Supreme Court E-Library

not to include from its reach administrative liability as well. After all, this Court had occasion to rule that:

"[A] judge may not be administratively charged for mere errors of judgment, in the absence of showing of any bad faith, malice or corrupt purpose."[26]

Moreover, it is settled that judges cannot be held to account criminally, civilly, or administratively for an erroneous decision rendered by them in good faith.[27]

In sum, there is no legal basis nor convincing evidence to support the proposition that the respondent judge, in issuing his controversial contempt order, acted in bad faith or with ill-will or malice as to justify holding him liable for an error in judgment.

WHEREFORE, herein administrative complaints against Judge Adriano Villamor are hereby *DISMISSED*.

SO ORDERED.

Narvasa, C.J., Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Martinez, and *Purisima, JJ.*, concur.

THIRD DIVISION

[Adm. Matter No. RTJ-98-1418. September 25, 1998]

EMMANUEL D. SANTOS, *complainant, vs.* **JUDGE JOSE L. ORLINO (Retired), Regional Trial Court, Branch 23, General Santos City,** *respondent.*

---

[26] Re: Judge Silverio S. Tayao, RTC, Branch 143, Makati, 229 SCRA 723.

[27] In Re: Petition for Dismissal from Service and/or Disbarment of Judge Baltazar R. Dizon, 173 SCRA 719.

Supreme Court E-Library

SYNOPSIS

Complainant was indicted for estafa allegedly committed against Berringer Marketing, Inc. before the Regional Trial Court of General Santos City presided by respondent Judge. Judge Lorenzo, a prosecution witness, testified that he was asked to draw up an affidavit for complainant about the defalcation of some stocks of beer from Berringer of which complainant was then the warehouseman. Complainant then filed a motion to strike off the testimony of Judge Lorenzo because the relation of attorney and client had been created between Judge Lorenzo and him. After the hearing on November 13, 1995, respondent Judge issued an Order giving the prosecution a period of ten (10) days to file an opposition to the motion to strike, and the accused a similar period of ten (10) days from receipt thereof within which to file reply. The prosecution filed its opposition on December 6, 1995, but on December 7, 1995, respondent Judge denied complainant's motion to strike. In his motion for reconsideration, complainant lamented the hasty action of respodent Judge on his motion to strike without awaiting his reply. Thereafter, complainant filed a motion for inhibition of respondent Judge, which the Judge granted. Complainant then filed the instant administrative complaint againt the respondent Judge.

The Supreme Court ruled that while respondent Judge's denial of the motion to strike shortly after the filing of the prosecution's opposition thereto must have seemed unduly precipitate to complainant since he had been granted by the judge ten (10) days within which to submit a reply to the opposition, no real prejudice was thereby caused to complainant. He was not denied due process by being precluded from refuting the opposition to the motion to strike Judge Lorenzo's testimony because his counsel actually presented a motion for reconsideration wherein he inveighed against the hasty denial of his motion. The Court also held that an administrative complaint is not the appropriate remedy for every act of a judge deemed aberrant or irregular where a judicial remedy exists and is available, such as a motion for reconsideration or an appeal. The imputed error not being in the premises gross, and the record being bereft of any persuasive showing of deliberate or malicious intent on the part of respondent Judge to cause prejudice to any party, the administrative proceeding against said respondent was given short shrift for want of basis.

Supreme Court E-Library

SYLLABUS

1. **ADMINISTRATIVE LAW; ADMINISTRATIVE COMPLAINT; NOT THE APPROPRIATE REMEDY FOR EVERY ACT OF A JUDGE DEEMED ABERRANT OR IRREGULAR WHERE A JUDICIAL REMEDY EXISTS AND IS AVAILABLE.** — It is axiomatic, as this Court has stressed in many a case, that an administrative complaint is not the appropriate remedy for every act of a Judge deemed aberrant or irregular where a judicial remedy exist and is available, such as a motion for reconsideration, or an appeal. Obviously, if subsequent developments prove the Judge's challenged act to be correct, there would be no occasion to proceed against him at all.

2. **ID.; ID.; IS NEITHER ALTERNATIVE NOR CUMULATIVE TO JUDICIAL REMEDIES WHERE SUCH ARE AVAILABLE.** — The fundamental propositions governing responsibility for judicial error were more recently summarized in "*In Re*: *Joaquin v. Borromeo*," 241 SCRA 405-467 (1995). There, this Court stressed *inter alia* that given the nature of the judicial function and the power vested by the Constitution in the Supreme Court and the lower courts established by law, administrative or criminal complaints are neither alternative nor cumulative to judicial remedies where such are available, and must wait on the result thereof. Existing doctrine is that judges are not liable to respond in a civil action for damages, and are not otherwise administratively responsible for what they may do in the exercise of their judicial functions when acting within their legal powers and jurisdiction (*Alzua, et al. v. Johnson, 21 Phil. 308, 326; Sec. 9, Act No. 190*). Certain it is that a judge may not be held administratively accountable for every erroneous order or decision he renders (*Rodrigo v. Quijano, etc., 79 SCRA 10 [1977]*). To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be intallible in his judgment (*SEE Lopez v. Corpus, 78 SCRA 374 [1977]; Pilipinas Bank v. Tirona-Liwag, 190 SCRA 834 [1990]*). The error must be gross or patent, deliberate and malicious, or incurred with evident bad faith (*Quizon v. Balthazar, Jr.*, 65 SCRA 293 [1975]).

