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[A.M. No. MTJ-99-1176. January 21, 1999]

LETICIA V. MALLORCA, *complainant, vs.* **HON. JUDGE REYNALDO M. PANOPIO, Presiding Judge, 6th MCTC-San Agustin, Romblon,** *respondent.*

SYNOPSIS

Respondent was charged with abuse of authority, misconduct and harassment by complainant, daughter of Villan spouses, possessor of a parcel of lot being leased by respondent. Complainant alleged that her parents consented to respondent erecting a hut in their lot for a period of ten years for the rental amount of ₱2,400 or ₱2.00 per month but the latter built a big house and who filed a lease application with the Bureau of Lands. When politely confronted by her on the matter, respondent insulted her, uttered bad words and filed cases against her in his sala. The evidence adduced before the investigating judge and the Office of the Court Administrator failed to substantiate the charge for grave abuse of authority as respondent inhibited himself even before the filing of this administrative complaint; that respondent constructed a resthouse on a foreshore land which does not belong to spouses Villan, complainant's parents; and that on several occasions, respondent extended loans to complainant's parents amounting to ₱4,200.00 which more than satisfied the agreed amount of the ten-year rent. The dismissal of the complaint was recommended, and that respondent judge be ordered to vacate said foreshore land.

The Court found no compelling reason to modify or reverse the findings and conclusions of the Office of the Court Administrator and the investigating judge. Respondent judge is ordered to remove, at his own expense, any and all permanent structures constructed by him on the said government property.

SYLLABUS

JUDICIAL ETHICS; JUDGES; GRAVE ABUSE OF AUTHORITY; NEGATED IN CASE AT BAR.— The contention of complainant Leticia Mallorca that respondent Judge Reynaldo Panopio

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gravely abused his authority by acting both as the complainant and judge in the criminal cases he initiated against her, is unfounded. Contrary to the contention of herein complainant, the record reveals that even before she filed this administrative complaint, Judge Panopio had already inhibited himself from hearing these criminal cases. Respondent Judge immediately referred the cases to RTC Executive Judge Placido Marquez for appropriate action. And it was MTC Judge Alfonso Cawaling who, after being designated by Executive Judge Marquez, conducted the summary investigation on these two (2) criminal cases. WHEREFORE, based on the foregoing considerations, this complaint is hereby DISMISSED for lack of merit.

D E C I S I O N

MARTINEZ, *J.*:

This administrative complaint against Judge Reynaldo M. Panopio of the Municipal Circuit Trial Court of San Agustin, Sta. Maria, Romblon arose from the verified letter-complaint[1] of Leticia V. Mallorca, dated August 27, 1996, charging respondent Judge for abuse of authority, misconduct and harassment. The complaint reads in part:

"On October 1, 1990, Judge Panopio executed an agreement with my parents for the former to erect a hut in the lot belonging to the latter for a period of ten (10) years for the rental amount of ₱2,400.00, or ₱2.00 a month from said date. It was agreed that the hut would be erected within the 10 x 20 meters of the lot. However, we found out later that on January 15, 1990, long before the agreement was executed Judge Panopio filed a lease application involving the property subject of the said agreement with the Bureau of Lands. We subsequently assumed that he leased the lot to show possession before the Bureau of Lands. When my father learned of said application, he got sick and died of heart attack. I confronted Judge Panopio when I saw him one day after my father was buried and asked for clarification on the action he had taken. But instead of explaining what he did, he invented a story that I uttered bad words to him and even threatened him.

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[1] *Rollo*, p. 2.

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"I am now accused of grave threats and grave slander before his court. He is the accuser, the complainant and the Judge in the case he filed against me. I asked for change of venue but I was informed by his Clerk of Court that my request from the Supreme Court was denied. His witnesses to the cases are his employees.

"Your Honor, I cannot be guilty of grave threats and grave slander against a judge who has great influence in our community. How can I possibly threaten him. The truth of the matter is that he is harassing me in exchange of the lot. He wants that I let him possess the lot, because I am the spokesman of the family.

