Supreme Court E-Library

An isolated error of judgment would normally not make a judge susceptible to administrative liability. But, here, respondent's partiality for a party to a case before him is evident in his several orders favoring the accused in the criminal case before him, even going to the extent of disregarding settled rulings. Respondent cannot be acquitted of the charge that he acted from improper motives which must be repressed.

WHEREFORE, as recommended by the Office of the Court Administrator, Judge Billy M. Apalit, Presiding Judge of Branch 43, Metropolitan Trial Court, Quezon City, is declared *GUILTY* of partiality and grave abuse of discretion and is hereby *SUSPENDED* for a period of SIX (6) MONTHS without pay, with a *WARNING* that commission of a similar offense will be dealt with more severely.

SO ORDERED.

Bellosillo (Chairman), Quisumbing, Buena, and *De Leon, Jr., JJ.*, concur.

SECOND DIVISION

[A.M. No. MTJ-00-1275. June 8, 2000]

CARLITO C. AGUILAR, *complainant, vs.* **JUDGE VICTOR A. DALANAO,** *respondent.*

SYNOPSIS

Carlito Aguilar filed a complaint against Judge Victor A. Dalanao for abuse of authority committed while he was acting judge of the Municipal Trial Court in Tabuk, Kalinga. Complainant cited several instances to support his claim. The case was referred to the Office of the Court Administrator. While it found the charge of abuse of authority to be without merit,

Supreme Court E-Library

nonetheless the respondent was found guilty of gross ignorance of the law. Judge Dalanao issued an arrest order against herein complainant in Criminal Case No. 3385 (a case for malicious mischief) contrary to Sec. 16 of the Rule on Summary Procedure. Respondent's claim that the criminal case was not subject to the 1991 Rule on Summary Procedure because he found no order in the records declaring it covered by the Rule was untenable. The case was covered by the Rule on Summary Procedure because of the penalty involved therein. Therefore, no order of arrest should have been issued by the respondent judge unless the accused failed to appear when required. In another case, Civil Case No. 483, respondent revealed his ignorance of the rules by reconsidering a previous order of dismissal. This was contrary to Sec. 19 (c) of the Rule on Summary Procedure, which prohibits the filing of a motion for reconsideration in cases covered by it.

The Supreme Court agreed with the finding of the Office of the Court Administrator that respondent has shown himself grossly ignorant of the law in issuing the questioned orders. In accordance with the ruling in similar cases, the Court imposed upon the respondent a fine equivalent to one-half of his salary for one month with a stern warning that repetition of the same or similar acts will be dealt with more severely.

SYLLABUS

POLITICAL LAW; ADMINISTRATIVE LAW; JUDGES; NEED TO BE DILIGENT IN KEEPING ABREAST WITH THE DEVELOPMENTS IN LAW AND JURISPRUDENCE; VIOLATION THEREOF; PENALTY; CASE AT BAR.— The Code of Judicial Conduct enjoins judges to be faithful to the law and maintain professional competence. This Court has impressed on judges the need to be diligent in keeping abreast with developments in law and jurisprudence, for the study of law is a never-ending and ceaseless process. As found by the OCA, respondent has shown himself grossly ignorant of the law in issuing the questioned orders. However, in accordance with our ruling in similar cases, a fine equivalent to one-half of his salary for one month should be imposed on him.

Supreme Court E-Library

DECISION

MENDOZA, *J.*:

This is a complaint against respondent Judge Victor A. Dalanao of the Municipal Circuit Trial Court in Luna, Kalinga for abuse of authority committed while he was acting judge of the Municipal Trial Court in Tabuk, Kalinga. In his complaint[1] dated October 14, 1998, complainant Carlito Aguilar alleges the following:

1. Abuse of authority arising from bias, partiality and personal interest:

Facts:

While Criminal Case No. 3385, for the offense of Malicious Mischief, (concocted criminal acts) was pending for a few months, the respondent Judge Victor A. Dalanao, suddenly issued a Warrant of Arrest against herein complainant and served by PNP personnel on a Friday March 7, at 4:30 P.M.

The arresting officers hauled undersigned to the Office of the respondent Judge Victor A. Dalanao but he was allegedly gone. It must be stated that the distance of complainant's house where he was arrested was six (6) kilometers more or less. So, undersigned requested the Police Officers to accompany him to the residence or any place where the Judge could be located. The wife of complainant followed to bring the cash amount she borrowed to post for any bond. Luckily we found the respondent Judge and undersigned was released.

As a well informed citizen, undersigned complainant knows very well that the Judge should not issue warrants of arrest at weekends most especially in a light case but I was informed from the talk of the police that the purpose to arrest undersigned was to have me detained during the week end.

The above acts of the respondent Judge made me conclude that he abused his power and discretion because he is one among the hoodlums in robes as President Estrada calls.

2. Abusive acts of a Judge in taking over a case that was already dismissed case by another Judge and revived it.

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[1] *Rollo*, pp. 1-2.

Supreme Court E-Library

Facts:

This refers to Case No. 483 for Forcible Entry, which was filed by Editha Apita, *et al.* over the same parcel of land against the complainant for the case filed before the Regional Trial Court docketed as Civil Case No. 405 for Recovery of Possession and Annulment of Spurious Documents.

