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SECOND DIVISION

[A.M. No. RTJ-98-1406. September 1, 1999]

EVELYN DE AUSTRIA, *complainant, vs.* **JUDGE ORLANDO D. BELTRAN, Acting Presiding Judge, Regional Trial Court, Branch IV, Tuguegarao, Cagayan,** *respondent.*

SYNOPSIS

Evelyn de Austria charged respondent Judge Orlando D. Beltran, Acting Presiding Judge of Branch IV of the Regional Trial Court of Tuguegarao, Cagayan with gross ignorance of the law and/or negligence and manifest partiality for the accused. Complainant is the sister of Evangeline and Eduardo, both surnamed De Austria who were killed on September 3, 1993 allegedly by Tomas Bariuan. The provincial prosecutor filed before the Regional Trial Court two separate informations against Bariuan inasmuch as he committed two separate and distinct murders. No bail was recommended. The cases were raffled to the sala of the respondent judge. Later, in an Order dated August 16, 1996 the respondent judge granted bail in the amount of ₱200,000 for each murder case. That same day, Bariuan was released from detention per an order of release the respondent signed. Thus, the complainant alleged that the order of release was anomalous and irregular. During the hearing of their complaint, it was found out that there were two orders of release, one dated August 16, 1996 and another dated August 19, 1996. In his defense, the respondent judge claimed that on August 16, 1996, Bariuan's parents arrived to post bail for his release. Since most of the court personnel had gone for the day, the clerk in charge of criminal cases, Josephine Jose, accepted the amount of ₱100,000.00 as cash bond for Criminal Case No. 6264. According to Alfonso Gorospe, legal researcher of Branch IV, respondent's instruction was not to serve the order of release until bail was also posted for Criminal Case No. 6263. However, when Branch Sheriff Manuel Magummun arrived, he erroneously served the August 16, 1996 order of release thinking it was in order. On August 19, 1996 Gorospe informed Magummun that the August 16, 1996 Order of release should not be served. They tried to retrieve the order. But, they were informed that Bariuan had already posted bail for

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Criminal Case No. 6263 so they did not anymore inform respondent that the first order of release was served on August 16, 1996. Unaware of such service, respondent told Gorospe to disregard the first order and issued another order of release dated August 19, 1996 which was again served to the provincial jail.

The Court ruled that respondent issued an order of release on August 16, 1996, despite the fact that, at that time, Bariuan's cash deposit was still insufficient to cover the amount of the bail fixed by the court for the two murder cases filed against him. That respondent knew that Bariuan could not yet be released on that date could explain his supposed instruction to his legal researcher not to serve the order of release dated August 16, 1996. It strains our credulity, however, to see why respondent judge issued an order of release that he knew was useless.

Accordingly, respondent Judge Orlando D. Beltran was declared guilty of gross ignorance of the law and ordered to pay a FINE of ₱10,000.00.

SYLLABUS

1. **REMEDIAL LAW; CRIMINAL PROCEDURE; BAIL; REQUIREMENTS FOR POSTING THEREOF AND RELEASING AN ACCUSED.** — The rules are clear as regards the requirements for posting bail and for releasing an accused on bail. Thus Rule 114 provides: "SEC. 3. *No release or transfer except on court order or bail.* – No person under detention by legal process shall be released or transferred except upon lawful order of the court or when he is admitted to bail as prescribed in this rule." Further, "SEC. 14. *Deposit of cash as bail.* – The accused or any person acting in his behalf may deposit in cash with the nearest collector of internal revenue, or provincial, city or municipal treasurer the amount of bail fixed by the court or recommended by the fiscal who investigated or filed the case, and upon submission of a proper certificate of deposit and of a written undertaking showing compliance with the requirements of Section 2 hereof, the accused shall be discharged from custody. . ."

2. **ID.; ID.; ID.; ID.; TEMPORARY RECEIPT IS NOT A PROPER CERTIFICATE OF DEPOSIT.** — As respondent admitted . . . he authorized Josephine Jose to accept the cash deposit

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made by Bariuan's parents. Yet clearly, Jose is not among the persons authorized to accept such deposits. Moreover, respondent did not require the submission of a proper certificate of deposit and a written undertaking when Bariuan posted bail . . . in contravention of the requirements in Rule 114. The temporary receipt issued by Jose is definitely not a proper certificate of deposit, nor could it validly substitute for the written undertaking required by the Rules.