Supreme Court E-Library

RESOLUTION

NARVASA, *C.J.*:

Emmanuel P. Santos was indicted for *estafa*, allegedly committed against Berringer Marketing, Inc., in Criminal Case No. 10961 of Branch 23 of the Regional Trial Court of General Santos City. The Hon. Jose L. Orlino was the Presiding Judge of Branch 23 prior to his compulsory retirement on November 11, 1996.

On November 9, 1995, Emmanuel's father, Atty. Jose S. Santos, filed in his behalf a "MOTION TO STRIKE OFF FROM THE RECORDS THE ENTIRE TESTIMONY OF EX-JUDGE ANDRES O. LORENZO, SR. TAKEN ON MARCH 29,1995 BEING VIOLATIVE OF SECTION 24 (B) OF RULE 130, RULES OF COURT." The testimony had been given nine (9) months earlier by Judge Lorenzo (*retired*) as witness for the prosecution, and been subjected to rigorous cross-examination by counsel for the accused, Atty. Edwin Torres. The motion to strike was not filed until after the exhibits for the prosecution had been admitted (on November 8, 1995) and the prosecution had rested its case.

Judge Lorenzo's testimony concerned a conference at his law office in the second week of June, 1994 attended by accused Emmanuel Santos, his brother, Narcilieto Santos, and officers of Berringer Marketing, Inc., namely: Jameson Lim, Henry Cu, and Robert Tamtanco. His testimony, essentially, was that these persons had gone to his law office to ask him to draw up an affidavit for Emmanuel Santos "about the defalcation of some stocks of beer" from Berringer of which he was then the warehouseman; that to this end, Judge Lorenzo addressed some questions to Emmanuel Santos and took note of his answers for later incorporation in the affidavit; that it appeared, however, that Emmanuel had not made up his mind to execute the affidavit; and that Judge Lorenzo had thus advised the parties that he would hold preparation of the affidavit in abeyance until Emmanuel had decided to execute the sworn statement, but Emmanuel never came back to do so.

Supreme Court E-Library

It is this testimony that Emmanuel Santos moved to strike, on the theory that the conference had created the relation of attorney and client between Judge Lorenzo and him, resulting in the former's disqualification under Section 24 (b), Rule 130 of the Rules of Court.

At the conclusion of the hearing of the case on November 13, 1995, Presiding Judge Orlino issued an Order giving the prosecution a period of ten (10) days to file an opposition to the motion to strike, and the accused a similar period of ten (10) days from receipt of copy of the opposition within which to reply.

The prosecution filed its opposition on December 6, 1995. It pointed out that, actually, Judge Lorenzo's client was Robert Tamtanco, the dealer of Berringer Marketing, Inc., and that Emmanuel Santos had never executed the contemplated affidavit; hence, he (Judge Lorenzo did) "not have to ask *** the consent of the accused before giving his testimony ***"; that, moreover, the objection to Judge Lorenzo's testimony had been waived because never seasonably asserted; and that, contrarily, counsel for the accused had undertaken "a thorough exhaustive and rigid cross-examination of *** Judge Lorenzo."

Judge Orlino found merit in the opposition, and on the grounds therein set out, handed down an Order dated December 7, 1995 denying Emmanuel Santos' motion to strike.

Santos thereupon filed, through counsel, a pleading dated December 21, 1995, entitled "REPLY/REJOINDER TO PROSECUTION'S OPPOSITION TO ACCUSED'S MOTION TO STRIKE OFF FROM THE RECORDS THE TESTIMONY OF EX-JUDGE ANDRES LORENZO, SR. AND MOTION FOR RECONSIDERATION OF COURT ORDER DATED DECEMBER 7, 1995." He lamented Judge Orlino's "hasty action" on his motion to strike without awaiting his reply — to file which he had been given 10 days by the Order of November 13, 1995 — and, insisting on his theory that the attorney-client relation had been created between him and Judge Lorenzo at the conference referred to, thus disqualifying the

Supreme Court E-Library

latter to testify on communications between them, prayed that the Order of December 7, 1995 be reconsidered and Judge Lorenzo's testimony stricken from the record.

