

## EN BANC

[ A.M. No. RTJ-98-1414, August 20, 1998 ]

**FLAVIANO B. CORTES, COMPLAINANT, VS. JUDGE EMERITO M. AGCAOILI, REGIONAL TRIAL COURT, BRANCH 9, APARRI, CAGAYAN, RESPONDENT.**

### DECISION

#### **PANGANIBAN, J.:**

A member of the judiciary must be a person of proven competence, integrity, probity and independence.<sup>[1]</sup> Any deviation from these exacting standards warrants reproof and sanction.

#### The Case

On August 14, 1996, the Office of the Court Administrator received from Flaviano B. Cortes a sworn letter-complaint<sup>[2]</sup> addressed to Chief Justice Andres R. Narvasa, accusing Judge Emerito M. Agcaoili of corruption, abuse of authority and ignorance of the law. Complainant Cortes alleged:

"1. Judge Emerito M. Agcaoili is irregular in attending his responsibilities in his office. He is not observing his office hours exactly from Monday to Friday. The Supreme Court prescribes that [j]udges should be in their respective salas from Monday to Friday. In his schedule it appears:

- a) He arrives Monday afternoon or early Tuesday morning.
- b) He goes to court Tuesday to Thursday.
- c) He goes home Thursday afternoon.
- d) No more session during Friday.

2. P.P. vs. Efren Chua[, ] Criminal Case No. 09-805 for Violation of P.D. 705:

- a) Dismissed by Judge Emerito M. Agcaoili on the ground that the prosecution has not proved [the] corpus delicti.
- b) [There are r]umors in Aparri that Judge Agcaoili was given a brand new car after the dismissal of the case.
- c) Attached is the certified xerox copy of the delivery receipt of the 242 narra fitches to the court coming from the DENR.

3. P.P. vs. Jimmy Siriban, Criminal Case No. 09-755 for Falsification of Public Documents:

a) Judge Emerito M. Agcaoili, in connivance with Fiscal Bienvenido R. Miguel dismissed the case. Mr. Reynaldo Mecate, the Civil Registrar of Camalaniugan, Cagayan not placed on the witness stand. According to Mr. Mecate, he is always present during the trial. The complaining witness was also present.

b) Rumors in Aparri, Cagayan Judge Emerito M. Agcaoili was given a brand new car by Jimmy Siriban.

c) Fiscal Bienvenido R. Miguel on his part was given [a] large amount of cash by Mr. Jimmy Siriban who is spreading such fact.

d) Attached are the Information and the Order of the Dismissal of the Case.

4. P.P. vs. F. Roldan[,] Criminal Case No. \_\_\_\_\_ for [m]urder:

a) Judge Emerito M. Agcaoili granted bail for humanitarian reason.

b) Prosecution [has] a very strong evidence and the case is considered a heinous crime and should have been unbailable.

5. Judge Emerito M. Agcaoili is a corrupt judge[;] almost all cases of Chinese were tried in his sala.

6. All forestry (DENR) cases of illegal logging and smuggling of lumber were tried in his sala. Forestry (DENR) cases were all lost.

7. Judge Emerito M. Agcaoili entertained his visitors in his cottage at the Cagayan State University Aparri, Cagayan knowing fully well that they have pending cases in his sala. To name some are Mr. Wilfred 'Bobot' Chua and Jimmy Abad, the winning bidder of the narra flitches.

8. He is capitalizing on his position as a [j]udge to solicit every year during Christmas. He is soliciting from lawyers, the district hospital, Bumatay Hardware, Wilfred 'Bobot' Chua's store etc. There was a time that he was able to solicit eight (8) roasted pigs (Litchon). He only served two (2) pieces during the party. He brought home the remaining six. Another time, he was able to collect jumbo shrimps, crabs and fishes of more or less 40 kilos. He brought most of it and [froze] it in his boarding house at the Cagayan State University at Aparri. There were only few of the shrimps, crabs and fishes which were offered and served to his colleagues in the Hall of Justice during [the] Christmas Party. Another time he was able to solicit four (4) gallons of paint and a number of spare parts of vehicles from Wilfred 'Bobot' Chua, who has a pending case of legal separation of marriage in his sala. [According to r]umors in Aparri, Judge Agcaoili was given a free pass for riding EMC Transportation owned by Ernesto M. Chua [and] managed by Mr. Wilfred 'Bobot' Chua."