"Judge Panopio by taking advantage of his profession and authority misled my parents into leasing the property for ₱2.00 a month. He merely promised to erect a hut but instead built a big house with no intention to leave as evidenced by his lease application with the Bureau of Lands. When confronted civilly and politely, he insulted me and uttered bad words and even filed cases against me knowing fully well that I have no money and courage to fight him."

In his comment, Judge Reynaldo M. Panopio claims that the complaint is fraught with lies and false allegations. Although he admitted that he is the complaining witness in the two (2) criminal charges filed against herein complainant before his court, docketed as Criminal Case No. SA-7753 (for Grave Slander[2]) and Criminal Case No. SA-7755 (for Grave Threats[3]), he pointed out that it was the police investigator of San Agustin, Romblon who filed the said cases after conducting an investigation. He emphasized that in his Order,[4] dated April 12, 1996, he inhibited himself from hearing and/or deciding Criminal Case No. SA-7753. In the same Order he requested Executive Judge Placido C. Marquez, RTC-Branch 81, of Romblon, Romblon to designate another MTC Judge to try and decide the aforesaid case. Pursuant to his request, said Executive Judge Placido C. Marquez designated[5] Judge Alfonso R.

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[2] *Rollo*, p. 16.

[3] *Rollo*, p. 4.

[4] *Rollo*, p. 17.

[5] Order dated April 17, 1996; *Rollo*, p. 18.

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Cawaling to try and decide the above-mentioned criminal case. Judge Cawaling, after conducting the summary examination, found probable cause against the complainant herein and directed[6] the issuance of a warrant for her immediate arrest. Judge Cawaling also conducted the summary investigation[7] in Criminal Case No. SA-7755.

Judge Panopio denies that the witnesses he presented are personnel of his court. In fact, he avers that he has listed several witnesses who were his neighbors but the police investigator utilized only two of them because the rest are merely corroborating witnesses. The two witnesses, namely, Arthur Morres, is a tricycle driver in Poblacion, San Agustin, Romblon, and Estelita Dizon, his neighbor in Sitio Lama, Barangay Carmen, San Agustin, Romblon.

Judge Panopio likewise contends that the lot, subject of the instant complaint, is a government property; that he was constrained to lease this foreshore lot from complainant's parents so as not to antagonize them since they claim ownership over the same; that the agreed rental was at ₱20.00, not ₱2.00, a month for a period of ten (10) years, or a total of ₱2,400.00; that it was complainant's parents who voluntarily offered this foreshore lot to him for they felt proud to have him as neighbor; and that the lot was found to be part of the school site of Barangay Carmen Elementary School which belongs to the Municipality of San Agustin and, therefore, not the private property of complainant's parents.

In addition, Judge Panopio cites the result of the survey, dated April 15, 1996, conducted by Apolinario B. Peralta[8] which revealed that "the rest house constructed by Reynaldo Panopio is within the property of Ricardo Morada,"[9] surveyed under

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[6] Order dated July 26, 1996; *Rollo*, p. 20.

[7] *Rollo*, p. 19.

[8] DENR, Region IV Geodetic Engineer and Survey Team Leader of Community Environment and Natural Resources Office (CENRO), Odiongan, Romblon; *Rollo*, p. 22.

[9] *Ibid.*

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Lot 3429, CAD 323-D — now the school site of Carmen Elementary School, identical to Lot No. 3422, CAD. 323-D, surveyed to be under the name of Gerardo Magbago deceased and now occupied by Maria Magbago.

Also submitted by Judge Panopio is the affidavit[10] of Rolando Morente, Principal of Carmen Elementary School, which states in essence that the latter allowed him to stay in the subject property located in Lot 3429, CAD. 323-D.

In a Resolution[11] dated February 24, 1997, this case was referred to the Office of the Court Administrator (OCA) for evaluation, report and recommendation.

In its report dated July 18, 1997,[12] the OCA found that the complaint for grave abuse of authority was not substantiated and should, therefore, be dismissed. It opined that even before the complainant initiated the filing of her complaint against respondent Judge, the latter had already inhibited himself from hearing and/or deciding Criminal Case No. SA-7753 for Grave Slander. As to Criminal Case No. SA-7755 for Grave Threats, the OCA also found that MTC Judge Cawaling conducted the summary investigation as shown in his Order dated October 11, 1996.