3. **ID.; ID.; ID.; ORDER OF RELEASE WAS IMPROPERLY ISSUED.** — Respondent issued an order of release on August 16, 1996, despite the fact that, at that time, Bariuan's cash deposit was still insufficient to cover the amount of the bail fixed by the court for the two murder cases filed against him. That respondent knew that Bariuan could not yet be released on that date could explain his supposed instruction to his legal researcher not to serve the order of release dated August 16, 1996. It strains our credulity, however, to see why respondent judge issued an order of release that he knew was useless.

4. **LEGAL AND JUDICIAL ETHICS; JUDGES; MUST FOLLOW BASIC LEGAL COMMANDS EMBODIED IN LAW AND RULES.** — Here, respondent could not deny nor justify the erroneous acts he committed. They constitute gross and patent violations of law and the rules. As already cited, the rules on bail are clear. Respondent is expected to have more than a cursory acquaintance with them as a trial judge. Failure to follow basic legal commands embodied in the law and the rules constitutes gross ignorance of the law from which no one may be excused, not even a judge.

APPEARANCES OF COUNSEL

Chua & Associates Law Office for complainant.

R E S O L U T I O N

QUISUMBING, *J.*:

In an administrative complaint received on November 18, 1996, by the Office of the Court Administrator complainant Evelyn De Austria charged respondent Judge Orlando D. Beltran,

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Acting Presiding Judge of Branch IV of the Regional Trial Court of Tuguegarao, Cagayan, with "gross ignorance of the law and/or negligence, and manifest partiality" for the accused in Criminal Cases No. 6263, 6264, and 6315.

Complainant is the sister of Evangeline and Eduardo, both surnamed De Austria, who were killed on September 3, 1993 allegedly by one Tomas Bariuan. A complaint for double murder was filed against Bariuan for the killing of the De Austria siblings. Another complaint for frustrated murder against him was filed for the wounding of Marico Bassig during the same incident.

Preliminary investigation of the complaint for double murder was conducted by the Municipal Trial Court of Tuguegarao, which also issued a warrant for the arrest of Bariuan for whom no bail was recommended. Later on, Bariuan was allowed to post bail in the amount of ₱200,000.00, after he filed a petition for bail.

Bariuan failed to submit a counter-affidavit and supporting evidence to the MTC in his defense. The court then forwarded the record of the case to the Office of the Provincial Prosecutor with the finding that Bariuan is probably guilty of double murder.[1]

The provincial prosecutor filed before the RTC two separate informations against Bariuan inasmuch as he allegedly committed two separate and distinct murders.[2] A warrant for the arrest of Bariuan was issued for Criminal Case No. 6264 for murder on April 7, 1994 by RTC Judge Hilarion L. Aquino.* No bail was recommended. Bariuan filed a motion to quash the warrant on the ground that he had earlier posted bail. He also moved for a joint trial of Criminal Cases No. 6264 and 6263 for murder, and Criminal Case No. 6315 for frustrated murder. The motion to quash was denied.[3] The court ruled that what he earlier posted

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[1] *Rollo*, pp. 43-44.

[2] *Id.* At 48-49.

* Now Court of Appeals Associate Justice.

[3] *Id.* at 57.

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was bail for one crime, the complex crime of double murder with which Bariuan was charged by the chief of police of Tuguegarao and for which a preliminary investigation was conducted. However, upon review of the record of the preliminary investigation by the provincial prosecutor, the latter filed two separate informations for two distinct crimes of murder. No bail was recommended in the latter cases. Thus, it could not be said that Bariuan had already posted bail for said cases.

Bariuan moved for reconsideration of the resolution denying his motion to quash and reiterated his motion for joint trial. Judge Aquino granted the motion for joint trial[4] and ruled that the motion for reconsideration of the denial of the motion to quash should be resolved by Branch IV, presided over by respondent as acting judge, to which the consolidated cases had been assigned.

On October 11, 1994, Bariuan filed a motion for substitution and reduction of bail bond, alleging that he was granted bail in the three criminal cases and that the bail bond he posted had already expired, thus, the need for substitution. He asked for reduction of the amount of the bail since he could not come up with sufficient funds to cover the amount fixed by the court.

Asked to comment on Bariuan's motion, Asst. Provincial Prosecutor Fred Q. Andres did not interpose any objection. Respondent granted the motion and reduced the amount of bail to ₱50,000.00 for each of the three cases.[5]

On May 22, 1996, public prosecutor Amador T. Arao filed a motion for the immediate issuance of a warrant of arrest against Bariuan. He noted that there is a standing warrant against him issued by Judge Aquino, and that the motion for reconsideration of the resolution denying Bariuan's motion to quash had not yet been resolved. Prosecutor Arao also pointed out that no bail had been recommended for Criminal Case No. 6264 and no bail had been posted for Criminal Case No. 6315.

