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FIRST DIVISION

[A.M. MTJ-00-1255. February 26, 2001]

MELVIN L. ESPINO and ESTRELLITA L. IGPIT, *complainants, vs.* **HON. ISMAEL L. SALUBRE, Municipal Trial Court, Tagum, Davao del Norte,** *respondent.*

SYNOPSIS

Respondent MTC judge was charged with gross ignorance of the law. Allegedly, he issued a warrant of arrest against complainant Espino despite lack of jurisdiction as the preliminary investigation had already been terminated, the records forwarded to the provincial prosecutor and the corresponding information filed with the RTC.

Under our criminal procedure, the moment an information is filed with the RTC, it is that court which must issue the warrant for the arrest of the accused in a criminal case pending before it. Manifestly, this was violated by respondent judge. Thus, the Court declared him guilty of gross ignorance of the law and fined him ₱5,000.

SYLLABUS

1. **REMEDIAL LAW; CRIMINAL PROCEDURE; WARRANT OF ARREST; MUST BE ISSUED BY THE RTC WHERE CRIMINAL CASE IS ALREADY FILED; VIOLATED IN CASE AT BAR.** — Basic in criminal procedure is that the moment an information is filed with the RTC, it is that court which must issue the warrant for the arrest of the accused in a criminal case pending before it. Apparently, respondent Judge was not aware of the limits of his authority as an investigating judge and continued with the investigation and subsequent issuance of a warrant of arrest against herein complainant in Criminal Case No. 22324-97 when all the records have been transmitted to the provincial fiscal and an information has been filed in court already. Evidently, Judge Salubre's continuation of his preliminary investigation and his issuance of warrants of arrest

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was contrary to the procedure outlined in Rule 112 of the Revised Rules on Criminal Procedure.

2. JUDICIAL ETHICS; JUDGES; GROSS IGNORANCE OF THE LAW; A VIOLATION OF THE REQUIREMENT THAT JUDGES MUST KNOW THE LAW. — To constitute gross ignorance of the law, the acts complained of must not only be contrary to existing law and jurisprudence, but were motivated by bad faith, fraud, dishonesty and corruption. These circumstances were not at all attendant in the case at bar. However, having applied for the position as judge and was duly appointed as such, respondent is presumed to know the law. When the law is so elementary, not to be aware of it constitutes gross ignorance of the law. Judges are expected to exhibit more than just cursory acquaintance with statute and procedural rules. They must know the laws and apply them properly in all good faith. Judicial competence requires no less. Ignorance of the law, which everyone is bound to know, excuses no one — not even judges. They are expected to keep abreast of our laws and the changes therein as well as with latest decisions of the Supreme Court. They owe it to the public to be legally knowledgeable for ignorance of the law is the mainspring of injustice which is what happened to one of the complainants in this case. It is a truism that the life chosen by a judge as a dispenser of justice is one which is demanding. By virtue of the delicate position which he occupies in society, he is duty bound to be the embodiment of competence and integrity. Because of this, a judge who is not knowledgeable of the law which he is obligated to implement will not be able to live up to the judiciary's exacting standards.

DECISION

KAPUNAN, *J.*:

This is an administrative case charging respondent Judge Ismael L. Salubre with gross ignorance of the law for having issued a warrant of arrest against complainant Melvin L. Espino despite lack of jurisdiction as the preliminary investigation had already been terminated, the records forwarded to the provincial prosecutor and the corresponding information filed with the regional trial court.

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The antecedents of this case are as follows:

On July 17, 1997, Wilfreda Clamucha filed a complaint for frustrated murder before the Municipal Trial Court of Tagum, Davao del Norte, presided by respondent Judge Ismael Salubre, against Joemar Telleron and two (2) unknown assailants, only known as *alias* "Dodong" and John Doe, for stabbing and mortally wounding her son, Ruel Clamucha. The case was docketed as Criminal Case No. 22324-97. After conducting his preliminary investigation and finding probable cause, Judge Salubre issued a warrant for the arrest of the alleged assailants.

When Ruel Clamucha died from his wounds, respondent Judge in his Resolution dated September 9, 1997 recommended that the charge be upgraded to murder and ordered that the records be forwarded to the Provincial Prosecutor of Davao for review. Accordingly, on September 30, 1997, the Provincial Prosecutor filed an information for murder against three (3) persons, namely, Joemar Telleron, an *alias* "Dodong" and John Doe before the Regional Trial Court of Tagum, Davao, Branch 30, docketed as Criminal Case No. 10943.[1]

On November 20, 1997, Wilfreda Clamucha executed a "Supplemental Sworn Statement"[2] before the Tagum Police Station to the effect that she was informed by the accused Joemar Telleron that the true name of *alias* "Dodong" is Peter Erer and that of their other companion designated as "John Doe" is Melvin Espino *alias* "Bentot."