The OCA likewise recommended that the charge for harassment and misconduct be referred to Executive Judge Placido C. Marquez, RTC-Branch 81, Romblon, Romblon for further investigation, report and recommendation because the report of Geodetic Engineer Apolinario B. Peralta, dated April 15, 1996, and the affidavit of Rolando F. Morente, dated October 1, 1996, which were submitted by herein respondent Judge are inadequate to clarify the conflicting claims of both parties.

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[10] Dated October 1, 1996; *Rollo*, p. 23.

[11] Resolution of the First Division of this Court, *Rollo*, p. 37.

[12] Memorandum of the OCA for Justice Teodoro R. Padilla, Chairman, First Division; *Rollo*, pp. 40-43.

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After this Court[13] affirmed the above recommendations of the OCA on August 20, 1997, complainant Leticia Mallorca, moved[14] for the reconsideration of this Court's resolution directing that this case be investigated by Judge Placido C. Marquez, RTC-Branch 81, Romblon, Romblon. She believes that no fair and honest-to-goodness investigation would be made if the same would be conducted in Romblon on account of the threats to her life by many suspicious persons who roam around her house at night.

On November 14, 1997, respondent Judge Panopio opposed the said motion saying that the allegations therein are false and lack merit.

When required[15] to comment on the complainant's aforesaid motion, Judge Marquez[16] informed this Court that his Report and Recommendation, dated November 26, 1997, regarding the instant case was already mailed to this Court on December 1, 1997 in compliance with the Court's Resolution dated August 20, 1997.

In the aforesaid Report and Recommendation, Judge Marquez disposed of this case in this wise:

"In view of the foregoing, the undersigned respectfully submits that the complainant has failed to prove her charges as embodied in her letter-complaint and recommends to this Honorable Court that respondent judge, Honorable Reynaldo M. Panopio, be exonerated from these charges. Likewise, considering the rejection by the DENR of respondent judge's Foreshore Lease Application, it is respectfully recommended that respondent judge be required to vacate the foreshore land in question occupied by him."

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[13] Resolution of the First Division, *Rollo*, p. 38.

[14] Motion to Reconsider Referral For Investigation dated October 19, 1997, *Rollo*, pp. 47-49.

[15] Resolution of the Court, Second Division, dated December 8, 1997; *Rollo*, p. 51.

[16] *Rollo*, p. 55.

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We have examined the records of this case and we find no compelling reason to modify or reverse the findings and conclusions of both the Office of the Court Administrator and the investigating judge.

The contention of complainant Leticia Mallorca that respondent Judge Reynaldo Panopio gravely abused his authority by acting both as the complainant and judge in the criminal cases[17] he initiated against her, is unfounded. Contrary to the contention of herein complainant, the record reveals that even before she filed this administrative complaint, Judge Panopio had already inhibited himself from hearing these criminal cases. Respondent Judge immediately referred the cases to RTC Executive Judge Placido Marquez for appropriate action. And it was MTC Judge Alfonso Cawaling who, after being designated by Executive Judge Marquez, conducted the summary investigation on these two (2) criminal cases.

Likewise, in ruling for the respondent Judge, we quote with approval the *ratio decidendi* and the conclusions reached by Executive Judge Placido C. Marquez, to wit:

"x x x x x x x x x

"Respondent Judge is correct in claiming that *the foreshore land he applied for lease with the Bureau of Lands does not belong to spouses Villan, the parents of complainant.* x x x The alleged assumption by the complainant that respondent leased the lot (from her parents) to show (his) possession before the Bureau of Lands is contrary not only to the repeated desire of respondent not to antagonize her parents and his courteous regard or respect to the very good relationship existing between him and the couple and their very nice offer for him to stay in the property but also to respondent's interest as foreshore lease applicant because by such admitted lease agreement with the couple x x x respondent was recognizing the priority rights of the couple as prior possessors of the property in question with respondent's implied recognition of their title as lessors of the property. In fact, this subsequent lease agreement by respondent judge with the parents of the complainant is hardly compatible with

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[17] Criminal Case No. SA-7753 for Grave Slander and Criminal Case No. SA-7755 for Grave Threats.