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[4] *Id.* at 61.

[5] In an order dated March 1, 1995; *Rollo*, p. 112.

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In an order dated June 28, 1996, respondent ruled that there was no need to issue another warrant of arrest because of the standing warrant against Bariuan. Respondent cancelled the bail bond amounting to ₱50,000.00 erroneously approved for the provisional liberty of Bariuan. The latter surrendered to the police three days later and moved that he be allowed to post bail in the amount of ₱75,000.00 for the three cases.

In an order dated August 16, 1996, respondent granted bail in the amount of ₱200,000.00 for each of the murder cases. That same day, Bariuan was released from detention per an order of release respondent signed. Complainant's brother Ernesto De Austria saw Bariuan participating in the town fiesta of Tuguegarao on that day. He made inquiries at the provincial jail and was informed that Bariuan had indeed been released. This fact was verified from the personnel of the RTC, Tuguegarao, Branch IV, on August 19, 1996. They showed Ernesto two orders of release, one dated August 16, 1996, and another dated August 19, 1996.

Complainant filed her complaint on November 18, 1996. She alleged that the order of release dated August 16, 1996, was anomalous and irregular since Bariuan had not yet posted bail on that date, and that the order had not yet become final and executory as the prosecution had 15 days to move for reconsideration. She also stated that respondent was grossly negligent in granting Bariuans's motion for reduction of bail when, in fact, no bail was recommended and, thus, no bail was posted in Criminal Case No. 6264. Moreover, she added, the motion for reconsideration of the denial of Bariuan's motion to quash his warrant of arrest was not yet resolved.

In his comment[6] on the complaint, respondent stated that he was never made aware of the pending motion for reconsideration, even if complainant was represented by both public and private prosecutors who could have called his attention. However, respondent was candid enough to admit that he must have

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[6] Dated March 31, 1997; *Rollo*, pp. 87-104.

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overlooked Judge Aquino's directive for Branch IV to resolve the pending motion for reconsideration. He added that if he were duty-bound to examine the records of cases before him, the prosecution was all the more required to call his attention to pending incidents.[7]

As regards his order granting reduction of bail, respondent stated that it was the then trial prosecutor himself who asked that the motion be granted. Thus, he did not deem it necessary to inquire further, as the prosecutor's act was an admission that the prosecution's evidence was weak.

Respondent averred that he did not intend to cause injury to complainant or to the State, and that, if indeed he had erred, it was without any corrupt motive or improper consideration.[8] He urged this Court to apply in his case our ruling in *Guillermo v. Reyes,*[9] that:

"xxx (a) judge may not be held administratively accountable for every erroneous order or decision he renders. To unjustifiably hold otherwise, assuming that he has erred, would be short of harassment and would make his position doubly unbearable, 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. The error must be gross or patent, malicious, deliberate or in evident bad faith. It is only in this latter instance when the judge acts fraudulently or with gross ignorance, that administrative sanctions are called for as an imperative duty of this Court.

... Good faith and absence of malice, corrupt motives or improper considerations are sufficient defenses in which a judge charged with ignorance of the law can find refuge."

Respondent denied having exhibited manifest partiality in favor of Bariuan. He claimed to be unaware of having issued an order of release dated August 16, 1996; he said he only issued one dated August 19, 1996. He stated that Bariuan posted a

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[7] *Rollo*, p. 95.

[8] *Id.* at 95-96.

[9] 240 SCRA 154, 161 (1995).

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cash bond on the latter date for ₱150,000.00 for each of the murder cases. These, according to him, were in addition to the ₱50,000.00 earlier posted for each case, which, though later canceled, was still on deposit with the court.

Respondent took exception to complainant's claim that the order of release is not final and executory until after the lapse of 15 days, stating that there is no rule providing for this requirement.

On November 24, 1997, this Court referred this matter to Court of Appeals Justice Marina L. Buzon for investigation, report, and recommendation.

During the hearings conducted in connection with this case, Rey Camarao, Records Custodian of the Cagayan Provincial Jail, presented certified photocopies of two orders of release, one dated August 16, 1996, and another dated August 19, 1996; a certified photocopy of two pages of the Provincial Jail Detention Logbook with the note that Bariuan was released from detention on August 16, 1996, after having posted bail; a certified photocopy of page 317 of the Provincial Prisons Diary showing that Bariuan was released on August 16, 1996; and certified photocopies of Official Receipt No. 4193078 — dated August 19, 1996 — indicating that Bariuan had posted a cash bond of ₱150,000.00 each for Criminal Cases No. 6263 and 6264.