Despite the fact that respondent Judge had no more jurisdiction over the case, having earlier forwarded the same to the Provincial Prosecutor, he conducted a further preliminary examination in connection with Criminal Case No. 22324-97 consisting of searching questions propounded on Wilfreda Clamucha.[3] After allegedly finding the existence of probable cause, respondent

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[1] *Rollo*, p. 65.

[2] *Id.*, at 46.

[3] *Id.*, at 47-48.

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Judge issued a warrant for the arrest of Peter Erer and Melvin Espino on November 27, 1997.[4]

Pursuant to the said warrant, Melvin Espino (herein complainant) was arrested in Davao City by SPO2 Mario Galendez and SPO1 Diodel Chavez, police officers from the Tagum Police Station, and was detained at the Tagum District Jail. On December 5, 1997, Judge Salubre issued an order to the Jail Warden of the Tagum District Jail for the confinement of Melvin Espino during the pendency of the trial.[5] Thereafter, on December 8, 1997, Judge Salubre forwarded the case to the Provincial Prosecutor for further action.

As a result of such arrest, Melvin Espino, represented by his aunt, Estrellita Igpit, filed a "*Petition for Habeas Corpus*" on February 23, 1998, before Judge Bernardo V. Saludares of the Regional Trial Court, Branch 2, Tagum City naming Judge Ismael Salubre, Police Chief Pytagoras Cervantes and the Warden of Tagum District Jail as respondents. In said petition (docketed as Spec. Proc. No. 671), it was averred that Melvin Espino was restrained of his liberty without a valid warrant. On April 8, 1998, the trial court granted the petition and ordered the immediate release of Melvin Espino from the Tagum District Jail. The pertinent portion of the Order[6] reads as follows:

> In summation, and as correctly manifested by petitioner's counsel, the continued detention and restraint of the liberty of petitioner Melvin Espino appears unmistakably without lawful basis, and therefore, constitute a blatant violation of said person's constitutional rights.
>
> WHEREFORE, the immediate discharge and release of Melvin Espino, *Alias* "Bentot" from the custody of the Jail Warden, District Jail of Tagum at Canocotan, Davao del Norte, being one of the herein respondent[s], is hereby reiterated pursuant to the Order of this Court dated April 7, 1998. x x x[7]

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[4] *Id.*, at 51.

[5] *Id.*

[6] *Id.*, at 68-78.

[7] *Id.*, at 78.

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With such ruling from the trial court, Melvin Espino assisted by his counsel, Atty. Danilo Balucanag filed a case for Abitrary Detention or violation of Article 124 of the Revised Penal Code against Judge Ismael Salubre; the arresting officers, SPO2 Mario Galendez and SPO1 Diodel Chavez; Tagum District Jail Warden Insp. Imelda Ravara and Wilfreda Clamucha with the Provincial Prosecution Office, Tagum, Davao. After preliminary investigation was conducted, Prosecutor II/Deputized Ombudsman Investigator Oscar G. Tirol issued a Resolution dated March 30, 1998[8] recommending the dismissal of the case against the respondents considering that he found no probable cause to file a criminal action for the offense charged. Contrary to complainant's assertion, Prosecutor Tirol "ruled out conspiracy in this case, noting that respondents Galendez and Chavez merely executed the order of arrest issued by Judge Salubre, and the same is true with respondent Ravara who received Espino for detention in compliance with a commitment order signed by respondent Judge. He stated that respondent Clamucha, who is untaught in the intricacies of the law and applicable procedure cannot be faulted. It cannot be said that she knowingly connived with Judge Salubre in the issuance of the arrest order."[9] However, he further recommended that:

> Coming to respondent Judge Salubre, we see no sufficient basis or probable cause to sue him for the crime charged. He has shown that the order of arrest, although issued out of time, was issued after what appears as a preliminary examination of Wilfreda Clamucha. And while respondent Judge was dispossessed of any further authority to issue the warrant for a case which had left his jurisdiction and was now property of the RTC, the issuance of the warrant was not without any valid ground, so that the same may be regarded not as unlawful or criminal, but merely irregular, warranting administrative sanctions.[10]

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[8] *Id.*, at 8.

[9] *Id.*, at 5.

[10] *Id.*, at 20.

