

## **EN BANC**

**[ A.M. No. RTJ-98-1402, April 03, 1998 ]**

**ONOFRE A. VILLALUZ, COMPLAINANT, VS. JUDGE PRISCILLA C. MIJARES, REGIONAL TRIAL COURT, BRANCH 108, PASAY CITY, RESPONDENT.**

### **D E C I S I O N**

#### **KAPUNAN, J.:**

Through a verified letter-complaint dated 12 September 1995, retired Justice of the Court of Appeals Onofre A. Villaluz charged Judge Priscilla C. Mijares, incumbent Judge of the Regional Trial Court of Pasay City, Branch 108, with dishonesty, corrupt practices, grave misconduct and immorality, allegedly committed as follows:

1. In Consignation Case No. 0940, "Tengco Homeowners' Association vs. Susana Realty, Inc.," assigned to and tried in her Branch, Judge Mijares placed the plaintiff association's rental deposits in her private bank account, instead of turning them over as she should have done, to the City Treasurer; only some time in September, 1989 when some members of the association sought a certification that they had in fact been depositing rentals in Court, did she turn over to the City Treasurer the accumulated amount of P222,377.18 by way of UCPB Cashier's Check No. 0996682 dated September 14, 1989; Judge Mijares kept for herself the interests earned by said deposits while they were in her personal bank account.

2. Judge Mijares took cognizance of and decided Special Proceedings No. 3946, a petition for correction of entry in the birth record of her grandson, Joshua Anthony M. Gurango, the child of her daughter Ma. Pilita M. Gurango, notwithstanding such close relationship; and this notwithstanding the fact that even if said petition had regularly been raffled off to her sala, a sense of propriety, if not the letter and spirit of the Code of Judicial Ethics, should have made her refuse the assignment and procure the transfer of the case to any of the five other branches of the Court equally qualified to take over and decide the case; and to compound and aggravate the corrupt practice of taking on and deciding the case of a very close relative, she also dispensed with the required publication of the petition which sought to correct the entry of the subject's citizenship from the stated "Filipino" to "American."

3. In Special Proceedings No. 90-54652, Regional Trial Court of Manila, Branch 26, entitled: "In Re: Petition for Declaration of Presumptive Death of Primitivo Mijares," where Judge Mijares was the petitioner, she falsely declared her residence to be at No. 2247 Coral St., San Andres Bukid, Manila, which in fact is the residence of Teresita Arceo, formerly employed at Branch 7 of the Metropolitan Trial Court of Manila, which was at one time presided by her (Judge Mijares); and this, to illegally vest jurisdiction over the petition in the proper Manila Regional Trial Court, rather in Quezon City where she actually resides for decades;

4. Judge Mijares made a false declaration of her residence as at No. 869 Pestanas Street, Pasay City, in her application for Marriage License No. 0572927 accomplished as of December 20, 1993, on the strength of which she contracted a sham marriage with me, solemnized by Judge Myrna Lim Verano of Carmona, Cavite, a former trial fiscal in her sala; her purpose in procuring such sham "marriage" with me, was to use the same as a defense to charges of immorality brought against her by one Joseph Ligorio Naval before the Supreme Court.<sup>[1]</sup>

In a resolution dated 14 February 1996, the Court directed the respondent to comment on the letter-complaint.

On 16 May 1996, respondent filed her Comment on the afore-quoted charges in this wise:

On the first charge, respondent denied any participation in the collection of deposits from the Tengco Homeowners Association claiming that the accusation was the concoction of her disgruntled employees, Joseph Ligorio Naval and Anita Domingo, who had a falling-out with her. Specifically, respondent maintained that:

xxx. [I]t is never the duty of a Presiding Judge to collect from litigants any money or amount for deposit with the court. It is, as always, the duty of the Branch Clerk of Court or the Officer-in-Charge (OIC) for that matter. The reason why the Branch Clerk or the OIC is provided with a cabinet-safe vault is to safeguard the loss of properties/evidence, whether money or otherwise, in his/her custody. Anita Domingo was then the property and records custodian as well as OIC when the Tengco Homeowners deposited with her. The individual collections were duly receipted by her as reflected in Annexes "A", "B", "C", "D" & "E" (samplings of receipts Anita Domingo issued). In no occasion did the respondent receive money and/or issue receipts to any litigants, and particularly in this case where the Homeowners individually paid their dues regularly or once in every month with Anita Domingo (as reflected in the Joint Affidavit [See Annex "F"]). On request of Cris Agtuca, she issued a certification (See Annex "G") that the deposit was made with her.