When the documents were shown to respondent, he admitted having signed the two orders of release and acknowledged the posting of the cash bonds on August 19,1996.

Alfonso Gorospe, legal researcher of Branch IV, stated in his affidavit that an order granting bail to Bariuan was issued on August 16, 1996. That same day, Bariuan's parents arrived to post bail for his release. Since most of the court personnel had gone for the day, having been allowed to take the afternoon off as it was the town fiesta, Gorospe requested the clerk in charge of criminal cases, Josephine Jose, to accept the amount of ₱100,000.00 as cash bond for Criminal Case No. 6264. Jose issued a temporary receipt to Bariuan's parents. According to Gorospe, respondent's instruction was not to serve the order

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of release until bail was also posted for Criminal Case No. 6263. Thus, Gorospe clipped the order of release dated August 16, 1996, on the cover of the folder containing the records of Criminal Case No. 6264 and left the folder, along with the folder with the records of Criminal Case No. 6263, on his table before he went home.

In his affidavit, Manuel Magummun, Branch IV sheriff, stated that he went back to the court office on the afternoon of August 16, 1996, and saw Bariuan's parents; they were asking if the bail bond for Bariuan's release had been approved. Upon inquiry with Josephine Jose, Magummun learned that the amount deposited was with her. Magummun then found the records of the two murder cases as well as the order of release dated August 16, 1996. Believing it to be in order, Magummun served the order to the provincial jail that same day. He was informed by Gorospe of the instruction not to serve the order only on August 19, 1996.

Gorospe and Magummun stated that they tried to retrieve the order on August 19, 1996. However, they were informed that Bariuan had already posted bail for Criminal Case No. 6263 so they did not anymore inform respondent that the first order of release was served on August 16, 1996. Unaware of such service, respondent told Gorospe to disregard the first order and issued another order of release dated August 19, 1996. This order was again served at the provincial jail.

Respondent admitted having signed the first order of release after a cash bond of ₱100,000.00 was deposited with Josephine Jose.[10] He stated that he instructed Gorospe not to release the order until after bail was posted for the other murder case.[11] On August 19, 1996, Bariuan posted bail in the additional amount of ₱200,000.00. Respondent then issued the second order of release, with instruction to Gorospe to disregard the first order.[12]

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[10] TSN, April 2, 1998, p. 21.

[11] *Id.* at 16.

[12] *Id.* at 35.

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Respondent discovered the service of the first order on March 23, 1998, after the administrative complaint against him had been filed, and after he and his counsel went to verify matters at the provincial jail. He added that at the time he made his comment to the administrative complaint, in which he stated that he was unaware of an order of release having been issued on August 16, 1996, he was of the belief that the first order was not served, per his instruction.[13]

Respondent admitted having authorized Josephine Jose,[14] who was not a bonded official, to accept the ₱100,000.00 cash bond posted by Bariuan on August 16, 1996, due to the absence of the RTC clerk of court and the cash clerk.[15] The branch clerk of court, on the other hand, was on leave.

Respondent also admitted that he issued the order of release without requiring the submission of a proper certificate of cash deposit and a written undertaking showing compliance with Section 2, Rule 114 of the Revised Rules of Court.[16]

After completing the investigation, Justice Buzon found respondent administratively liable for the following acts: (1) authorizing Josephine Jose to accept a cash bond notwithstanding the fact that she is not a bonded official; (2) failure to comply with Section 14, Rule 114 of the Revised Rules of Court, which requires submission of a certificate of cash deposit and a written undertaking before an accused may be released on a cash bail; and (3) issuing an order of release despite the insufficiency of the amount deposited as bail with the court.

Now, after a thorough review of the records of this case, we see no reason to disagree with the findings and conclusion of

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[13] *Supra*, note 11.

[14] *Id.* at 41.

[15] *Id.* at 25. These officials had gone home early to participate in the Tuguegarao town fiesta.

[16] Re conditions of the bail. The certificate and written undertaking are required by the Revised Rules of Court, Rule 114, Sec. 14.

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Justice Buzon. Her findings are supported by the records and her conclusion fully grounded on the pertinent Rules of Court. The flimsy defense tendered by respondent could not withstand damning evidence on record against him.

The rules are clear as regards the requirements for posting bail and for releasing an accused on bail. Thus Rule 114 provides:

"SEC. 3. *No release or transfer except on court order or bail.* – No person under detention by legal process shall be released or transferred except upon lawful order of the court or when he is admitted to bail as prescribed in this rule."