Thereafter, Emmanuel Santos filed another motion, dated February 15, 1996, for the inhibition of Judge Orlino on the ground of his "presumptive PARTIALITY and BIAS in favor of the prosecution" evidenced by the hasty denial of the motion to strike. On March 15, 1996, Judge Orlino issued an "Order of Disqualification" granting the motion, no matter how groundless," and ordering the transmission of the record to the Executive Judge for re-raffle. In due course, the case was transferred to Branch 35.

On April 25, 1996, Emmanuel Santos signed and swore to the administrative complaint at bar which he filed with this Court on May 17, 1996 — six (6) months or so before the compulsory retirement of Judge Orlino. The complaint is founded basically on the foregoing facts, and the claim of "a confidential 'unholy relationship' between the offended party (Berringer Marketing, Inc.) and Atty. Edwin Torres" (his former counsel).

The Court required respondent Judge to comment on the complaint. He did so on October 2, 1996. In his comment, Judge Orlino condemned the complaint as a harassment, considering that he had already inhibited himself and the case had been re-assigned to another Branch of the RTC. He stated that he had denied the motion to strike without awaiting Emmanuel Santos' reply to the opposition because he considered Judge Lorenzo's testimony to have "*no probative value whatsoever for the prosecution.*" Emmanuel Santos not having executed any affidavit at all, aside from the fact that the prosecution had long since rested its case, and would not therefore cause any prejudice to the accused.

After deliberating on the complaint and the Judge's comment, including the annexes thereto appended, as well as the report and recommendation of the Deputy Court Administrator, the Court finds the administrative complaint to be without sufficient basis.

Supreme Court E-Library

To be sure, Judge Orlino's denial of the motion to strike shortly after the filing of the prosecution's opposition thereto must have seemed unduly precipitate to Emmanuel Santos since he had been granted by the Judge ten (10) days within which to submit a reply to the opposition. No real prejudice, however, was thereby caused to Emmanuel Santos. Prescinding from the fact that the denial appears *prima facie* correct — a matter this Court does not now categorically adjudge — it affirmatively appears that he was not in truth denied due process by being precluded from refuting the opposition to the motion to strike Judge Lorenzo's testimony. His counsel actually presented a motion for reconsideration; and in that motion, he inveighed against the "hasty" denial of his motion and insistently argued for the concession of the relief he was seeking. Moreover, other remedies were available to him; e.g., to move anew for reconsideration of the denial order before Branch 35 to which the case had been transferred — said order being without doubt an interlocutory one and in the event of conviction, to appeal and assign as error the refusal of the Court to strike out Judge Lorenzo's testimony.

Furthermore, it is axiomatic, as this Court has stressed in many a case, that an administrative complaint is not the appropriate remedy for every act of a Judge deemed aberrant or irregular where a judicial remedy exists and is available, such as a motion for reconsideration, or an appeal. Obviously, if subsequent developments prove the Judge's challenged act to be correct, there would be no occasion to proceed against him at all.

The fundamental propositions governing responsibility for judicial error were more recently summarized in "*In Re*: *Joaquin v. T. Borromeo*," 241 SCRA 405-467 (1995). There, this Court stressed *inter alia* that given the nature of the judicial function and the power vested by the Constitution in the Supreme Court and the lower courts established by law, administrative or criminal complaints are neither alternative nor cumulative to judicial remedies where such are available, and must wait on the result thereof. Existing doctrine is that judges are not liable to respond

Supreme Court E-Library

in a civil action for damages, and are not otherwise administratively responsible for what they may do in the exercise of their judicial functions when acting within their legal powers and jurisdiction (*Alzua, et al. v. Johnson, 21 Phil. 308, 326; Sec. 9, Act No. 190*). Certain it is that a judge may not be held administratively accountable for every erroneous order or decision he renders (*Rodrigo v. Quijano, etc., 79 SCRA 10 [1977]*). To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment (*SEE Lopez v. Corpus, 78 SCRA 374 [1977]; Pilipinas Bank v. Tirona-Liwag, 190 SCRA 834 [1990]*). The error must be gross or patent, deliberate and malicious, or incurred with evident bad faith (*Quizon v. Balthazar, Jr.*, 65 SCRA 293 [1975]).

The imputed error in this case not being in the premises gross, and the record being bereft of any persuasive showing of deliberate or malicious intent on the part of respondent Judge to cause prejudice to any party, the instant administrative proceeding against the latter must be given short shrift for want of basis.

WHEREFORE, the Court Resolved to *DISMISS* the complaint, and to *DIRECT* the immediate release to respondent Judge, in accordance with relevant law and regulations, of all benefits due to him on and by reason of his retirement from the service.

IT IS SO ORDERED.

Romero, Kapunan, and *Purisima, JJ.*, concur.