Respondent, upon receipt of the copy of the letter complaint of Villaluz, took time out to secure from the UCPB Holiday Plaza Branch, a certification regarding a Cashier's Check as indicated in the complaint and UCPB Holiday Plaza Branch obliged and delivered to respondent the CERTIFICATION requested (See Annex "H"). The certification clearly states as follows:

"TO WHOM IT MAY CONCERN:

"This is to certify that our branch (nor UCPB) does not issue an instrument named 'CASHIER'S CHECK.' The name of the instrument we issue is a 'MANAGER'S CHECK.' Moreover, check number 996682 is not in our branch manager's check (MC) number series.

"We further certify that our branch has no record of the issuance of a 'Cashier's Check No. 996682 on September 14, 1989.'

"This certification is issued upon request of (Judge) Priscilla C. Mijares for whatever purpose it may serve her.

AUTHORIZED SIGNATURES:

(Sgd.) Illegible

(Sgd.) Illegible

FERDINAND C. MUYARGAS

RAMON B. HENSON, JR.

Asst. Manager/BOO

AVP & Branch Head"[2]

On the second charge, respondent asserted that the rule on disqualification of judges under Sec. 1, Rule 137 of the Rules of Court does not apply since the proceedings called simply for the clarification and correction of an erroneous entry in the birth certificate of Joshua Anthony M. Gurango regarding his father's nationality. Respondent averred that:

The attendant/clerk who testified admitted that she really committed a big mistake when she placed "Filipino" as the nationality of the father of minor Joshua Anthony Gurango. The passport (Annex "I") very clearly showed the real nationality, that of a citizen of the "United States of America." Both in her sworn statement (Annex "J") and her open court testimony, the clerk, Liza A. Peñano, admitted her mistake. Her apologetic attitude was reflected in both words and action while testifying as witness in the case.

Regarding the publication, respondent granted the exemption after considering the nature of the case. The publication fee of from ₱4,000.00 to ₱6,000.00 was saved by the spouses (parents of the minor) who are just starting to have a family.[3]

Anent the third accusation, respondent staunchly denied that she made a false declaration regarding her residence in the proceedings she filed for the declaration of presumptive death of her husband Primitivo Mijares. She explained, thus:

"Regarding Coral Street, the same was the former residence of complainant's husband, Primitivo Mijares. This fact is not known to respondent. And considering too the service of complainant for the City of Manila from 1957 to 1986, as employee, as Fiscal and later as Judge, including the services of her own children in PGH, Manila Doctors, COMELEC and Manila Hotel, nobody could refute complainant's statement that she is a Manila resident. It is also a place where complainant may be served with summons."[4]

As to the last imputation, respondent declared that she considers Pasay City her second home for the following reasons:

Complainant's appointment to RTC Pasay dated as far back as 1986 after the EDSA Revolution. Add to this fact her stay in the same place since graduation from High School in 1953. Even until now complainant's letters addressed to 869 Pestañas Street are delivered to her by her cousins as a lasting arrangement.[5]

On 4 September 1996, the Court resolved to refer the instant case to Justice Salvador J. Valdez of the Court of Appeals for investigation, evaluation, report and recommendation.

On 13 May 1997, Justice Salvador J. Valdez submitted to the Court the results of his investigation and the following recommendation:

WHEREFORE, it is most respectfully recommended that JUDGE PRISCILLA C. MIJARES be found guilty of grave misconduct under Charges No. 1 and No. 2, and that she be DISMISSED from the service with forfeiture of all leave credits and retirement benefits and privileges, and with prejudice to reinstatement in any branch of the Government service, whether pertaining to the national or local Government, including government-owned and/or controlled corporations, instrumentalities and agencies.<sup>[6]</sup>

It is regrettable that the instant case be clothed in so much personal enmity. However, shorn of its emotional trappings, the Court concurs with the report of Justice Valdez but finds the recommended penalty of dismissal from service to be too severe.