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This recommendation was well-taken by the Office of the Deputy Ombudsman for the Military upon review. Thus, in a First Indorsement dated May 26, 1998, the Office of the Ombudsman forwarded to the Office of the Court Administrator (OCA) the complete records of OMB-MIL-ADM-98-0394, entitled "*Melvin Espino vs. Judge Ismael Salubre, et. al.*" for appropriate administrative action against respondent Judge for Gross Ignorance of the Law.[11]

Hence, this administrative case.

The OCA required respondent Judge to file his Comment.

In his counter-affidavit which he adopted as his comment,[12] Judge Salubre denied the accusations against him. He averred that on the basis of the "Supplemental Sworn Statement" executed by Wilfreda Clamucha, he had the duty to conduct the necessary preliminary investigation and, since it was demanded by the results of his inquiry, he issued the corresponding warrant of arrest. Furthermore, he claimed that the arrest of the accused and his subsequent confinement followed the proper procedural requirements and that his jurisdiction over the criminal case only terminated when he forwarded the criminal case to the Provincial Prosecutor of Davao on December 8, 1997 for further action.

On April 28, 2001, Judge Salubre filed a supplemental comment, wherein he admitted that he committed a mistake in conducting another preliminary examination on November 25, 1997 on the basis of the supplemental sworn statement of Wilfreda Clamucha executed on November 20, 1997. He explained that he was under the belief that he still had jurisdiction to conduct the same considering that one of the accused in Criminal Case No. 22324-97 was still at large. The warrant of arrest which was correspondingly issued was admittedly an error of judgment on his part considering that he was overwhelmed with the volume of caseload, amounting to about 5,000 cases in this

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[11] *Id.*, at 1.

[12] *Id.*, at 85-92.

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single sala, when he assumed office in 1997. He humbly asked for the apology of the Court and to the complainant and undertook not to commit the same mistake again. Finally, respondent Judge prayed for his exoneration in the instant administrative case considering that Criminal Case No. 22324-97 was his first case when he assumed the position as judge of the MTC, Tagum, Davao.

We have evaluated the records of this case carefully, including the report and recommendation of Deputized Ombudsman Investigator Oscar G. Tirol and the decision rendered by Judge Bernardo V. Saludares in Spec. Proc. No. 671 on the petition for *habeas corpus*. We do agree that respondent Judge Ismael L. Salubre acted in violation of existing procedural rules.

It is rather basic in criminal procedure that the moment an information is filed with the RTC, it is that court which must issue the warrant for the arrest of the accused in a criminal case pending before it.[13] Apparently, respondent Judge was not aware of the limits of his authority as an investigating judge and continued with the investigation and subsequent issuance of a warrant of arrest against herein complainant in Criminal Case No. 22324-97 when all the records have been transmitted to the provincial fiscal and an information has been filed in court already. Evidently, Judge Salubre's continuation of his preliminary investigation and his issuance of warrants of arrest was contrary to the procedure outlined in Rule 112 of the Revised Rules on Criminal Procedure.

However, we do not find respondent Judge's actuations as so grave as to merit the sanction recommended by the OCA which is a fine of ₱20,000.00.

To constitute gross ignorance of the law, the acts complained of must not only be contrary to existing law and jurisprudence, but were motivated by bad faith, fraud, dishonesty and corruption.[14] These circumstances were not at all attendant in

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[13] Sec. 6, Rule 112, Revised Rules of Criminal Procedure.

[14] *Alvarado v. Laquindanum*, 245 SCRA 501 (1995).

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the case at bar. Neither can we consider that the warrant of arrest was issued with arbitrariness.

There was, in fact, a criminal complaint filed against Joemar Telleron and two (2) other assailants for murder. Apparently, he was one of the "John Does" whose identity could not be ascertained. And when information was obtained that the John Doe was Melvin Espino, a preliminary examination was conducted and a warrant was issued for his immediate arrest. As correctly found by Prosecutor Tirol, "the issuance of the warrant was not without any valid ground so that the same may be regarded not as unlawful or criminal, but merely irregular, warranting administrative sanctions."[15]

In his supplemental comment, he admits the mistake but appeals to this Court for exoneration considering that the criminal case was his first case when he assumed his position as MTC judge of Tagum, Davao del Norte, not to mention the great volume of caseload in this single sala.