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the respondent judge's foreshore lease application he filed much earlier on Jan. 15, 1990. It is to the credit of respondent judge that he did not rely on the strength of his pending foreshore lease application with the Bureau of Lands which he filed on January 15, 1990, 'long before the agreement' with the parents of the complainant and, instead of holding so dearly the then existing very good relationship with the complainant's parents, he could have rejected their proud offer to stay in that property so that he could be their neighbor. Respondent judge was even willing to go to the extent of obligating himself to pay ₱2,400.00 for ten (10) years (tsn, *supra*, p. 40). It is, therefore, very credible when respondent judge claimed that he did not even mind whether that was the property of the state. (tsn., Oct. 6, 1997, pp. 14-15) *Complainant miserably imputed ulterior motives to the respondent judge and sadly misunderstood him.* Fired-up by this grave mis-apprehension of facts on the part of the complainant, including their refusal to believe the finding of the government surveyor that the resthouse of respondent was outside their land, x x x *indeed it was complainant who 'invented a story' when she confronted respondent judge and slandered him, and eventually proceeded to file this administrative complaint to harass respondent judge and to use it as leverage in the dismissal of the criminal charges the latter filed against her.*

"Finally, complainant claims that respondent misled her parents into leasing the property for ₱2.00 a month. He merely promised to erect a hut but instead built a big house with no intention to leave as evidenced by his lease application with the Bureau of Lands. It has already been shown that the lease was for ₱20.00 a month and not ₱2.00. *No evidence was presented that would put to doubt the voluntariness in the execution of the agreement on Oct. 1, 1990 (Exhs. H and H-1) which was even attested by the lady bgy. captain who even acknowledged receipt of a copy thereof, and witnessed by the sister of the complainant and a bgy. kagawad.* Most significantly, as late as January 5, 1992, complainant's parents were even borrowing various amounts of money from respondent which totaled ₱1,700.00 (Exhs. G and G-2). Even her daughter borrowed ₱2,500.00 from the wife of the respondent as late as June 6, 1993 (Exh. I). We cannot understand how respondent could have misled the couple into executing the said agreement. The application for foreshore lease with the Bureau of Lands has been found to be very proper with the respondent acting as expected of him – following the legal process.

"x x x x x x x x x"

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"*The factual findings under the first charge xxx show that complainant was in no position, with or without harassment, to exchange the lot in favor of respondent.* She was not in a position to let respondent possess the lot. Indeed, respondent went through the legal process by applying for a foreshore lease over the property with the Bureau of Lands. *It would be counter-protective (sic) and incredible for respondent to still harass complainant for the reasons claimed by her x x x, complainant was never in any position to exchange the lot or to let him in possession thereof.* The lot did not belong to her or to her family x x x."

"x x x x x x x x x."

Prescinding from the aforequoted considerations, if, indeed, respondent Judge was in bad faith in leasing the foreshore land which complainant claims is owned by her family, respondent Judge and his wife could not have, on several occasions, extended various loans to her parents totalling ₱4,200.00 as early as June 6, 1993. This amount more than satisfied the agreed ten (10) year rent of ₱2,400.00.

Additionally, we have noted the recommendation of investigating Judge Marquez to the effect that respondent Judge be required to vacate the foreshore land he is occupying as his Foreshore Lease Application was rejected by the DENR. Such recommendation, we believe, is proper considering that the controversy in this administrative case arose from the alleged lease agreement between the parents of herein complainant, on the one hand, and that of herein respondent Judge, on the other hand. Furthermore, since respondent Judge is occupying government property, it is only but proper that he also remove any or all permanent structures, if any, he may have constructed thereon at his own expense.

WHEREFORE, based on the foregoing considerations, this complaint is hereby DISMISSED for lack of merit.

SO ORDERED.

Davide, Jr., C.J., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, and *Reyes, JJ.,* concur.