1) The case was dismissed already by Judge Martha J. Dugayon. Her Decision or Order was not reversed by her. All of a sudden respondent Judge Victor A. Dalanao took over and rendered a Decision among others as follows:

a. Stating in the Decision that Civil Case No. 405 was already dismissed. This statement is grossly false. As a matter of fact the Decision as promulgated is a falsification.

b. While the case is only a Forcible Entry, the respondent Judge decided issues within the jurisdiction of Civil Case No. 405 which is pending up to the present.

c. Actually Judge Dalanao made a resolution that are still pending to be resolved by Judge Milnar Lammawin of the Regional Trial Court.

d. The above acts are clearly to help the defendants in Civil Case No. 405 to make it appear as already resolved.

e. All the above acts appear to have been done for some material interest to help the parties who are defendants in the Regional Trial Court.

2) When the respondent Judge verbally ordered complainant's counsel to prepare his position paper on Civil Case No. 483 for Forcible Entry, he acted with grave abuse of discretion.

Facts:

On July 13, 1998 after the respondent Judge conducted his preliminary investigation on *PP vs. Josephine Doctor* for Falsification Case No. 3453, he verbally ordered complainant's counsel to prepare his position paper and same was complied but when complainant went to submit said position paper complainant was informed that the case was already decided and was given a copy of the Decision which was made ahead on July 10, 1998.[2]

[2] *Id.*, pp. 1-2.

Supreme Court E-Library

Respondent filed a comment dated March 25, 1999.

1. He alleged that when Criminal Case No. 3385 was transferred to him from Judge Martha Dugayon, he found "no explicit order of the Court then placing this case under the coverage of the Revised Rules on Summary Procedure, and considering the previous action of the Court, [he] was made to believe that the case will be heard under the ordinary procedures, . . . and in order to acquire jurisdiction of the person of the accused, [he] directed the issuance of the warrant of arrest."[3]

2. Anent the charge of reviving a case which was already dismissed by his predecessor, respondent claims that the order of dismissal, dated November 28, 1996, in Civil Case No. 483 had not become final in view of the filing of a motion for reconsideration by plaintiff therein. In fact, complainant, as defendant in that case, filed an opposition to the motion and there was no objection to the motion for reconsideration on the ground that it was not allowed. Hence, complainant should be considered to have waived his objection based on this ground.[4]

3. Respondent admits that he decided Civil Case No. 483 without waiting for the position paper of defendant therein (complainant in this case). He claims, however, that he rendered his decision after a considerable period within which complainant could have filed his position paper.[5]

The Office of the Court Administrator to which this case was referred, while finding the charge of abuse of authority to be without merit, nonetheless finds respondent guilty of gross ignorance of the law. For this reason, it recommends:

1. that the instant administrative complaint be RE-DOCKETED as an administrative matter;

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[3] Compliance with Comment, p. 2.

[4] *Id.*, p. 6.

[5] *Id.*, p. 8.

Supreme Court E-Library

2. that respondent Judge Victor A. Dalanao, Acting Judge, MCTC, Luna, Kalinga be FINED the sum of One Thousand Pesos for being ignorant of the basic laws and principles. He is further WARNED that a repetition of the same or similar acts in the future will be dealt with more severely.

3. that the other charges be DISMISSED for lack of merit and for being judicial.

Except for the amount of penalty, we find this recommendation to be well taken.

Respondent's claim that Criminal Case No. 3385 was not subject to the 1991 Rule on Summary Procedure because he found no order in the records of the case declaring it covered by the Rule is plainly untenable. The case is for Malicious Mischief under Arts. 327 and 329 of the Revised Penal Code, for which the penalty is *arresto mayor* in its medium and maximum periods, or 2 months and 1 day to 6 months, since the amount of the damage alleged was ₱2,000.00. The 1991 Revised Rule on Summary Procedure covers "criminal cases where the penalty prescribed by law for the offense charged is imprisonment not exceeding six months or a fine not exceeding one thousand pesos (₱1,000.00), or both, irrespective of other imposable penalties, accessory or otherwise, or of the civil liability arising therefrom."[6] Although the Rule does not apply "to a criminal case where the offense charged is necessarily related to another criminal case subject to the ordinary procedure,"[7] there is nothing to show in this case that there was a related criminal case subject to the ordinary rules of criminal procedure. Consequently, Criminal Case No. 3385 was covered by the Rule on Summary Procedure. The absence of an order declaring the case subject to the Rule was immaterial. Section 2 of the Rule provides:

Determination of applicability. — Upon the filing of a civil or criminal action, the court shall issue an order declaring whether or not the case shall be governed by this Rule.

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[6] §1.B(4).

[7] *Id.*

Supreme Court E-Library

A patently erroneous determination to avoid the application of the Rule of Summary Procedure is a ground for disciplinary action.

Pursuant to §16 of the Rule, no order of arrest against the accused (herein complainant) should have been issued unless he failed to appear when required.