Much as we would want to commiserate with respondent Judge's plight, we however, can not countenance such lapse. Having applied for the position as judge and was duly appointed as such, he is presumed to know the law. When the law is so elementary, not to be aware of it constitutes gross ignorance of the law.[16] Judges are expected to exhibit more than just cursory acquaintance with statute and procedural rules. They must know the laws and apply them properly in all good faith. Judicial competence requires no less.[17]

Ignorance of the law, which everyone is bound to know, excuses no one — not even judges. They are expected to

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[15] *Rollo*, p. 28.

[16] *Flaviano V. Cortes v. Judge Felino Bangalan*, Adm. Matter No. MTJ-97-1129 (formerly OCA IPI No. 96-226-MTJ), January 19, 2000; *Alfredo B. Enojas, Jr. v. Judge Eustaquio Gacott, Jr.*, Adm. Matter No. RTJ-99-1513, January 19, 2000; *De Austria v. Beltran*, 313 SCRA 443 (1999); *Agunday v. Tresvalles*, 319 SCRA 134 (1999).

[17] *Cortes v. Agcoaili*, 294 SCRA 423 (1998).

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keep abreast of our laws and the changes therein as well as with latest decisions of the Supreme Court. They owe it to the public to be legally knowledgeable for ignorance of the law is the mainspring of injustice which is what happened to one of the complainants in this case.

It is a truism that the life chosen by a judge as a dispenser of justice is one which is demanding. By virtue of the delicate position which he occupies in society, he is duty bound to be the embodiment of competence and integrity.[18] Because of this, a judge who is not knowledgeable of the law which he is obligated to implement will not be able to live up to the judiciary's exacting standards.

Similarly, in *Northcastle Properties and Estate Corporation v. Judge Paas,*[19] the Court had this to say:

> Judge Paas' application of Section 19 showed her utter lack of familiarity with the Rules, which undermines the public confidence in the competence of our courts. Such act constitutes gross ignorance of the law.
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> The serious nature of the tasks of judges requires them to be mindful in rendering their decisions lest a party be unjustly deprived of his rights. We cannot over-emphasize the fact that as an advocate of justice and a visible representation of the law, a judge is expected to be abreast with and proficient in the interpretation of our laws. A judge should be acquainted with legal norms and precepts as well as with the statutes and procedural rules. Unfamiliarity with the Rules of Court is a sign of incompetence, which goes against Canon 3, specifically Rule 3.01, of the Code of Judicial Conduct.
>
> Having accepted the exalted position of a judge, respondent judge owes the public and the court she sits in to be proficient in the law. She must have the basic rules at the palm of her hand as she is expected to maintain professional competence at all times.
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> WHEREFORE, we resolve to impose on JUDGE ESTRELLITA M. PAAS a fine in the amount of ₱5,000.00 with warning that a repetition of the same or similar act would be dealt with more severely.

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[18] Rule 1.01, Canon 1, Code of Judicial Conduct.

[19] 317 SCRA 148 (1999).

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IN VIEW OF THE FOREGOING, the Court finds respondent Judge Ismael L. Salubre *GUILTY* of gross ignorance of the law and is hereby *FINED* in the amount of Five Thousand (₱5,000.00)[20] Pesos, with a warning that a repetition of the same will merit a more severe penalty.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Puno, Pardo, and *Ynares-Santiago, JJ.,* concur.

THIRD DIVISION

[G.R. No. 129933. February 26, 2001]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **FEDERICO BALTAZAR *y* PIMENTEL *alias* "TODONG,"** *accused-appellant.*

SYNOPSIS

Accused-appellant Federico Baltazar *y* Pimentel was convicted of murder by the Regional Trial Court of Roxas City and was sentenced to suffer the penalty of *reclusion perpetua*. In his appeal before the Court, appellant assails the trial judge's assessment of the prosecution's witnesses, particularly that of eyewitness Rodney Hallegado. According to accused-appellant, the actuations of Rodney Hallegado during and after the shooting were contrary to human experience; that he was impelled by improper motive to testify falsely against accused-

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[20] In *Josefina M. Villanueva v Judge Benjamin E. Almazan,* A.M. No. MTJ-99-1221 (formerly OCA IPI No. 98-524-MTJ), March 16, 2000, the Court found respondent judge guilty of gross ignorance of the law and was sentenced to pay a fine of Five Thousand (₱5,000) Pesos, with stern warning that a repetition of the same or similar act shall be dealt with more severely.

Likewise, in the case of *Acting Solicitor General Romeo de la Cruz v. Judge Carlito A. Eisma, RTC, Branch 13, Zamboanga City,* A.M. No. RTJ-00-1544, March 15, 2000, a fine of ₱5,000 was imposed on the respondent judge for gross ignorance of the law and abuse of authority.