Supreme Court E-Library

his failure to repay the loan, a sheriff's certificate of sale was issued. On July 10, 1970, the complainant executed a "waiver," whereby he and his wife renounced and waived their right to redeem and repurchase the parcel of land they had mortgaged to the Development Bank of the Philippines, which right was only up to August 9, 1970, in favor of complainant's brother Amado Paladin who in turn exercised the right waived in his favor and became the owner of the said parcel of land. As owner thereof, he sold the same with right of repurchase to the herein respondent. The latter, as vendee *a retro*, became the owner of the property sold *a retro* pending the repurchase thereof. It results therefore that when respondent took possession of the land in question, utilized it, and enjoyed the fruits thereof, he did so in accordance with law.

WHEREFORE, for lack of merit, the instant complaint is hereby dismissed.

Fernando (Chairman), Barredo, Antonio, and *Aquino, JJ.,* concur.

SECOND DIVISION

[A.M. No. 267-MJ. June 30, 1975]

RAFAEL SALCEDO, *complainant, vs.* **MUNICIPAL JUDGE DAVID ALFECHE, JR. of San Joaquin, Iloilo,** *respondent.*

SYLLABUS

ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; COURT PERSONNEL; CHARGES FOR SERIOUS MISCONDUCT AND MALICIOUS DELAY IN ADMINISTRATION OF JUSTICE; UNFOUNDED IN CASE AT

Supreme Court E-Library

BAR.— "As has been explained by the respondent, all he did in connection with the charge on February 21, 1971 was apprehend the complainant because he chased one of those who stabbed Jose Talanquines. If a public officer like the municipal judge who happens to be a resident of Barrio Crossing Dapuyan sees some turmoil in said *barrio* and had to run the risk of being attacked by malefactors because he had to maintain peace in his *barrio*, instead of condemnation, he deserves to be commended for such demonstration of public spiritedness ***; it is laudable, if he had thus to cut his sleep in order to intervene so that there might be peace on the eve of the *barrio* fiesta. Was there malicious delay, if the complainant surrendered, presented himself instead of being apprehended if on that date he could not file his bond due to the absence of the municipal judge who had noted in his daily time record his absence from his station? In the absence of the municipal judge, it is a provision in the Rules of Court that the accused may put up his bond before the municipal mayor who is authorized to order his release in case of such bond, reporting to the municipal judge on his return to the office the release made. It is clear though that immediately after he took cognizance of the fact that the accused was apprehended and ready to put up his bail, he immediately ordered his release on March 6 when he reported to the office the next day. In other words, after he had knowledge of the apprehension of the accused or his being detained, on the first opportunity he immediately released him. Can, by this fact or the act of the respondent in releasing immediately the accused upon taking jurisdiction over the case and his person when he was brought on March 6 with his bond, he be considered delaying the administration of justice? The answer is No."

RESOLUTION

FERNANDO, *J.*:

On the face of an administrative complaint filed by one Rafael Salcedo, it would appear that if substantiated, there would be reason to hold respondent Municipal Judge David Alfeche, Jr. of San Joaquin, Iloilo, liable for serious misconduct. He was accused of having "accosted and threatened to shoot" complainant

Supreme Court E-Library

in the morning of February 21, 1971. The second misdeed attributed to him was malicious delay in the administration of justice due to his absence from his official position on March 5, 1971, as a consequence of which a cash bond posted by complainant, then accused in a pending criminal case, could not be accepted, with the result that he was detained overnight. In the answer of respondent, there was a denial of the facts as alleged in the complaint, his assertion being that it was he who was assaulted by complainant with a knife when he tried to arrest him while in the actual commission of the crime, a complaint for direct assault having been filed thereafter against complainant. And there was no malicious delay on his part, as his absence on March 5, 1971 was due to his having taken a vacation leave and he did not have to report until March 6, 1971.

The matter was referred to the then Executive Judge Emigdio V. Nietes, who in his report and recommendation stated the following: "As has been explained by the respondent, all he did in connection with the charge on February 21, 1971 was apprehend the complainant because he chased one of those who stabbed Jose Talanquines. If a public officer like the municipal judge who happens to be a resident of Barrio Crossing Dapuyan sees some turmoil in said *barrio* and had to run the risk of being attacked by malefactors because he had to maintain peace in his *barrio*, instead of condemnation, he deserves to be commended for such demonstration of public spritedness ***; it is laudable, if he had thus to cut his sleep in order to intervene so that there might be peace on the eve of the *barrio* fiesta. Was there malicious delay, if the complainant surrendered, presented himself instead of being apprehended if on that date he could not file his bond due to the absence of the municipal judge who had noted in his daily time record his absence from his station? Could the respondent be blamed for non-release of the complainant who was then accused in Criminal Case No. 733 since respondent was not in his office at the time and he had officially recorded his absence? The respondent did not know. He had no knowledge if the complainant had already been arrested or he voluntarily surrendered. In the absence of the municipal judge, it is a provision in the Rules of Court that

Supreme Court E-Library

the accused may put up his bond before the municipal mayor who is authorized to order his release in case of such bond, reporting to the municipal judge on his return to the office the release made. It is clear though that immediately after he took cognizance of the fact that the accused was apprehended and ready to put up his bail, he immediately ordered his release on March 6 when he reported to the office the next day. In other words, after he had knowledge of the apprehension of the accused or his being detained, on the first opportunity he immediately released him. Can, by this fact or the act of the respondent in releasing immediately the accused upon taking jurisdiction over the case and his person when he was brought on March 6 with his bond, he be considered delaying the administration of justice? The answer is No."[1] After adding that there was no motive why respondent Judge could be accused of having wantonly prejudiced the right of the complainant, he recommended the dismissal of the charges. With such recommendation, the Judicial Consultant is in agreement, the records of the case having been evaluated by him. As he pointed out: "Finding that the evidence really failed to substantiate the charges, I respectfully endorse the above-stated recommendation for respondent's exoneration, there being no basis to disturb the same."

WHEREFORE, the administrative complaint for serious misconduct and malicious delay in the administration of justice is dismissed and respondent Judge David Alfeche, Jr. is hereby exonerated.

Barredo, Antonio, Aquino, and *Concepcion Jr., JJ.*, concur.

---

[1] Report and Recommendation, 6-7.