Supreme Court E-Library

On the other hand, the trial court must not have appreciated the aggravating circumstances of abuse of superior strength and aid of armed men because these are absorbed in treachery.[24]

Consequently, we sustain the trial court's conviction of the accused, including the civil liability imposed against them. However, the aggravating circumstances of evident premeditation and abuse of superior strength and aid of armed men are not to be appreciated.

WHEREFORE, we *AFFIRM* the judgment of the trial court convicting accused-appellants Sergon Manes and Ramil Manes of murder and sentencing each of them to suffer the penalty of *reclusion perpetua* with the accessory penalties of the law and to indemnify the heirs of the deceased Nicanor Tamorite in the amount of P50,000.00, plus P21,250.00, as actual damages.

Costs against accused-appellants.

SO ORDERED.

Davide, Jr., C.J. (Chaitrman), Melo, and *Kapunan, JJ.,* concur.

FIRST DIVISION

[A. M. No. P-93-794. February 18, 1999]

OFFICE OF THE COURT ADMINISTRATOR, *complainant, vs.* **ANASTACIA DIAZ, Clerk of Court, Municipal Circuit Trial Court, Aborlan-Kalayaan, Palawan,** *respondent.*

SYNOPSIS

A complaint for direct bribery under Article 210 of the Revised Penal Code was filed against respondent. In its *En Banc* resolution,

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[24] *People vs. Torrefiel*, 256 SCRA 369.

Supreme Court E-Library

the Court, upon the recommendation of the Office of the Court Administrator (OCAD), directed the filing of administrative charges against the respondent. At the investigation conducted by Palawan RTC Executive Judge Fanfilo Salva, the complaining witnesses declared that they were no longer interested in pursuing their complaints because the sums of money that they gave to respondent had already been allegedly given to their lawyers. Respondent for her part, while denying that she demanded money from the complainants, admitted having received separate sums of money from all the complainants, but for the purpose of delivering the same to other persons for whom the amounts were allegedly intended. Despite the dismissal of the criminal charges due to lack of interest of the complainants. The investigating judge found respondent guilty of gross misconduct for receiving money from litigants. The OCAD recommended that respondent be found guilty of gross misconduct and that a fine of Ten Thousand Pesos be imposed.

The Supreme Court adopted the recommendation of the OCAD. The Court ruled that the fact that respondent received money from litigants is enough basis for sanctioning her for grave misconduct. The dismissal of the criminal case against respondent is also of no moment because the dismissal of the criminal case does not warrant the dismissal of the administrative case arising from the same set of facts, since the quantum of evidence that is required in the latter is only substantial, and not proof beyond reasonable doubt that is required in criminal cases.

SYLLABUS

POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; COURT PERSONNEL; THE FACT THAT RESPONDENT RECEIVED MONEY FROM LITIGANTS IS ENOUGH BASIS FOR SANCTIONING HER FOR GRAVE MISCONDUCT.— There is no doubt that respondent actually received sums of money from the above-named complainants. As noted by the OCAD, respondent's claim that the amounts received were intended for a lawyer does not inspire belief, for the litigants could have handed them directly to the lawyer concerned and not through an employee of the court. The fact that respondent received money from litigants is enough basis for sanctioning her for grave misconduct. The fact that the criminal case against respondent was dismissed is of no moment. The

Supreme Court E-Library

dismissal of the criminal case against respondent does not warrant the dismissal of an administrative case arising from the same set of facts, since the *quantum* of evidence that is required in the latter is only substantial evidence, and not proof beyond reasonable doubt that is required in criminal cases. That respondent has retired from the service is of no consequence either, since the jurisdiction of the court at the time of the filing of the complaint is not lost by the mere fact that respondent public official had ceased to be in office during the pendency of the case. Finally, this Court has consistently held that the conduct required of court personnel, from the presiding judge to the lowliest clerk, must always be beyond reproach and circumscribed with the heavy burden of responsibility as to let them be free from any suspicion that may taint the judiciary.

RESOLUTION

KAPUNAN, *J.*:

Sometime in October 1992, Mayor Rafael R. Ortega, together with Chief of Police Senior Inspector Leopoldo M. Pacaldo of Aborlan, Palawan, sought the assistance of the National Bureau of Investigation (NBI) in looking into the alleged nefarious activities of herein respondent Anastacia Diaz, then Clerk of Court of the Municipal Circuit Trial Court (MCTC), Aborlan-Kalayaan, Palawan.[1]

On October 20, 1992, NBI agents acting pursuant to an entrapment plan, caught respondent in the act of receiving (marked) money from one Anita Taguno who had a case pending before said MCTC and from whom the former allegedly demanded money earlier on.[2]

Records show that two other affidavit-complaints were filed against Mrs. Diaz: the first, by one Yolly Capucao who alleged that sometime in August 1992, respondent approached her and demanded the amount of Five Hundred Pesos (P500.00) for the release of her father-in-law who was detained at the Aborlan Police Station; and, the second, by Ms. Marina Beira who alleged that

[1] *Rollo*, p. 1.

