Supreme Court E-Library

THIRD DIVISION

[A.M. No. MTJ-99-1221. March 16, 2000]
(Formerly OCA IPI No. 98-524-MTJ)

JOSEFINA M. VILLANUEVA, *complainant, vs.* **JUDGE BENJAMIN E. ALMAZAN,** *respondent.*

SYNOPSIS

There is an administrative case instituted by Josefina M. Villanueva against Judge Benjamin E. Almazan for gross ignorance of the law, abuse of discretion, partiality and gross misconduct.

On October 9, 1987, the complainant filed with the Municipal Trial Court of Santo Tomas, La Union, presided over by respondent Judge, two (2) Complaints for Grave Oral Defamation against one Teresita Nabayan. On the same day, the respondent Judge, conducted a "preliminary examination," after which he issued an order downgrading the crimes charged to simple slander. The trial court denied complainant's motion for reconsideration. On January 20, 1998, the day before the scheduled arraignment and pre-trial in the said cases, complainant asked Judge Benjamin E. Almazan to inhibit from the said cases on the ground that he used to be a law partner of the defense counsel. The request was denied.

The Court Administrator found respondent judge administratively liable and recommended that he be fined Five Thousand (₱5,000.00) Pesos, with stern warning that a repetition of the same or similar act shall be dealt with more severely.

The Supreme Court found merit in the recommendation of the Court Administrator.

The original charges for grave oral defamation were cognizable by the Municipal Trial Court and did not require preliminary investigation. Preliminary investigation is only required for those cognizable by the Regional Trial Court. Hence, in conducting the preliminary investigation under attack, the respondent judge exceeded his authority under the pertinent

Supreme Court E-Library

rules. Consequently, the respondent judge was devoid of jurisdiction or authority to reduce the charge to simple slander.

The respondent judge showed his ignorance not only of the scope of his authority to conduct preliminary investigation but also of the procedure to follow in conducting a preliminary investigation. Where, as in this case, the law involved is simple and elementary, lack of conversance therewith constitutes gross ignorance of the law.

Concerning the refusal of respondent judge to inhibit from the cases in question, the Court was not convinced of the need therefor. The private prosecutor did not file the required motion for inhibition, an omission which was interpreted as abandonment of the stance of the complainant to inhibit the respondent Judge from hearing subject cases.

SYLLABUS

1. **REMEDIAL LAW; CRIMINAL PROCEDURE; PRELIMINARY INVESTIGATION; NOT REQUIRED FOR CRIMINAL CASES COGNIZABLE BY MUNICIPAL TRIAL COURT.** — Contrary to the clear mandate of Section 1, Rule 112 of the Rules of Court and Section 9, of the same Rules, the respondent Judge conducted the preliminary investigation culminating in the lowering of the charge to simple slander. The original charge for grave oral defamation is punishable by *arresto mayor* in its maximum period to *prision correccional* in its minimum period, while simple slander is punishable by *arresto menor* or a fine not exceeding 200 pesos. Thus, the original charges were cognizable by the Municipal Trial Court and did not require a preliminary investigation. The proper action the respondent judge could have taken under the premises was to dismiss the complaint if found to be without any basis for further proceedings or if warranted, to issue a warrant of arrest for the respondent, and after arrest, to hold him for trial. It is decisively clear that in conducting the preliminary investigation under attack, the respondent judge exceeded his authority under the pertinent rules.

Supreme Court E-Library

2. **ID.; ID.; ID.; REQUIRED FOR CRIMINAL CASES COGNIZABLE BY THE REGIONAL TRIAL COURT; RESPONDENT JUDGE WAS DEVOID OF JURISDICTION TO REDUCE CHARGE OF GRAVE ORAL DEFAMATION TO SIMPLE SLANDER ; CASE AT BAR.** — In his Comment, respondent judge was careful to refer to his challenged action as a preliminary examination. Be that as it may, when he concluded that the proper charge should be simple slander, after examining the complainant and her witnesses in subject criminal cases, respondent Judge, in effect, conducted a preliminary investigation. Not only was such preliminary investigation defective; it was a patent error because no preliminary investigation is required for criminal cases cognizable by Municipal Trial Courts. It is only required for those cognizable by the Regional Trial Court. Consequently, the respondent judge was devoid of jurisdiction or authority to reduce the charge to simple slander.

