

## THIRD DIVISION

[ A.M. No. MTJ-00-1305, December 03, 2001 ]

**ATTY. NESBITO C. HILARIO AND MA. MERIEM A. URSUA,  
COMPLAINANTS, VS. HON. JULIAN C. OCAMPO III, IN HIS  
CAPACITY AS THE EXECUTIVE JUDGE OF THE MUNICIPAL TRIAL  
COURT (MTC) OF NAGA CITY AND AS PRESIDING JUDGE OF THE  
MTC OF NAGA CITY, BRANCH I, RESPONDENT.**

### DECISION

#### PANGANIBAN, J.:

Noncompliance with the procedure prescribed by the Supreme Court for the raffling of cases is an administrative offense. Failure to abide by these rules diminishes respect for the rule of law.

#### The Case

In an Administrative Complaint dated August 14, 1998,<sup>[1]</sup> Atty. Nescito C. Hilario and Ma. Meriem A. Ursua charged Judge Julian C. Ocampo III, Municipal Trial Court (MTC) of Naga City (Branch I), with five offenses: grave abuse of authority, dishonesty, gross ignorance of the law, bias or partiality, and knowingly rendering an unjust order in connection with the actuations of the judge relative to Criminal Case Nos. 78500-78512, all of which had been pending before his sala.

#### The Facts

The factual antecedents of the case are summarized by the Office of the Court Administrator (OCA) in its June 26, 2000 Memorandum<sup>[2]</sup> as follows:

"1) A SWORN COMPLAINT with attachments dated August 14, 1998 [filed] by complainants Atty. Nescito C. Hilario and Ma. Meriem A. Ursua charg[es] respondent Judge Julian C. Ocampo III, MTC, Branch I, Naga City with grave abuse of authority, bias and partiality relative to Criminal Case Nos. 78500-78512 entitled `People of the Philippines vs. Meriem A. Ursua' for Violation of Batas Pambansa Bilang 22 (Bouncing Checks Act).

"Complainant Ursua is the accused in the aforementioned criminal case while complainant Atty. Hilario served as her counsel therein. According to complainants, the City Prosecutor of Naga City filed 13 separate Informations for Violation of B.P. Bilang 22 against complainant Ursua in the Office of the Clerk of Court, MTC where respondent Judge sits as Executive Judge. Complainant Ursua posted cash bail bonds in those 13 criminal cases. On August 19, 1997, respondent Judge allegedly raffled the said Informations, all of which landed on his sala, even without any Motion for Consolidation.

"Complainants allege that upon the advice of respondent Judge, they filed a Motion to Conduct Preliminary Investigation and/or Reinvestigation which was denied by the latter in his Order dated September 22, 1997. They narrate that they were not able to immediately file the necessary Motion to Lift/Withdraw Cash Bail since the Order of respondent Judge dated September 22, 1997 stated that a warrant of arrest had already been issued against complainant Ursua. Upon verification with the records of the case, however, complainants found that no warrant of arrest was issued. Thus, complainants filed a Motion to Withdraw Cash Bail. During the hearing of the said Motion, respondent Judge confirmed in open court that no warrant of arrest was issued against complainant Ursua. Complainants further allege that respondent Judge initially granted their Motion To Withdraw Cash Bail but later recalled the grant and denied the same. Respondent Judge then arraigned complainant Ursua despite the vigorous objection of the complainants. Complainants claim that respondent Judge incurred administrative liability by committing the following acts:

`i] Grave abuse of authority, bias and special interest tantamount to dishonesty penalized and sanctioned under Section 3(2) of Rule 140 of the Rules of Court - for arrogating upon himself, as the Executive Judge of the Municipal Trial Court of Naga City, the act of handling and hearing the cases against complainant Ursua by assigning to his sala Criminal Cases 78500 to 78512 without any motion for the consolidation of said cases;

`ii] DISHONESTY, penalized and sanctioned under Section 3(2) of Rule 140 of the Rules of Court and IGNORANCE OF THE LAW AND PROCEDURE punishable under Section 3(9) of Rule 140 of the Rules of Court - for distorting the truth and the records of Criminal Cases 78500 to 78512 pending before his sala at Branch No. 1 by stating in his Order of September 22, 1997 that: `In these cases, the City Prosecutor found the existence of a probable cause and on the basis thereof, the Court issued a Warrant of Arrest and the accused immediately posted bail to save her the embarrassment of being apprehended,' whereas in truth and in fact, NO WARRANT OF ARREST WAS EVER ISSUED BY HIM AGAINST COMPLAINANT URSUA.

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`iii] BIAS AND PARTIALITY punishable under Section 3(12) of Rule 140 of the Rules of Court - It appears that Atty. Fred Cledera, the Private Prosecutor in the said cases, is the Dean of the college of law of the University of Nueva Caceres (UNC) which is presently the employer of the respondent Judge, who is a faculty member in the said college. The charge is based on the act of respondent in initially granting complainant Ursua's Motion to Withdraw Cash Bail and thereafter flip-

flopping by recalling the same after respondent Judge realized, albeit quite belatedly after hearing complainant Hilario's arguments, that he could not effect the immediate arrest of complainant Ursua while she was inside the courtroom during the hearing of August 12, 1998, and then making a second ruling denying said motion;

`iv] KNOWINGLY RENDERING AN UNJUST ORDER, GROSS IGNORANCE OF THE LAW OR PROCEDURE, and BIAS AND PARTIALITY punishable under Section 3, sub-sections 7, 9 and 12 of Rule 140 of the Rules of Court - for outrightly denying the motion of the complainants requesting to file a Motion for Reconsideration on the denial of the Motion to Withdraw Cash Bail inspite of the fact that complainant Ursua still has a period of fifteen (15) days from receipt of the written Order of denial within which to file the said Motion for Reconsideration.

`v] For arraigning complainant Ursua immediately after the denial of the complainants' request to file a Motion for Reconsideration in spite of the repeated and vehement objections by complainant Hilario, thus making the Petition for Certiorari and Mandamus under Special Civil Case No. RTC-98-4014 pending before the RTC of Naga, Branch 20 entitled Ma. Meriem T. Ursua vs. Hon. Julian C. Ocampo III, et al., and the intended Motion for Reconsideration moot and academic because of the forced arraignment of complainant Ursua which was wil[l]fully and intentionally done by the respondent Judge for obvious reasons.'

"Furthermore, complainants claim that respondent Judge had already been penalized by the Supreme Court in an administrative case filed against him in Administrative Matter MTJ-93-853, March 14, 1995 entitled `Domingo Ballantes vs. Judge Julian Ocampo III' where the latter was fined in the amount of P5,000.00 and warned that a repetition of the same or similar infraction will merit a stiffer penalty.

"2) A COMMENT dated March 24, 1999 by respondent Judge denying all material allegations in the Complaint. According to him, the complaint is devoid of merit and should be dismissed. Respondent Judge offers the following explanations to the charges level[l]ed against him:

`GRAVE ABUSE OF AUTHORITY, BIAS AND SPECIAL INTEREST TANTAMOUNT TO DISHONESTY: Formerly, all cases were raffled individually regardless of whether several cases involved the same parties and subject matter. This procedure resulted to the filing of motions for consolidation which caused delay in the proceedings. When the herein respondent was appointed as Executive Judge he thought it prudent to adopt a different procedure in the raffle of cases involving the same accused and private complainant by assigning all cases to the Branch that drew the lowest docket number. This explains why in the raffle conducted on August 19, 1997, all of the 13 cases

against Meriem Ursua went to Branch 1 since in the drawing of lots the respondent picked out the lowest docket number among the 13 cases.

` DISHONESTY AND IGNORANCE OF THE LAW AND PROCEDURE: The reason why no warrant of arrest was issued by the Court is that as early as August 14, 5 days before the raffle of cases on August 19, the accused made a cash deposit covering the entire amount of the bonds in the thirteen (13) cases with the Clerk of Court, then Mrs. Lilia S. Buena, who did not inform the Executive Judge about the early filing of a cash bond. The accused having posted in advance the required bail bond, there was no need for the court to determine probable cause for the issuance of a warrant of arrest since the accused had voluntarily submitted herself to the jurisdiction of the Court.

` BIAS AND PARTIALITY: The Court did not initially grant the `Motion to Withdraw Cash Bail' and later denied it, as alleged by the complainant. The truth is that at the very outset, the Court had resolved to deny the Motion since it was entirely devoid of merit. The accused should have been grateful to the Court for denying the Motion because if it granted the same, the Court would have ordered her arrest and caused her great embarrassment. It is not correct to say that the respondent is the employee of Atty. Fred P. Cledera. Both are employees of the University of Nueva Caceres, the former being a Law instructor and the latter the Dean of the College of Law of the said university

` KNOWINGLY RENDERING AN UNJUST ORDER GROSS IGNORANCE OF THE LAW OR PROCEDURE: It was well within the discretion of the Court to outrightly deny the Motion for Reconsideration of the Order denying the Motion to Withdraw Cash Bail which Atty. Hilario intended to file since there was no cogent reason to reconsider the ruling. To allow the accused to file a Motion for reconsideration within fifteen (15) days will only further delay the proceedings.

` RESPONDENT HAD BEEN ADMINISTRATIVELY SANCTIONED: The initial resolution of the Supreme Court imposing a fine on the respondent was reconsidered and set aside when the Court found out that the complainant had misled the Court in believing that the respondent had defied the Order of the Regional Trial Court."<sup>[3]</sup>

### **Report and Recommendation of the OCA**

The OCA found merit in some of the allegations contained in the Administrative Complaint, particularly with respect to (1) respondent's unauthorized procedure for raffling cases and (2) the false statements he made in open court to the effect that he had issued a warrant of arrest when he had actually not done so. Deemed

insufficient to constitute any administrative liability were the other charges against him. The OCA explained its findings in this manner:

**"EVALUATION:**

"A. Complainants' contention that respondent Judge incurred administrative liability when all criminal cases against complainant Ursula landed on respondent Judge's sala even without any motion for consolidation is meritorious. Paragraph 1 of SC Circular No. 7 provides that:

`I. RAFFLING OF CASES

`All cases filed with the Court in stations or groupings where there are two or more branches shall be assigned or distributed to the different branches by raffle. No case may be assigned to any branch without being raffled. The raffle of cases should be regularly conducted at the hour and on the day or days to be fixed by the Executive Judge. Only the maximum number of cases, according to their dates of filing, as can be equally distributed to all branches in the particular station or grouping shall be included in the raffle. Cases in excess of the number sufficient for equal distribution shall be included in the next scheduled raffle subject to the exceptions provided in paragraph II and IV hereof.'

"Clearly, respondent erred in not raffling the individual cases. Respondent's purpose in assigning all thirteen (13) criminal cases to one sala may be laudable but until the procedure prescribed by this Court has been changed, he is well advised to strictly adhere thereto. As what happened in this case, respondent, by adopting his own rule, was suspected of having a personal interest in the said cases, which would not have happened if he only followed the prescribed procedure.

"B. On the other hand, the charge that respondent judge erred in initially granting the Motion to Withdraw Cash Bail and subsequently recalling the grant and denying the same cannot prosper. According to complainants, said flip-flopping was committed by respondent Judge because the latter was biased in favor of the private complainant in the said case whose counsel, Atty. Fred Cledera, is the employer of respondent Judge since Atty. Cledera serves as Dean of the College of Law of the University of Nueva Caceres (UNC) where respondent Judge also teaches. A reading of the transcript of stenographic notes (TSN) taken on the hearing of the Motion to Withdraw Cash Bail on August 12, 1998 reveals that complainants' contentions are not entirely accurate. Contrary to complainants' claim, their Motion to Withdraw Cash Bail was resolved only once by the respondent (p. 18, Annex D, Complaint) resulting in its denial. There was no final order of respondent Judge granting the same, then denying it as complainants would have us believe. Thus, complainants claim that respondent Judge was biased and partial in favor of private complainant is unmeritorious. Mere suspicion that a Judge was partial to a party is not enough -- there should be adequate evidence to prove the charge (*Abad vs. Belen*, 240 SCRA 733). In this case, mere