioneer St., Pasig City, aboard their Mercedes Benz van when they were suddenly confronted by a red automobile driven by a man dressed in a dark business suit. The driver of this automobile was repeatedly shouting curses saying "Putang ina ninyong lahat, ano ba ang gusto ninyong mangyari", at the same time pointing a firearm towards the passengers of the van. The driver of the red car alighted and confronted her husband and their driver with a gun which he pointed at them. After the driver of the red car had finished bad mouthing them, he drove away. They, in turn, left and immediately went to a police station to make a report. Their guest was able to get the plate number of the red car which was 16 NCR 58 which she knew was issued to a judge.

On cross examination, Dr. Favis admitted that Exhibit "C" was made the day after the incident because after they went to report to the police on the day of the incident, the

latter accompanied them to the Cityland Condominium and later they had gone to the IBP and it was already late in the afternoon when they returned to the police station. The investigators suggested that they return the next day to have their statements taken. She further testified that while they were backing up, the red car driven by the respondent was jerkily pushing them. She described how respondent was pointing the gun at them in a swaying motion and that the weapon being brandished by the respondent was not a revolver.^[4]

On the other hand, respondent did not testify but presented his witnesses who testified as follows:

1. **Atty. Alex Tan** identified and affirmed the truth of the statement he executed before Ass't. Provincial Prosecutor Rizalina T. Capco-Umali of Rizal (Exhibit 1, Rollo, pp. 58-59). The same was submitted by respondent as an annex to his comment in this administrative matter. This sworn statement was submitted as his direct testimony. In said statement, Atty. Tan relates that on May 6, 1999, he had invited respondent (his classmate at San Beda College) and his wife to lunch at the Kamayan Restaurant at EDSA. He had gone to respondent's office at Makati City at half past 11:00 o'clock. They proceeded to Cityland in Mandaluyong City with Judge Cruz driving his Honda Civic while he followed aboard his white Corolla. When respondent judge turned right towards the parking lot, he had to stop because his way was blocked by a Mercedes Benz van which was parked in the middle of the driveway. Respondent sounded his horn but the van's driver instead moved forward until the van was only a meter away from the hood of respondent's car. An old man seating beside the driver of the van signaled to respondent to move back but respondent responded that he could not because Atty. Tan's car was right behind his and following Atty. Tan's car was a taxicab. He saw Judge Cruz alight from his car and immediately go to the security guard on duty berating the latter saying, "Ano ba ang ginagawa mo dito, bakit hindi ka mag traffic? Ano ka dito, dekorasyon? Kung hindi mo kayang mag traffic, mag resign ka na".

Atty. Tan continued saying that he saw the security guard approach the driver of the Mercedes Benz van and signaled the latter to move back so respondent was able to proceed to the parking area. He further testified that he "never saw Judge Cruz point a gun to anyone that noon of May 6, 1999, much less alight from his car carrying any handgun." He finally stated that had he seen the respondent point a gun at anyone, he would have been the first to prevent and/or stop him.

During his testimony, Atty. Tan identified another sworn statement (Exhibit 1-C) where he described what happened in the afternoon of June 7, 1999, at the Hall of Justice in

Mandaluyong City where he was accosted, threatened and cursed by three people, namely: complainant Dr. Edgardo Alday, a certain Bong Villafuerte and their driver, Christopher Garcia. He speculated that he was mistaken by these three people for the respondent Judge Cruz.

On cross examination, Atty. Tan admitted that he was a classmate of the respondent in the San Beda College of Liberal Arts; that he had known the respondent since 1968; that he was a name partner in the law firm of A. Tan, Zoleta and Associates; that his firm was counsel for the plaintiff in Civil Case No. 98-3064 entitled "SAAG Philippines, Inc. versus Hexagon Realty Corp., et al" which was pending before Branch 58 of the Makati Regional Trial Court presided by the present respondent; that exhibit "D" is a copy of the complaint in said case; that on December 24, 1998, the respondent issued a temporary restraining order (Exhibit E) in the said case as prayed for by them; and that the case was terminated in January 1999.

2. Respondent's second witness was **Aida F. Alba**, of age, married and a resident of Cupang, Muntinglupa. She identified and affirmed the truth of the statement (Exhibit 2, Rollo, pp. 64-65) which she jointly executed with Jose Ignacio before Rizalina T. Capco-Umali, Rizal Ass't Provincial Prosecutor. The same statement was among those annexed to respondent's comment in this administrative matter. The same statement was offered as the direct testimony of this witness.

In Exhibit "2", Ms. Alba declared that on May 6, 1999, she had arranged a "tripping" with Anna B. Dianito to see certain units of the Cityland located on Pioneer St., Mandaluyong City. She, together with Jose Ignacio, Anna Dianito and one Jackielyn Sawit, arrived at the said place at past 11:00 o'clock. After making a tour of the condominium, she had seen a man dressed in a coat and tie alight from the red Honda, walk to the security guard and berate him. The guard then approached the Mercedes van and directed its driver to move the van back. After the latter had done so, the Honda was able to continue on its way towards the parking lot. She further stated that during the standstill of the cars, she saw no person holding a gun or pointing the same at anyone. She and her companions were right on the landing pad and had a clear and unobstructed view of the scene.

On cross-examination, she admitted that respondent Judge Cruz contacted Anna Dianito and the latter called her to inform her that she was needed to make an affidavit regarding the incident. She had gone to the office of a lawyer whose name she could not remember where she was interviewed. The lawyer then prepared the statement which she and Jose Ignacio jointly swore to before the investigating prosecutor.