In a Resolution dated November 18, 1996, this Court required respondent judge to comment on the Complaint.<sup>[3]</sup>

On March 17, 1997, Judge Agcaoili controverted the accusations against him in the following manner:

"Re: No. 1

"It is not true that I am irregular in attending to my duties as [j]udge. Proof of this is that among the five branches of the Regional Trial Court at Aparri, Cagayan, I have the lowest case load despite my previous assignment as assisting [j]udge at the Regional Trial Court, Branch 15, Naic, Cavite from October 1993 to October 1996. As of 31 January 1997, I had 148 cases pending for determination.

"Aparri, Cagayan is peculiar in the sense that there are less than ten (10) private law practitioners attending to five (5) Regional Trial Court branches and two (2) Municipal Trial Court branches at Aparri, Cagayan and nine (9) in the outlying municipalities. Private practitioners have to apportion and allocate their time to the different courts. For my part, I have to content myself with having to hold sessions 3 days of the week only, from Tuesday to Thursday.

"It is not true that I go home on Thursdays, nor that I report on Tuesdays. It may be that complainant refers to the time when I served as [a]ssisting [j]udge of the Regional [T]rial Court, Branch 15, Naic, Cavite. In addition to my regular duties, during my assignment thereat, I only reported to Aparri, Cagayan during the first 15 days of the month. This was from October 1993 to October 1996. It may be also that I had been on leave of absence, as I was on the following dates: 4 January 1996; 13-14 February 1996; 8-9, 14-15 May 1996; 13, 24-28 June 1996; 2-3 July 1996; 6-8, 13-14 August 1996; 5, 10-12 September 1996; 17-22, 25, 31 October 1996; 5-8, 15-29 November 1996, as certified by the Leave Section, Administrative Services, Supreme Court; or, I could have been before the Office of the Court Administrator, as I was on 22-24 April 1996; 29-31 July 1996; 19-20 September 1996; 23-24 October 1996; 28-30 October 1996; 11-14 November 1996. The Certification by the Chief Administrative Officer and the Certificates of Appearance by the Office of the Court Administrator are hereto attached.

"Re: No. 2, People vs. Efren Chua; Criminal Case No. 09-805; For Illegal Logging [in] Violation of P.D. 705

"Administrative Order No. 150-93 designated my Branch of the Court, [a] Special Court to try violations of Forestry Laws (P.D. 705). It may not be amiss to state in this connection that while two other judges of the Regional Trial Court stationed at Aparri, Cagayan were sent to attend a Seminar in Baguio City on forestry laws and regulations, my Branch was instead designated [a] special court to try violations of said forestry laws.

"In regard to the dismissal of the Information, the criminal complaint was based on evidence seized pursuant to a search warrant. The search warrant was however, set aside for violation of constitutional and statutory [requisites]. The prosecution was required to adduce other

evidence but had none other than the seized goods. On accused's motion following the declaration of nullity of the search warrant, the seized [pieces of] evidence were excluded, declared inadmissible. Perforce, the case had to be dismissed.

"Attached are all the pertinent orders and pleadings filed.

"Re: No. 3, People vs. Jimmy Siriban; Criminal Case No. 09-755; For Falsification of Public Documents in Violation of Article 172, par. 1 of the Revised Penal Code.

"I deny having been given a brand new car or anything for that matter, by Mr. Jimmy Siriban.

"Regarding the dismissal of the Information, I attach a certified true copy of the Order which is self-explanatory.