[2] *Ibid.*

Supreme Court E-Library

she gave the amount of Four Thousand Five Hundred Pesos (P4,500.00) to respondent to expedite her son's case in the same court.[3]

Consequently, a complaint for direct bribery under Article 210 of the Revised Penal Code (RPC) was filed against respondent with the Office of the Provincial Prosecutor. In a Resolution dated April 28, 1993, said Office recommended the filing of an information for two counts of direct bribery under R.A. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act. It further ordered that the records of this case be forwarded to the Office of the Ombudsman for appropriate action.[4]

The Office of the Ombudsman in turn, approved the above resolution with the modification that an information be filed against respondent for only one count of direct bribery under Article 210 of the RPC and that the provisions of R.A. 3019 no longer be applied in her case.[5]

The records further reveal that a criminal case was indeed filed against respondent, but for violation of Article 315, par. 2, sub-par. (a) of the Revised Penal Code. Said case was subsequently dismissed by the MCTC, Aborlan-Kalayaan, Palawan, on the ground that private complainant therein, Ms. Anita Taguno had executed an Affidavit of Desistance alleging, among others, that she had already lost interest in the case.[6]

Meanwhile, on November 25, 1992, Atty. Gerarda G. Galang, Chief of the Legal and Evaluation Division of the NBI, submitted a Report to the Office of the Court Administrator (OCAD, for brevity) on the results of the investigation they conducted in the Diaz case, with the recommendation that administrative action be taken against the respondent.[7]

In its *En Banc* Resolution dated February 4, 1993, this Court upon the recommendation of Deputy Court Administrator Reynaldo

[3] *Id.*, at 10-11.

[4] Records, pp. 102-108.

[5] *Id.*, at 100-101.

[6] *Id.*, at 99.

[7] *Rollo*, p. 8.

Supreme Court E-Library

L. Suarez, directed the OCAD to file the appropriate administrative complaint against respondent for Grave Misconduct and for Violation of the Anti-Graft and Corrupt Practices Act; and, consequently, preventively suspended respondent from the service.[8]

On April 5, 1993, respondent submitted a letter to the OCAD requesting therein that the order of preventive suspension be lifted since probable cause against her had yet to be determined in the preliminary investigation of the criminal case.[9]

On May 3, 1993, this Court issued a resolution requiring respondent to comment on the administrative complaint of Deputy Court Administrator Reynaldo L. Suarez.[10]

In compliance with the above resolution, respondent filed her Comment in which she adopted the allegations in her counter-affidavit and motion for reconsideration (in the criminal case).[11]

On August 9, 1993, the First Division of this Court resolved to recall the preventive suspension of respondent as ordered in the Resolution of February 4, 1993, and to suspend the administrative proceedings against her until the termination of the criminal case.[12]

On July 9, 1996, the above-mentioned criminal case against respondent was dismissed by the MCTC, Aborlan-Kalayaan, Palawan, on the ground that the private complainant therein, Ms. Anita Taguno had executed an Affidavit of Desistance alleging, among others, that she had already lost interest in the case.[13]

Thereafter, the OCAD recommended that the complaint be referred to the lower court for investigation, report and recommendation despite the dismissal of the criminal complaint, and the compulsory retirement of respondent on February 13, 1995.

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[8] *Id.*, at 24.

[9] *Id.*, at 48.

[10] *Id.*, at 47.

[11] *Ibid.*

[12] *Id.*, at 52.

[13] *Id.*, at 55.

Supreme Court E-Library

On December 2, 1996, this Court resolved to revive the case against Anastacia Diaz; to refer the same to the Executive Judge of the Regional Trial Court, Puerto Princesa City, Palawan for investigation, report and recommendation; and, to release her retirement benefits, but retain the amount of Fifty Thousand Pesos (P50,000.00) pending resolution of the case.[14]

At the investigation conducted by Palawan RTC Executive Judge Panfilo Salva, the complaining witnesses Anita Taguno, Yolly Capucao and Marina Beira declared that they were no longer interested in pursuing their complaints because the sums of money that they gave to respondent had already been allegedly given to their lawyers.[15]

Respondent for her part, while denying that she demanded money from the complainants, admitted having received separate sums of money from all the complainants, but for the purpose of delivering the same to other persons for whom the amounts were allegedly intended.

Thus, respondent testified:

ATTY. CRUZAT

x x x x x x x x x.

Do you know a person certain person by the name of Yolly Capocao? (sic)

MRS. DIAZ

Yes, Your honor.

x x x x x x x x x.