Further,

"SEC. 14. *Deposit of cash as bail.* — The accused or any person acting in his behalf may deposit in cash with the nearest collector of internal revenue, or provincial, city or municipal treasurer the amount of bail fixed by the court or recommended by the fiscal who investigated or filed the case, and upon submission of a proper certificate of deposit and of a written undertaking showing compliance with the requirements of Section 2 thereof, the accused shall be discharged from custody..."

As respondent admitted in his testimony before Justice Buzon, he authorized Josephine Jose to accept the cash deposit made by Bariuan's parents. Yet clearly, Jose is not among the persons authorized to accept such deposits. Moreover, respondent did not require the submission of a proper certificate of deposit and a written undertaking when Bariuan posted bail purportedly because "there was no time,"[17] in contravention of the requirements in Rule 114. The temporary receipt issued by Jose is definitely not a proper certificate of deposit, nor could it validly substitute for the written undertaking required by the Rules.

Furthermore, respondent issued an order of release on August 16, 1996, despite the fact that, at the time, Bariuan's cash deposit was still insufficient to cover the amount of the bail

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[17] TSN, April 2, 1998, p. 30.

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fixed by the court for the two murder cases filed against him. That respondent knew that Bariuan could not yet be released on that date could explain his supposed instruction to his legal researcher not to serve the order of release dated August 16, 1996. It strains our credulity, however, to see why respondent judge issued an order of release that he knew was useless.

None of the incidents complained of in this case would have happened if respondent had only been more vigilant and mindful of the law and the rules in the performance of his judicial duties.

Respondent now asks us to apply in his case our ruling in *Guillermo v. Reyes,*[18] that "(a) judge may not be held administratively accountable for every erroneous order or decision he renders..." Indeed, but only within the boundaries of tolerable misjudgment.[19]

Indeed in *Guillermo,* we said that "(t)he error must be gross or patent, malicious, deliberate or in evident bad faith" for administrative sanctions to be justified. Here, respondent could not deny nor justify the erroneous acts he committed. They constitute gross and patent violations of law and the rules. As already cited, the rules on bail are clear. Respondent is expected to have more than a cursory acquaintance with them in his post as a trial judge. Failure to follow basic legal commands embodied in the law and the rules constitutes gross ignorance of the law[20] from which no one may be excused, not even a judge.[21]

Justice Buzon recommended the imposition of a ₱20,000.00 fine on respondent. However, considering that this is his first administrative case before us, we deem the amount of ₱10,000.00 as a reasonable fine under the circumstances.

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[18] *Supra*, at note 9.

[19] *DBP v. Llanes, Jr.*, 266 SCRA 212, 223 (1997).

[20] *Del Rosario, Jr. v. Bartolome*, 270 SCRA 645, 649 (1997); *Aurillo, Jr. v. Francisco*, 235 SCRA 283, 289 (1994); *Agcaoili v. Ramos,* 229 SCRA 705, 710 (1994).

[21] *Ualat v. Ramos*, 265 SCRA 345, 358 (1996).

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ACCORDINGLY, respondent Judge Orlando D. Beltran, Acting Presiding Judge of Branch IV of the Regional Trial Court of Tuguegarao, Cagayan, is hereby declared *GUILTY* of gross ignorance of the law, and is hereby ordered to pay a *FINE* of ₱10,000.00.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, and *Buena, JJ.*, concur.

FIRST DIVISION

[G.R. No. 129680. September 1, 1999]

CARRARA MARBLE PHILIPPINES, INC., *petitioner, vs.* **COMMISSIONER OF CUSTOMS,** *respondent.*

SYNOPSIS

The Collector of Customs seized two machines found installed inside petitioner's compound pursuant to Section 2530 (e) of the Tariff and Customs Code (TCC) for illegal removal of articles from the warehouse. These articles were included in the sale at public auction of Lot 15 consisting of abandoned imported machineries conducted by the Bureau of Customs to Engr. Policarpio. Petitioner presented two notarized deeds of sale allegedly executed by Jaina Lopez in its favor. Its offer to settle the case amicably under Article 2307 of the TCC was refused. The Collector of Customs, for failure of petitioner to present evidence of payment of duties and taxes, declared the machineries forfeited in favor of the government. Appeal was made to the Court of Tax Appeals when resort to the Commissioner of Customs gave a negative result. The Tax Court, in affirming the authority of the Customs Commissioner, held that the jurisdiction of the Collector of Customs in forfeiture proceedings extends to all questions incidental thereto, including the authority to determine the true ownership