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FIRST DIVISION

[A.M. No. 1402-MJ. September 14, 1979]

HERMOGENES ANGULUAN and ANGEL ANGULUAN, *complainants, vs.* **HON. HENRY C. TAGUBA,** *respondent.*

SYLLABUS

1. **JUDICIAL ETHICS; JUDGES; GROSS IGNORANCE OF THE LAW; ESTABLISHED IN CASE AT BAR.**— It is alleged in the criminal complaint filed by the Acting Chief of Police that the crime was committed on December 10, 1973. The criminal complaint was filed only on June 18, 1974. The respondent judge should have known immediately by simply reading the criminal complaint that the crime charged had prescribed. The respondent judge displayed gross ignorance of the law in giving due course to the criminal complaint as a result of which the persons accused were detained for three days.

2. **ID.; ID.; WITHDRAWAL OF COMPLAINT CANNOT JUSTIFY DISMISSAL OF ADMINISTRATIVE CHARGE AGAINST RESPONDENT IN CASE AT BAR.**— Although the complainants have asked for the withdrawal of this complaint, the Court cannot overlook the anomalous acts of the respondent judge. The actuations of the respondent judge seriously affected the public interest inasmuch as they involve the administration of justice. It is for this reason that the motion to withdraw the complaint filed by the complainants will not justify the dismissal of this administrative case against the respondent. As stated by the Supreme Court in *Vasquez versus Malvar*, "x x x Furthermore, to condition administrative actions upon the will of every complainant, who may, for one reason or another, condone a detestable act, is to strip this Court of its supervisory power to discipline erring members of the Judiciary."

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DECISION

FERNANDEZ, *J.*:

In a joint affidavit subscribed and sworn to at Tuguegarao, Cagayan on September 10, 1976,[1] Hermogenes Anguluan and Angel Anguluan charged the respondent Municipal Judge Henry C. Taguba of Rizal, Cagayan with (1) conniving with Mayor Ventura Baloran of Rizal, Cagayan in the filing of "an imaginary, fabricated, baseless and unfounded criminal case of Qualified Trespass" against the complainant Hermogenes Anguluan and other persons as a consequence of which the persons charged were imprisoned for three (3) days at the municipal jail of Rizal on August 3, 4 and 5, 1976, and (2) advising the complainants and Aleco Anguluan, Diosdado Gundan and Jose de la Cruz, to sign an affidavit in the presence of Mayor Baloran on August 12, 1976 *without allowing them to read the affidavit wherein* the affiants admitted having entered upon "the area presently occupied and belonging to VENTURA B. BALORAN, a resident of Barrio Cambabangan, Rizal, Cagayan."[2]

This affidavit-complaint was referred to the respondent for comment.[3]

In his comment filed on November 19, 1976, the respondent denied the alleged connivance between himself and Mayor Ventura Baloran but admitted that Criminal Case No. 216 for Qualified Trespass was filed before him by Acting Chief of Police David G. Duruin on June 18, 1974 and alleged that he conducted the requisite preliminary investigation of the case on August 29, 1974 but issued the warrant of arrest only on August 3, 1976; and that respondent's inability to promptly rule on the existence of probable cause was due to his belief that

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[1] *Rollo*, pp. 5-6.

[2] *Rollo*, p. 8.

[3] *Rollo*, p. 9.

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the dispute was more or less civil in nature and "there were sincere efforts on the part of both parties to settle the case."[4]

On the charge that the respondent failed to read and explain to the affiants the averments of the affidavit, the respondent said:

"The Affidavit of Hermogenes Anguluan and Angel Anguluan was prepared by somebody else. All what I could recall was the Municipal Secretary in the morning whom I trusted to serve as a bridge between the Mayor and accused approached me and asked accommodation to mediate the differences of the parties. Since this was the first time that a respectable and responsible person made a request which request could not be turned down considering his stature, I acceded believing that it could terminate once and for all their squabble. So that in the afternoon when the Mayor brought in the supposed affiants of the affidavit in question, I thought that was the work of the Secretary. I instructed my clerk to supervise the signing and unaware of the legal effects of the document, he assured me that everything was alright. I did that because at the time I was helpless without eyeglasses."[5]

On the alleged detention of the complainants for three days, the respondent said:

"It is alleged in the Joint Affidavit of Hermogenes Anguluan and Angel Anguluan that they were detained. May I ask if a Court after conducting the requisite preliminary investigation prior to arrest is devoid of any power to issue a Warrant of Arrest. The new lawyer who instigated this case against me should study his law. The law is clear on the matter that after a Judge has asked searching questions of the complainant and his witnesses, a Warrant of Arrest could be issued there being findings of probable cause, which is present in the case. As to the allegation that when I subscribed their affidavit, I did not explain to them what was then being subscribed, I know clearly my law on the matter and if there was mistake committed, I was probably laboring under the impression that everything was in order and since my Court and/or office was overcrowded doing plenty

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[4] *Rollo*, pp. 10-11.

[5] Letter Answer, *Rollo*, pp. 10-11.

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of work and forgot my eyeglasses then at home I mislooked and overlooked important items that should at the first place given close scrutiny. But while I admit slight oversight on minor matters, I deny vigorously that I connived with certain parties. I cannot sacrifice the immense prestige of a judge in a small municipality for the sake of temporary friendship and narrow convenience. My oath as such has always served as my guidepost for discipline, excellence and fairness."[6]

In a Resolution dated June 19, 1978, this Court referred the case to Executive Judge Alberto Gampoña of the Court of First Instance of Cagayan, at Tuao, Cagayan for investigation, report and recommendation.[7] Judge Gampoña submitted his Report and Recommendation[8] to this Court on February 15, 1979.

During the investigation on September 14, 1978 conducted by Judge Gampoña, the complainant, Hermogenes Anguluan, appeared without counsel and manifested his intention to withdraw his complaint against the respondent.[9]

On October 16, 1978, complainants' counsel appeared on the scheduled hearing without the complainants. Said counsel informed the investigating judge about his clients' desire to withdraw the complaint.[10]

On October 30, 1978, a motion to withdraw the complaint was filed by complainants' lawyer, Atty. Nelson C. Villaflor. To said motion was attached the affidavit of complainant, Hermogenes Anguluan, explaining the non-appearance of the other complainant, Angel A. Anguluan, whose whereabouts are not known to him and alleging that the administrative matter was being withdrawn because the affidavit-complaint "does not in any way substantiate a good cause of action" and the

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[6] *Idem., Rollo*, p. 11.

[7] *Rollo*, p. 31.

[8] *Rollo*, pp. 68-91.

[9] *Rollo*, p. 38.

[10] *Rollo*, p. 40.

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complainants' "evidence on hand will not suffice our charge x x x."[11]

Notwithstanding the above-stated motion to withdraw, Alberto Gampoña examined the records of the case. He found that the respondent judge had committed gross negligence in the performance of his judicial functions in that the respondent gave due course to the complaint for Qualified Trespass in Criminal Case No. 216 filed on June 18, 1974; that it was clear from the complaint and the supporting affidavits that the crime charged therein had already prescribed; that moreover, although the preliminary examination was conducted on August 29, 1974, the warrant of arrest was issued only on August 3, 1976, after the lapse of more than two (2) years from date the complaint was filed; and that finally, the respondent admitted that he failed to explain the contents of the affidavit which was subscribed and sworn to on August 12, 1976 before him by complainant Hermogenes Anguluan and four other persons, the dismissal of Criminal Case No. 216 being based on said affidavit.

The findings of Judge Alberto Gampoña are supported by the facts of record.

The criminal complaint filed by the Acting Chief of Police, David G. Duruin, in Criminal Case No. 216 before the Municipal Court of Rizal, Cagayan, presided by the respondent judge reads as follows:

"C O M P L A I N T

The undersigned Acting Chief of Police, Rizal, Cagayan, under oath accuses HERMOGENES ANGULUAN, DIOSDADO GUNDAN, ALEJO ANGULUAN, ANGEL ANGULUAN, JOSE DE LA CRUZ AND ERNESTO ANGULUAN, for the crime of 'QUALIFIED TRESPASS' defined and penalized under Art. 280 in relation to Article 281 of the Revised Penal Code of the Philippines, committed as follows, to wit:

That on or about 10th day of December, 1973, in the Municipality of Rizal, Province of Cagayan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused without justifiable

[11] *Rollo*, pp. 42-47.

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cause and has not secured the permission of the owner entered the enclosed estate of one VENTURA B. BALORAN of plowing and planted corn versus the latter's will.

Contrary to law.

Rizal, Cagayan, May 6, 1974.

DAVID G. DURUIN

Actg. Chief of Police"[12]

It is to be noted that although the crime is designated as qualified trespass, the allegations describe the offense as other forms of trespass defined by Article 281 of the Revised Penal Code with the penalty of *arresto menor* or a fine not exceeding ₱200.00. The act of entering a fenced estate is a light felony in view of the penalty imposed.[13] Light offenses prescribe in two months.[14]

It is alleged in the criminal complaint filed by the Acting Chief of Police that the crime was committed on December 10, 1973. The criminal complaint was filed only on June 18, 1974. The respondent judge should have known immediately by simply reading the criminal complaint that the crime charged had prescribed. The respondent judge displayed gross ignorance of the law in giving due course to the criminal complaint as a result of which the persons accused were detained for three days.

Although the preliminary examination was conducted on August 29, 1974, the warrant of arrest was issued only on August 3, 1976. The failure of the respondent judge to issue the warrant of arrest within a reasonable time is suspicious. The respondent judge was either ignorant of his duty or he was impelled by an ulterior motive.

And finally, the respondent judge admitted that he did not explain the affidavit to the affiants before he administered the

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[12] *Rollo*, p. 12.

[13] Article 9, 3rd paragraph, Revised Penal Code.

[14] Article 90, Revised Penal Code.

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oath. His excuse that he could not read without his eyeglasses is asinine, to say the least.

Although the complainants have asked for the withdrawal of this complaint, the Court cannot overlook the anomalous acts of the respondent judge. The actuations of the respondent judge seriously affected the public interest inasmuch as they involve the administration of justice. It is for this reason that the motion to withdraw the complaint filed by the complainants will not justify the dismissal of this administrative case against the respondent. As stated by the Supreme Court in *Vasquez versus Malvar*,[15] "x x x Furthermore, to condition administrative actions upon the will of every complainant, who may, for one reason or another, condone a detestable act, is to strip this Court of its supervisory power to discipline erring members of the Judiciary."

Under the established facts and circumstances, the respondent judge should be imposed a penalty of suspension from office without pay for three months.

WHEREFORE, the respondent judge, Henry C. Taguba, is found guilty of serious irregularities in the performance of his duties as a municipal judge and is hereby suspended from office for a period of three (3) months without pay effective from the finality of this decision.

SO ORDERED.

Teehankee (Actg. C.J.), Guerrero, De Castro, and *Melencio-Herrera, JJ.*, concur.

Makasiar, J., is on official leave.

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[15] 85 SCRA 10, 26.