ATTY. CRUZAT

By the way, she filed a case against you that sometime on August of 1992 you demanded from her the sum of five hundred pesos, what can you say to that?

MRS. DIAZ

That is not true, your Honor.

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[14] *Rollo*, p. 63.

[15] TSN, June 17, 1997, pp. 3-5.

Supreme Court E-Library

ATTY. CRUZAT

And she stated madam witness during the hearing on June 17, 1997 that she gave you five hundred pesos for the purpose of delivering the said amount to the lawyer, Mr. Edora, what can you say to that?

MRS. DIAZ

Yes, your Honor, she gave me the sum of five hundred pesos it was given to Mr. Edora, her lawyer.

ATTY. CRUZAT

So madam witness, the purpose of five hundred pesos was payment for the lawyer, Mr. Edora of the case of her father-in-law?

MRS. DIAZ

Yes, your Honor.

ATTY. CRUZAT

And you have turned it over to Mr. Edora as requested by Mrs. Capocao? (sic)

MRS. DIAZ

Yes, your Honor.

x x x. x x x x x x.

ATTY. CRUZAT

This Mrs. Beira, do you know her?

MRS. DIAZ

Yes, your Honor.

x x x x x x x x x.

ATTY. CRUZAT

Do you know if she has any case then pending before the Municipal Circuit Trial Court of Aborlan?

MRS. DIAZ

Before her son has a case in the Municipal Circuit Trial Court, your Honor.

Supreme Court E-Library

x x x x x x x x x.

ATTY. CRUZAT

And do you know the reason why Mrs. Beira would file a case against you?

MRS. DIAZ

I do not know, your Honor.

ATTY. CRUZAT

Do you know a certain Mayor, Mayor Rafael Ortega, Sr.?

MRS. DIAZ

Yes, your Honor, he is the Mayor of Aborlan,Palawan.

ATTY. CRUZAT

And do you know a certain Edora?

MRS. DIAZ

Yes, your Honor.

ATTY. CRUZAT

And by the way, do you have any knowledge of the relation between Mayor Ortega and Edora?

MRS. DIAZ

What I know is they are not in good terms because of politics, your Honor.

ATTY. CRUZAT

And you are suspecting that Mayor Ortega has something to do with the charges against you by these people?

MRS. DIAZ

Yes, your Honor.

ATTY. CRUZAT

Why do you have a suspect that he has a hand?

MRS. DIAZ

Because when I saw it in the TV sometime in October that alleged entrapment by the NBI and I came to know that the Chief of Police of Aborlan and Mayor Ortega were the ones who instigated the

Supreme Court E-Library

entrapment and I asked him personally after the TV show why they did that entrapment and he said "*kasi mayroon ka raw kinuhang pera sa mga tao. Sabi ko Mayor narinig na pala ninyo iyon bakit hindi ninyo sinabi iyon sa akin. . .*"

ATTY. CRUZAT

Was there any proof that you are demanding money from this people?

MRS. DIAZ

No your Honor.

ATY. CRUZAT

After they tendered or delivered to you the sum of money the instruction was to give it to their lawyer?

MRS. DIAZ

Yes, your Honor.

ATTY. CRUZAT

And do you have to give to be the person to give the money to their lawyer? (sic)

MRS. DIAZ

Because sometimes if they will not meet Mr. Edora his instruction was to give it to me.

ATTY. CRUZAT

So this people who delivered to you some amount indeed was instructed by Mr. Edora to give the amount to you so that you will be the one to give it to Mr. Edora?

MRS. DIAZ

Yes, sir, but it is not often. It is seldom, your Honor.

x x x x x x x x x.[16]

Respondent categorically admitted having received money from Anita Taguno:

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[16] TSN, September 29, 1997, pp. 6-13.

Supreme Court E-Library

INVESTIGATING JUDGE

(to witness)

Mrs. Witness, why did you accept the money given by Mrs. Taguno to be given to a certain Mr. Edora. Why did you not tell Mrs. Taguno that she just give the amount directly to Edora?

MRS. DIAZ

She just requested me because she is in a hurry to go home because she is going to Tigman, your Honor.

INVESTIGATING JUDGE

Where is the residence of Edora?

MRS. DIAZ

At Poblacion, Aborlan, Your Honor.

INVESTIGATING JUDGE

What is the first name of Edora?

MRS. DIAZ

Eduardo your Honor.

INVESTIGATING JUDGE

Is this Eduardo Edora a lawyer?

MRS. DIAZ

No, he is not a lawyer. He is appearing in Municipal Trial Courts, your Honor.

INVESTIGATING JUDGE

And you gave the amount to Mr. Edora?

MRS. DIAZ

Yes, sir.

INVESTIGATING JUDGE

And what did you tell Mr. Edora?

MRS. DIAZ

I just told him that the money came from Mrs. Taguno, your Honor.

INVESTIGATING JUDGE

And what did he answer?