We shall deal with the imputed misdeeds in *seriatim*.

I

Reproduced hereunder are the testimonies and evidence adduced by the parties regarding the first charge as succinctly summarized by Justice Valdez in his Report and Recommendation:

The parties agreed to the reproduction of the testimony of Anita Domingo in the earlier administrative complaint initiated by Joseph S. Ligorio Naval, Jr.

Anita Domingo had therein testified that she used to be the "court officer-in-charge" and "property custodian" of Judge Mijares of Branch 108 of the Regional Trial Court of Pasay City. She declared that in the consignment case in their court involving the Tengco Homeowners Association, the petitioners offered to deposit with her office the rentals falling due but she referred them to the Clerk of Court because she was not tasked with receiving such deposits. However, the Clerk of Court refused to receive the rental deposits since there was no order to that effect from the presiding judge. Thereafter, Judge Mijares gave instruction to her (Anita Domingo), and to other employees in her Branch, like Mrs. Gatdula and Mrs. Villamater, to receive and receipt for the rental deposits, and turn over the money to her (Judge Mijares). Once deposits were thus made, they were given to Judge Mijares who, in turn, asked Mrs. Villamater to deposit them, in her (Judge Mijares') personal account with the United Coconut Planters Bank, Holiday Plaza Branch. Anita Domingo claimed that on February 14, 1990, the rental deposits accumulated in the aggregate amount of P222,377.18. Judge Mijares turned over the amount to the Clerk of Court in the form of a check, which the latter, then deposited with the City Treasurer of Pasay City. In this connection, the complainant presented in evidence these documents, to wit:

Exhibit "E" – Official Receipt No. 1204413, dated February 14, 1990, issued by the Clerk of Court, RTC, Pasay City, for the payment of ₱222,377.18 in the form of UCPB Check No. FB-11-014578 dated 2-14-90 (Exhibits "E-1" and "E-2").

"F" – Report of Collections for Fiduciary Fund Deposited with the City Treasurer, Pasay City for the Period from February 13 & 14, 1990 which includes the ₱222,377.18 (Exhibit "E-1").

"G" – Cashier/Treasurer's Report of the Daily Collections & Deposits, February 14, 1990.

"H" – Voucher No. 401-9002-269 dated February 14, 1990.

"J" – Certification issued by Anita Domingo on August 18, 1989 that the rental deposits in the total amount of ₱222,377.18 has been deposited with the Court.

In the affidavit of respondent Judge Mijares, which the parties stipulated to constitute her direct testimony, she stated by way of defense, *viz*:

"That in 1986, November, upon respondent's assumption as Presiding Judge of Branch 108, RTC, Pasay City, Anita Domingo, who was OIC, continued her designation and worked as administrative head of the Branch;

"That as OIC and concurrent property custodian, she was the Chief of all employees and keeper of all evidence and other valuable properties deposited with the Court;

"That the case of Tengco Homeowners Association was one of the cases then pending in Branch 108, and the case being civil in nature, respondent tried to intervene in the hope that the suit will end in a compromise agreement;

"That the parties' intended compromise was reflected in the Order of then Judge Manuel Valenzuela dated February 22, 1984 (Annex "C"); the Order of March 29, 1984 (Annex "D"); the Order of May 24, 1984 (Annex "E"); the Order of Judge Baltazar Dizon dated February 18, 1986 (Annex "F"); the Order dated March 5, 1987; (Annex "G"); the Order dated September 3, 1987 (Annex "H"); the Order dated October 11, 1988 (Annex "I"); the Order dated October 18, 1988 (Annex "I-1");

"That a copy of the Compromise Agreement (Annex "J") was submitted to this Court on October 18, 1988;

"That on October 27, 1988, the officers and members of the Tengco Homeowners Association were directed to appear to thresh out whatever problem/s there will be in connection with the proposed Compromise Agreement (Annex "L");

"That the Tengco Homeowners requested that their money be deposited in Court for immediate turn-over to Susana Realty the moment the compromise agreement is signed.

"That the pleading of the homeowners was granted and Anita Domingo, as OIC and property custodian, received their money. Receipts were issued to the members duly signed by Anita Domingo (Annex "K", "K-1" up to "K-4"), and as in all other courts,