3. **JUDICIAL ETHICS; JUDGES; WHERE LAW INVOLVED IS SIMPLE AND ELEMENTARY, LACK OF CONVERSANCE THEREWITH CONSTITUTES GROSS IGNORANCE OF THE LAW.** — The respondent judge showed his ignorance not only of the scope of his authority to conduct preliminary investigation but also of the procedure to follow in conducting a preliminary investigation. Where, as in this case, the law involved is simple and elementary, lack of conversance therewith constitutes gross ignorance of the law. Judges are expected to exhibit more than just cursory acquaintance with statutes and procedural laws. They must know the laws and apply them properly in all good faith. Judicial competence requires no less.

4. **ID.; ID.; ACTION OF RESPONDENT JUDGE IN PROCEEDING WITH ARRAIGNMENT WITHOUT PARTICIPATION OF GOVERNMENT PROSECUTOR CONSIDERED ERRONEOUS; PUBLIC PROSECUTOR MUST BE AFFORDED OPPORTUNITY TO INTERVENE IN ALL STAGES OF PROCEEDINGS.** — Equally erroneous was the action of respondent judge in proceeding with the arraignment of the accused in subject criminal cases without the participation of a government prosecutor. The Court need not belabor the point that as the officer in charge of prosecuting criminal cases

Supreme Court E-Library

for the government, rudiments of due process require that the public prosecutor must be afforded an opportunity to intervene in all stages of the proceedings. Here, it cannot be denied that the public prosecutor assigned to handle Criminal Cases Nos. 3097 and 3098 was not notified by respondent judge of the scheduled trial of said cases. That the public prosecutor in the said criminal cases had an arrangement with the respondent Judge as early as June 1997 — that trial of cases requiring his appearance be transferred from the previous Tuesday schedule to Wednesdays, did not excuse the failure of the latter to notify the former of the scheduled trial on January 21, 1998 (a Wednesday) in subject criminal cases.

5. **ID.; ID.; INHIBITION; FAILURE OF COMPLAINANT TO FILE REQUIRED MOTION CONSIDERED AN ABANDONMENT OF HIS STANCE TO INHIBIT RESPONDENT JUDGE FROM HEARING SUBJECT CASES.** — Concerning the refusal of respondent judge to inhibit from the cases in question, the Court is not convinced of the need therefor. In this connection, the Court Administrator observed that the complainant wrote respondent judge, asking him to inhibit from subject criminal cases, but a formal motion therefor was necessary so that the alleged grounds thereof could be ventilated properly. As a matter of fact, the request or motion for inhibition was taken up during the scheduled arraignment of the accused on November 12, 1997, when the private prosecutor asked the respondent Judge to inhibit himself from subject cases. Acting thereupon, respondent judge ordered the lawyer to file the corresponding motion within five (5) days from receipt of the Order; and in the meantime, he suspended the arraignment of the accused. However, the private prosecutor did not file the required motion for inhibition, an omission which was interpreted as abandonment of the stance of the complainant to inhibit the respondent Judge from hearing subject cases.

D E C I S I O N

PURISIMA, *J.*:

At bar is an administrative case instituted by Josefina M. Villanueva against Judge Benjamin E. Almazan for gross

Supreme Court E-Library

ignorance of the law, abuse of discretion, partiality and gross misconduct.

The verified letter-complaint[1] filed with the Office of the Court Administrator averred that the acts of Judge Benjamin E. Almazan complained of were committed as follows:

On October 9, 1997, the complainant filed with the Municipal Trial Court of Santo Tomas, La Union, presided over by respondent Judge, two (2) Complaints for Grave Oral Defamation against one Teresita Nabayan, docketed as Criminal Cases Nos. 3097 and 3098, respectively.

On the same day, the respondent Judge, conducted a "preliminary examination," after which he issued the following Order downgrading the crimes charged to simple slander, to wit:

"The Court conducted the necessary preliminary examination to determine the existence of probable cause by asking searching questions to the witnesses for the prosecution. In the course of investigation, the Court is convinced that the offense committed by the accused was just simple slander.