Supreme Court E-Library

MRS. DIAZ

He just thank me, your Honor.

INVESTIGATING JUDGE

Did Mr. Edora sign a receipt that you gave the amount to him?

MRS. DIAZ

None, sir.[17]

Despite the dismissal of the criminal charges due to lack of interest of the private complainant, Executive Judge Panfilo Salva, in his Investigation Report of December 10, 1997, found respondent guilty of gross misconduct for receiving money from litigants. He stated therein:

> x x x It is not incumbent upon her to receive the monies. She should have refused to accept the same even if for delivery to Mr. Edora. By accepting the monies for delivery to Mr. Edora, she acted as Mr. Edora's agent, a circumstance that would confirm the suspicion that respondent Anastacia Diaz takes special interests in cases pending before the MCTC of Aborlan. This should not be the behaviour of a court employee. A court employee should at all times detach himself or herself from taking special interests in cases pending before the court. By taking special interests in such cases, the court employee concerned commits an act of misconduct which is an administrative offense punishable under the civil service law. x x x[18]

On February 16, 1998, this Court issued a resolution referring this case to the OCAD for evaluation, report and recommendation.

On May 8, 1998, the OCAD submitted its Report with the following recommendations: 1) that respondent Anastacia Diaz be found guilty of Grave Misconduct; 2) that a fine of Ten Thousand Pesos (P10,000.00) be imposed upon respondent to be deducted from the Fifty Thousand Pesos (P50,000.00) already withheld from her retirement benefits; and, 3) that the remaining Forty Thousand

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[17] TSN, September 29, 1997, pp. 16-17.

[18] At p. 4 thereof.

Supreme Court E-Library

Pesos (P40,000.00) be released to her subject to the availability of funds and the usual clearance requirements.

We adopt the recommendations of the Office of the Court Administrator.

There is no doubt that respondent actually received sums of money from the above-named complainants. As noted by the OCAD, respondent's claim that the amounts received were intended for a lawyer does not inspire belief, for the litigants could have handed them directly to the lawyer concerned and not through an employee of the court. The fact that respondent received money from litigants is enough basis for sanctioning her for grave misconduct.

The fact that the criminal case against respondent was dismissed is of no moment. The dismissal of the criminal case against respondent does not warrant the dismissal of an administrative case arising from the same set of facts, since the *quantum* of evidence that is required in the latter is only substantial evidence, and not proof beyond reasonable doubt that is required in criminal cases.

That respondent has retired from the service is of no consequence either, since the jurisdiction of the court at the time of the filing of the complaint is not lost by the mere fact that respondent public official had ceased to be in office during the pendency of the case.[19]

Finally, this Court had consistently held that the conduct required of court personnel, from the presiding judge to he lowliest clerk, must always be beyond reproach and circumscribed with the heavy burden of responsibility as to let them be free from any suspicion that may taint the judiciary.[20]

IN VIEW OF THE FOREGOING, this Court finds respondent Anastacia Diaz guilty of Grave Misconduct, and hereby imposes on said respondent a fine of Ten Thousand Pesos (P10,000.00),

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[19] *Atty. Romeo S. Perez vs. Judge Carlos Abiera*, 64 SCRA 302 (1975).

[20] *Gano vs. Leonen*, 232 SCRA 98 (1994).

Supreme Court E-Library

said amount to be deducted from the Fifty Thousand Pesos (P50,000.00) withheld from her retirement benefits. The amount of Forty Thousand Pesos (P40,000.00) constituting the remainder of said benefits is hereby ordered released in respondent's favor.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Melo, and *Pardo, JJ.,* concur.

THIRD DIVISION

[A.M. No. RTJ-96-1365. February 18, 1999]

ROBERT G. YOUNG, *complainant, vs.* **JUDGE PASTOR V. DE GUZMAN, Regional Trial Court, Branch 60, Baguio City,** *respondent.*

SYNOPSIS

This is an administrative case filed by Robert G. Young charging Judge Pastor V. De Guzman of the Regional Trial Court of Baguio City with unreasonable delay in the disposition of Civil Case No. 873-R for the recovery of unpaid rentals owing from store space lessees and accounting of all rentals due and demandable, as well as the proceeds and receivables, from the sales of units, over a condominium property. The Office of the Court Administrator, to which the case was referred for evaluation report and recommendation, opined that respondent Judge had failed to abide by paragraph 1.2 of Administrative Circular No. 4 dated September 1998 and recommended that respondent Judge be ordered to pay the fine of P5,000.00

The Supreme Court ruled that the accusation was baseless. The Court found that there was utterly no showing that the respondent Judge had been motivated by, or had acted in bad faith or malice. Respondent Judge, in this instance, evidently felt that the issues raised could only be resolved properly if and after all the parties concerned would have been fully heard. In fact, he made it clear