Further, respondent revealed his ignorance of the rules by reconsidering the previous order dismissing Civil Case No. 483. His explanation is to the following effect:

> In the case at bar, it was then my opinion that the dismissal was erroneous on the following grounds: First, there was really no Forum Shopping, while there was the identities of the subject matter and the parties in Civil Case No. 483 for Forcible Entry and Civil Case No. 405 for Recovery of Possession with Damage and Annulment of Spurious Forged Document, there was no identity of Cause of Action. The test for determining whether a party has violated the rule against Forum Shopping is when final judgment in one case will amount to *res judicata* in the action under consideration (*Fortech vs. Corona*, G.R. No. 131457, April 24, 1998). Second, the plaintiff was not heard and third, from the pleadings, the plaintiff's Cause of Action appears to be meritorious, and fourth, there is a waiver on the part of the defendant of the issue of the Motion for Reconsideration being a prohibited pleading, and last, to have sustained the dismissal, would have deprived the opportunity for the parties to ventilate their cause. "For if the application and operation of the Rules tend to subvert and defeat, instead of promoting and enhancing justice, their suspension is justified. (*People v. Flores, et al.*, G.R. No. 106581, March 3, 1997).[8]

This is contrary to §19(c) of the Rule on Summary Procedure which prohibits the filing of a motion for reconsideration in cases covered by it. As noted by the OCA, "[w]hen the law is clear, there is no room for interpretation. It is respondent's duty to apply the law regardless of his personal conviction. Respondent committed the same mistake when he did not immediately deny the Motion for Reconsideration. The fact that complainant subsequently filed a similar prohibited pleading

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[8] Compliance with Comment, p. 6.

Supreme Court E-Library

would not justify respondent's action." In the similar case of *Castro v. De Guzman*,[9] this Court held:

> As appearing on record, Criminal Case No. 46-93 is clearly a suit for malicious mischief under Article 329 of the Revised Penal Code. It is totally surprising then for a judge who was twenty years of service as a magistrate to be completely nescient of the basic rule that the subject suit for malicious mischief is covered by the Revised Rules on Summary Procedure. The series of patent errors committed by the respondent Judge in immediately issuing a warrant of arrest on the same day the complaint for malicious mischief was filed, thereby completely disregarding the provisions of Section 12(b) and Section 16 of the Revised Rules on Summary Procedure, and in not making a determination of whether or not the case is governed by the summary rules which clearly violates the provision of Section 2, can not be countenanced by this Court. In disregarding the rules and settled jurisprudence, the respondent judge showed gross ignorance, albeit without any malice or corrupt motive. The lack of malicious intent however can not completely free respondent Judge from liability. When the law is elementary, so elementary not to know it constitutes gross ignorance of the law.

The Code of Judicial Conduct enjoins judges to be faithful to the law and maintain professional competence. This Court has impressed on judges the need to be diligent in keeping abreast with developments in law and jurisprudence, for the study of law is a never-ending and ceaseless process.[10] As found by the OCA, respondent has shown himself grossly ignorant of the law in issuing the questioned orders in the above cases. However, in accordance with our ruling in similar cases,[11] a fine equivalent to one-half of his salary for one month should be imposed on him.

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[9] 262 SCRA 615, 620-622 (1996).

[10] Hold Departure Order Issued By Judge Eusebio B. Barot, MCTC, Branch 2, Aparri, Calayan, Cagayan, AM No. 99-8-1208-MCTC, Aug. 25, 1999; Issuance of Hold Departure Order of Judge Luisito T. Adaoag, MTC, Camiling, Tarlac, AM No. 99-8-126-MCTC, Sept. 22, 1999.

[11] *Castro v. De Guzman, supra.* See also *Vercide v. Hernandez*, A.M. No. MTJ-00-1265, April 6, 2000; *Diaz v. Asadon*, 290 SCRA 561 (1998); *Fernandez v. Español*, 289 SCRA 1 (1998).

Supreme Court E-Library

WHEREFORE, the Court hereby imposes upon respondent a FINE equivalent to one-half of his salary for one month, with STERN WARNING that repetition of the same or similar acts will be dealt with more severely.

SO ORDERED.

Bellosillo (Chairman), Quisumbing, Buena, and *De Leon, Jr., JJ.*, concur.

SECOND DIVISION

[G.R. No. 92735. June 8, 2000]

MONARCH INSURANCE CO., INC., TABACALERA INSURANCE CO., INC. and Hon. Judge AMANTE PURISIMA., *petitioners, vs.* **COURT OF APPEALS and ABOITIZ SHIPPING CORPORATION,** *respondents.*

[G.R. No. 94867. June 8, 2000]

ALLIED GUARANTEE INSURANCE COMPANY, *petitioner, vs.* **COURT OF APPEALS, Presiding Judge, RTC Manila, Br. 24 and ABOITIZ SHIPPING CORPORATION,** *respondents.*

[G.R. No. 95578. June 8, 2000]

EQUITABLE INSURANCE CORPORATION, *petitioner, vs.* **COURT OF APPEALS, Former First Division Composed of Hon. Justices RODOLFO NOCON, PEDRO RAMIREZ, and JESUS ELBINIAS and ABOITIZ SHIPPING CORPORATION,** *respondents.*