In view of the findings of the Court in the two (2) entitled cases, the accused is hereby ordered to submit her counter-affidavit including that of her witness/es well as exhibits or evidence/s if there be any within ten (10) days from receipt of this order. Failure on her part to comply with his order, she is barred to present evidence during the trial of this case."

On the November 21, 1997, the complainant presented a Manifestation with Motion for Reconsideration, contending that the aforesaid action of respondent judge does not accord with the Rules of Court under which the judge has no authority to downgrade subject accusation from grave oral defamation to simple slander. In due time, the motion for reconsideration[2]

---

[1] Dated January 26, 1998. On February 9, 1998, the Office of the Court Administrator received a verified complaint containing the same allegations as that in the sworn letter-complaint.

[2] Order dated December 23, 1997,

Supreme Court E-Library

was denied for failure of the private prosecutor[3] to get the conformity thereto of the public prosecutor.[4]

On January 20, 1998, the day before the scheduled arraignment and pre-trial in the said cases, complainant asked for the inhibition of Judge Benjamin E. Almazan from the said cases on the ground that the latter used to be a law partner of the defense counsel. Said request or motion for inhibition, which was denied, infuriated the respondent Judge who then subjected her (Complainant) to verbal abuse. When asked why he downgraded the charge to that of simple slander, respondent Judge explained to the complainant that he did so "because your answers were wrong."

On January 21, 1998, accused Teresita Nabayan was arraigned in the absence of the public prosecutor, who did not receive any calendar of cases for that day.

The same complaint sought to have Clerk of Court Violeta R. Villanueva investigated for blatant partiality and influence peddling, alleging that the latter discussed the cases during mahjong sessions where she entertained some litigants. Also, she (Violeta R. Villanueva) refused to officially receive the pleading of the herein complainant so as not to mess up the records, and was only forced to receive the same when she got a dressing down from the lawyer of complainant.

Respondent Judge and respondent Violeta R. Villanueva submitted their Comments, dated December 24, 1998, which the Office of the Court Administrator received on January 18, 1999.

Explaining his aforementioned action complained of, respondent Judge contended that he conducted a preliminary examination of the complainant and her two (2) eyewitnesses, and thereafter, arrived at the conclusion that the acts allegedly committed were not grave oral defamation, as averred in the complaint, such

---

[3] Atty. Lazaro C. Gayo.

[4] Efren Basconcillo.

Supreme Court E-Library

that he issued his questioned Order to the effect that the accused in subject cases should be charged with simple slander only.

Respondent Judge theorized that his trouble with the complainant started when he denied her motion in subject criminal cases to amend the Complaint so as to reflect the correct dates of commission of the crimes charged, and the complainant was incensed by the failure of the court to grant her motion, and by the adverse effect on complainant's position of the action thus taken by respondent judge in the said cases when she requested him to inhibit therefrom. Respondent Judge maintained that the denial of the motion for reconsideration of complainant was proper because amendment of the complaint could only be made with conformity of the public prosecutor who intervened to prosecute the said cases.

Respondent Clerk of Court Violeta R. Villanueva denied the allegations of the complaint, branding the same baseless, motivated by ill will and a mere harassment, considering that she has no power to influence or interfere with the issuance of the orders, decisions, or actuations of respondent judge. She brushed aside as blatant lies the allegation that she attends mahjong sessions during office hours and entertains thereat litigants who need her services. That she discussed cases during such sessions is a mere speculation, since the complainant could not have gotten such information as she spent most of her time in Manila.

As regards the accusation that she was taking sides, this respondent maintained that the same is a fabrication by the complainant who wanted to impose her will upon the court.

On July 27, 1999, there was received from the Court Administrator[5] the report finding respondent judge administratively liable and recommending that he be fined Five Thousand (₱5,000.00) Pesos, with stern warning that a repetition of the same or similar act shall be dealt with more severely.

---

[5] Alfredo L. Benipayo.

Supreme Court E-Library

The same report recommended the dismissal of the complaint against Violeta R. Villanueva for insufficiency of evidence.[6]

In response to the Resolution of the Court dated August 23, 1999, respondent Judge manifested in a letter, dated September 20, 1999, that he was submitting the case on the basis of the pleadings and records.

The principal issues for resolution here concern the propriety of the preliminary investigation conducted by respondent judge, and the arraignment of the accused in subject criminal cases. Corollarily, the downgrading of the said cases, and denial of complainant's motion to inhibit respondent judge from trying the same cases are denounced.

After a thorough examination of the report and the records on hand, the Court finds merit in the recommendation of the Court Administrator.

The root of the controversy is the unfamiliarity of respondent judge with the rules applicable in cases requiring preliminary investigation.

Section 1, Rule 112 of the Rules of Court reads:

SECTION 1. *Definition.* — Preliminary investigation is an inquiry or proceeding for the purpose of determining whether there is sufficient ground to engender a well-founded belief that a crime cognizable by the Regional Trial Court has been committed and that

---

[6] On August 23, 1999, this Court issued a resolution which reads: Considering the memorandum of the Office of the Court Adminsitrator on the complaint charging respondents with gross ignorance of law, abuse of discretion, gross partiality and gross misconduct relative to Criminal Case Nos. 3097-98, entitled "P*eople vs. Teresita Nabayan,*" the Court Resolved to ADOPT its recommendation: (a) to REDOCKET this case as an administrative matter; and (b) to DISMISS the charges against respondent Clerk of Court for insufficiency of evidence.

The Court further resolved to require respondent Judge to MANIFEST to the Court whether he is submitting the case on the basis of the pleadings and the records of the case, within (10) days from notice.

Supreme Court E-Library

the respondent is probably guilty thereof, and should be held for trial.[7]

Section 9, of the same Rules provides:

SEC 9. *Cases not falling under the original jurisdiction of the Regional Trial Courts nor covered by the Rule on Summary Procedure.* —

x x x x x x x x x

(b) *Where filed directly with the Municipal Trial Court.* — If the complaint or information is filed directly with the Municipal Trial Court, the procedure provided for in Section 3(a) of this Rule shall likewise be observed. If the judge finds no sufficient ground to hold the respondent for trial, he shall dismiss the complaint or information. Otherwise, he shall issue a warrant of arrest after personally examining in writing an under oath the complainant and his witnesses in the form of searching questions and answers.

Contrary to the clear mandate of the aforestated rules, the respondent Judge conducted the preliminary investigation culminating in the lowering of the charge to simple slander. The original charge for grave oral defamation is punishable[8] by *arresto mayor* in its maximum period to *prision correccional* in its minimum period, while simple slander is punishable by *arresto menor* or a fine not exceeding 200 pesos. Thus, the original charges were cognizable by the Municipal Trial Court and did not require a preliminary investigation. The proper action the respondent judge could have taken under the premises was to dismiss the complaint if found to be without any basis for

---

[7] In *Cojuangco vs. Presidential Commission on Good Government, et al.* (190 SCRA 226, 243), this Court held that such a preliminary investigation is required for offenses cognizable by the Regional Trial Court and the Sandiganbayan in accordance with Section 1, Rule 112, 1985 Rules on Criminal Procedure and Section 10, P.D. No. 1386.

[8] The Revised Penal Code, Art. 358. Slander. — Oral defamation shall be punished by *arresto mayor* in its maximum period to *prision correccional* in its minimum period if it is of a serious and insulting nature; otherwise the penalty shall be *arresto menor* or a fine not exceeding 200 pesos.

Supreme Court E-Library

further proceedings or if warranted, to issue a warrant of arrest for the respondent, and after arrest, to hold him for trial. It is decisively clear that in conducting the preliminary investigation under attack, the respondent judge exceeded his authority under the pertinent rules.

In his Comment, respondent judge was careful to refer to his challenged action as a preliminary examination. Be that as it may, when he concluded that the proper charge should be simple slander, after examining the complainant and her witnesses in subject criminal cases, respondent Judge, in effect, conducted a preliminary investigation. Not only was such preliminary investigation defective; it was a patent error because no preliminary investigation is required for criminal cases cognizable by Municipal Trial Courts. It is only required for those cognizable by the Regional Trial Court.[9] Consequently, the respondent judge was devoid of jurisdiction or authority to reduce the charge to simple slander.

Furthermore, in *Bagunas vs. Fabillar,*[10] the Court reiterated that under the new rules of procedure, preliminary investigation has only one stage, *viz.*:

"(u)nder the old rules, the preliminary investigation conducted by a municipal judge had two stages: (1) the *preliminary examination* stage during which the investigating judge determines whether there is reasonable ground to believe that an offense has been committed and the accused is probably guilty thereof, so that a warrant of arrest may be issued and the accused held for trial; and (2) the preliminary investigation proper where the complaint or information is read to the accused after his arrest and he is informed of the substance of the evidence adduced against him, after which he is allowed to present evidence in his favor if he so desires. Presidential Decree 911, upon which the present rule is based, removed the preliminary examination stage and integrated it into the preliminary investigation proper. Now, the proceedings consist only of one stage." (Italics supplied)

---

[9] *Del Rosario, Jr. vs. Bartolome*, 270 SCRA 645, 649.

[10] 289 SCRA 383, 394.

Supreme Court E-Library

In the present cases, the respondent judge showed his ignorance not only of the scope of his authority to conduct preliminary investigation[11] but also of the procedure to follow in conducting a preliminary investigation. Where, as in this case, the law involved is simple and elementary, lack of conversance therewith constitutes gross ignorance of the law. Judges are expected to exhibit more than just cursory acquaintance with statutes and procedural laws. They must know the laws and apply them properly in all good faith. Judicial competence requires no less.[12]

Equally erroneous was the action of respondent judge in proceeding with the arraignment of the accused in subject criminal cases without the participation of a government prosecutor. The Court need not belabor the point that as the officer in charge of prosecuting criminal cases for the government, rudiments of due process require that the public prosecutor must be afforded an opportunity to intervene in all stages of the proceedings. Here, it cannot be denied that the public prosecutor assigned to handle Criminal Cases Nos. 3097 and 3098 was not notified by respondent judge of the scheduled trial of said cases. That the public prosecutor in the said criminal cases had an arrangement with the respondent Judge as early as June 1997 — that trial of cases requiring his appearance be transferred from the previous Tuesday schedule to Wednesdays, did not excuse the failure of the latter to notify the former of the scheduled trial on January 21, 1998 (a Wednesday) in subject criminal cases.

Concerning the refusal of respondent judge to inhibit from the cases in question, the Court is not convinced of the need therefor. In this connection, the Court Administrator observed that the complainant wrote respondent judge, asking him to inhibit from subject criminal cases, but a formal motion therefor was necessary so that the alleged grounds thereof could be ventilated properly.[13]

---

[11] SEC. 2, Rule 112, Revised Rules of Court.

[12] *Cortes vs. Agcaoili*, 294 SCRA 423, 458.

[13] Report of the Court Administrator, p. 3.

Supreme Court E-Library

As a matter of fact, the request or motion for inhibition was taken up during the scheduled arraignment of the accused on November 12, 1997, when the private prosecutor asked the respondent Judge to inhibit himself from subject cases. Acting thereupon, respondent judge ordered the lawyer to file the corresponding motion within five (5) days from receipt of the Order; and in the meantime, he suspended the arraignment of the accused. However, the private prosecutor did not file the required motion for inhibition, an omission which was interpreted as abandonment of the stance of the complainant to inhibit the respondent Judge from hearing subject cases.[14]

WHEREFORE, Judge Benjamin E. Almazan is hereby found *GUILTY* of gross ignorance of the law and is hereby sentenced to pay a fine of Five Thousand (₱5,000.00) Pesos, with stern warning that a repetition of the same or similar act shall be dealt with more severely. Let copy of this Decision be attached to the personal records of respondent Judge.

SO ORDERED.

Melo (Chairman), Vitug, Panganiban, and *Gonzaga-Reyes, JJ.,* concur.

---

[14] *Ibid.*