"Re: No. 4, People vs. F. Roldan.

"There is no criminal case for [m]urder filed against one F. Roldan pending before this branch of the Regional Trial Court.

"Re: No. 5

"Out of a total of 148 cases as of last count, there are four (4) cases involving parties with Chinese-sounding surnames pending in my sala. All are Filipinos. There are two (2) civil cases, namely:

1. Ernesto M. Chua vs. National Food Authority, for Mandamus and Damages, docketed as Civil Case No. 09-351 involving a ricemill license;
2. Antonio Uy vs. Harvest International Film Corporation, for Damages and Breach of Contract, docketed as Civil Case No. 09-381;
3. One (1) Land Registration Case for Reconstitution of Lost Original Certificate of Title, entitled Issuance of Another Owner's Duplicate Copy of Original Certificate of Title No. 16837, Amparo Castro-Dy, petitioner, docketed as L.R.C. No. 09-426; and
4. One (1) Criminal Case entitled People vs. Benjamin Chua, docketed as 09-917 for Violation of Forestry Laws and Violation of P.D. 705. Let this Honorable Court be the [j]udge whether almost all cases of Chinese are assigned to my sala.

"Re: No. 6

"Being the special court designated under Administrative Order No. 150-93, all criminal cases for Violation of Forestry Laws, Rules and Regulations are assigned to my sala.

"Re: No. 7

"I do not entertain anybody having pending cases before me whether in my chambers or in my boarding house. Mr. Wilfred ('Bobot') Chua does not have any case pending in my sala, neither Mr. Jimmy Abad. I have not bidden out any narra fitches whether to Mr. Abad or to anybody. I have no authority to do so.

"Re: No. 8

"I have never solicited any contribution from any lawyer, from the District Hospital, from the Bumatay Hardware, nor from Bobot Chua Store anytime whether on Christmas or on any occasion. During Christmas time, some lawyers volunteer to donate something for the Christmas party celebration.

"In regard to 'jumbo shrimps, crabs and fishes', I did not solicit any, muchless [sic] forty (40) kilos of these. During my Branch's [C]hristmas party celebration, I have asked my employees to buy shrimps, crabs and fishes. But I pay for these. As for the four (4) gallons of paint and [a] number of spare parts from Wilfred (Bobot) Chua, this is not true. It also not true that I have [a] free pass for the EMC Transportation owned by Mr. Ernesto M. Chua. During those rare occasions that I ride on said bus company, I insist on paying."<sup>[4]</sup>

After receipt of the foregoing Comment, this Court issued another Resolution dated July 30, 1997, referring the case to Justice Alicia Austria-Martinez of the Court of Appeals for investigation, report and recommendation.<sup>[5]</sup>

Pretrial Conference

At the instance of Justice Martinez, a pretrial conference was held on September 26, 1997.<sup>[6]</sup> Subsequently, the investigating justice issued an Order<sup>[7]</sup> stating that the parties agreed to exclude the following from the investigation:

"x x x x x x x x

1. Paragraph 2 (b) -

'(b) [There are r]umors in Aparri that Judge Agcaoili was given a brand new car after the dismissal of the case.'

2. Paragraphs 3 (b) and (c) -

'(b) [Accoring to r]umors in Aparri, Cagayan Judge Emerito M. Agcaoili was given a brand new car by Jimmy Siriban.

'(c) Fiscal Bienvenido R. Miguel on his part was given [a] large amount of cash by Mr. Jimmy Siriban who [was] spreading such fact.'

3. Paragraphs 5 and 6 -

'5. Judge Emerito M. Agcaoili is a corrupt judge[;] almost all cases of Chinese were tried in his sala.

'6. All forestry (DENR) cases of illegal logging and smuggling of lumber were tried in his sala. Forestry (DENR) cases were all lost.'"

Arguments for the Complainant

In pleading for sanctions against respondent, the complainant contended before Justice Martinez: