

THIRD DIVISION

[A.M. No. RTJ-99-1439, May 09, 2000]

**VIRGINIA VILLALUZ VDA. DE ENRIQUEZ, COMPLAINANT, VS.
JUDGE JAIME F. BAUTISTA AND DEPUTY SHERIFF JAIME T.
MONTES, RTC, BR. 75, VALENZUELA, METRO MANILA,
RESPONDENTS.**

D E C I S I O N

VITUG, J.:

Respondents Judge Jaime F. Bautista and Deputy Sheriff Jaime T. Montes were charged with gross misconduct for allegedly soliciting consideration in exchange for a favorable decision and for delaying execution thereof to the alleged embarrassment and humiliation of complainant Virginia Villaluz *vda.* De Enriquez. Exsm

The complaint, docketed Administrative Case No. RTJ-99-1439, was referred to the Court of Appeals for Investigation, Report and Recommendation.

Following the investigation, Honorable Salvador J. Valdez, Jr., Associate Justice of the Court of Appeals, submitted an extensive evaluation of the case. In his carefully prepared report, he summed up his findings. Kyle

Complainant Virginia Villaluz *vda.* De Enriquez filed a "Motion for Issuance of *Alias* Writ of Execution" in an ejectment suit, docketed Civil Case No. 4632-V-95, before the Regional Trial Court, Branch 75, of Valenzuela. Respondent Judge Bautista, according to complainant, issued on two different dates, one on 22 April 1997 and the other on 24 April 1997, two writs of demolition. Just as when everything was all set for the demolition, the writs of demolition were temporarily suspended for reasons unknown to complainant. In addition, the latter claimed that respondent judge inhibited himself from further taking cognizance of the civil case after issuing his order of suspension of the demolition. Respondent Deputy Sheriff Jaime T. Montes, complainant asserted, demanded from her the sum of P20,000.00 to cover the expenses of the demolition. She averred that during the pendency of the case from 1995 to 1997, respondent judge issued a total of 23 orders and asked, each time, for gifts or other things in consideration thereof.

On 24 April 1997, the scheduled date of the demolition, respondent sheriff advised complainant to engage the services of a security guard to prevent entry of squatters in the premises once the demolition would have been undertaken. Complainant followed the suggestion and even went so far as to immediately hire individuals who were to fence the premises after the houses would have been dismantled. No demolition team, however, arrived on the scheduled date; instead, she was informed by respondent sheriff that respondent judge had ordered the demolition to meanwhile be held in abeyance.

Respondent Judge, in His COMMENT of 12 August 1997, vehemently denied the accusations leveled against him. Driven by purely humanitarian reasons and taking

into account the fact that the defendants would be literally thrown out to the streets, he issued an order temporarily suspending the enforcement of the writ of demolition. He later inhibited himself from proceeding with the case because a relative who happened to be a classmate of the lawyer for the defendants interceded. Nonetheless, he ultimately set aside the order of inhibition and once again took cognizance of the case.

Respondent sheriff submitted his COMMENT by way of an affidavit, dated 01 September 1997, controverting the charges against him by complainant. He said he issued the "notice to vacate" but the defendants refused to acknowledge the receipt thereof. On 17 April 1997, respondent judge ordered respondent sheriff to cause the immediate removal of the improvements on the premises. On 22 April 1997, he proceeded to the demolition site in the company of twelve persons and two police officers. The counsel for complainant acceded to the request made by the *Lupong Tagapamayapa* of the *barangay* for the suspension of the impending demolition. On 25 April 1997, heeding the handwritten plea of the defendants, he was again ordered to suspend the demolition. Resolving the "*Ex-Parte* Motion for Full Enforcement of the Writ of Demolition," respondent Judge, by an order, dated 15 May 1997, instructed him to immediately implement the writ. Demolition work thus began on 19 May 1997 at about one o'clock in the afternoon. While the demolition was on-going, five persons arrived at the site, one of whom was a certain Boboy Agustin from the Office of the Mayor, to plead for a two-day stoppage with an assurance that the defendants would voluntarily disassemble their houses. There was also a phone call from a Major Frank Bucayu who made a similar request. He agreed to suspend the demolition for a period of two days but resumed the same on 22 May 1997 until its completion the next day. The writ of demolition having been executed and fully satisfied, he then issued a "turn-over" receipt to the complainant.

Respondent sheriff further asserted that what he actually had received from complainant was the sum of P25,000.00 which was used to cover the expenses entailed by the demolition. Moreover, he explained, he hired the services of twelve persons at P300.00 each for four days in addition to the amount of P3,000.00 given to the "PNP SWAT" Team. He gave a breakdown of expenses; viz:

"(Demol. Team)12 persons x P300 ea. x 4 dates	=	P14,400.00
(Whole Team) PNP SWAT x P3,000.00 x 4 dates	=	<u>P12 000.00</u>
TOTAL EXPENSE	=	P26,400.00
Less	=	P25,000.00
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Unpaid Balance to the Team	=	(P1,400.00)"[1]

Respondent sheriff defended the integrity of respondent Judge, asseverating that in five years that he had worked with the judge, the latter never used at any time his position for personal advancement or gain.

In his AMENDED/SUPPLEMENTAL COMMENT of 10 September 1997, as well as in his MOTION TO DISMISS of 10 June 1999, respondent Judge insisted that since complainant and her relatives had already been effectively placed in possession of the land in dispute and that their grievance had theretofore been redressed by the court, the administrative case should be considered moot and academic. Respondent Judge belied the existence of any correspondence, official or personal, between him and complainant about the ejectment case. In this regard, the following series of questions and answers transpired in the course of the investigation conducted by Justice Salvador J. Valdez, Jr., thus:

"Q In the complaint filed against you which is actually a handwritten letter, there were three handwritten letters also attached with, which handwritten letters previously marked as Exhibit 'B', 'C', and 'D'. I am now showing these exhibits or handwritten letters to you, Judge, and will you please tell us if these are your letters?

"A Yes, these are my personal letters not to the complainant but to my niece Nanette, niece by my mother side.

"Q These letters were addressed to a certain 'Boss' or 'Boss Nanette', are you saying that this 'Boss' or 'Boss Nanette' does not refer to the complainant in this case?

"A Yes, I have never written any letter, personal or official, to the complainant but to my niece.

"Q In other words, you are now admitting that this 'Boss' or 'Boss Nanette' referred to, whom you are addressing these letters marked as Exhibit 'B', 'C' and 'D' is your niece?

"A Yes, a young girl of 32 years old.

"Q And where is the residence of this niece of yours?

"A In Valenzuela also.

"Q Are you referring to Exhibit 'C', Judge, and there is a word here '*abunuhan*'. What do you mean by this?

"A Actually, it all started, my niece called me up so I sent a letter to her. She was requesting me if I could join them, after 5:00, after my official work as judge, join them in ballroom dancing, because they are going out at night so I said I could contribute for myself.

"Q So, what do you mean then by the word '*abuno*'?

"A For her to seek some solicitation, so I could give some referral but it should be done after office hours.

"Q There is also a statement in this Exhibit 'C' which states and I quote, '*Ihanda ninyo yong sobre.*' What do you mean by that?

"A The envelope was to contain the referrals because she