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WHEREFORE, the Court finds respondents Sheriff IV Rosbert M. Tuquero and Sheriff IV Antonio V. Leano, Jr. both of the Office of the Provincial Sheriff of Tarlac, Tarlac, guilty of gross neglect of duty and serious misconduct in office, and accordingly, orders their *DISMISSAL* from the service with forfeiture of all leave credits and retirement benefits, if any, with prejudice to reemployment in any branch of the government or any of its agencies or instrumentalities including government-owned and controlled corporations.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, De Leon, Jr., and *Sandoval-Gutierrez, JJ.*, concur.

THIRD DIVISION

[A.M. No. RTJ-00-1576. June 28, 2001]
(formerly OCA IPI No. 99-647 RTJ)

SIMPLICIO ALIB, for himself and in behalf of the members of the MANDALAGAN SMALL FARMERS COOPERATIVE, *complainants, vs.* **JUDGE EMMA C. LABAYEN of the Regional Trial Court, Bacolod City, Branch 46,** *respondent.*

SYNOPSIS

In the instant administrative complaint, complainants averred that respondent Judge Labayen was administratively liable for issuing an illegal warrant of arrest after admitting that she had no jurisdiction over the case. Respondent Judge Labayen, however, alleged that there was no malice nor bad faith in her signing the warrant of arrest because as pairing judge of Branch 45 it was ministerial on her part to sign warrants of arrest coming from that

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branch and that when she realized that the case was within the jurisdiction of the MTCC, she had the case remanded as shown in her Order. The Court Administrator recommended that Judge Labayen be held administratively liable for gross ignorance of the law and recommended that respondent Judge be fined in the amount of ₱20,000.00 with a stern warning that the commission of the same or similar act in the future would be dealt with more severely.

According to the Supreme Court, the issuance of a warrant of arrest is not a ministerial function of the court. Under Section 7, Rule 112 of the Rules on Criminal Procedure, the Regional Trial Court may issue a warrant for the arrest of the accused upon the filing of an Information. It calls for the exercise of judicial discretion on the part of the issuing magistrate. Even if the Regional Trial Courts no longer possess the authority to conduct preliminary investigations under Section 2, Rule 112, said courts still retain the power to determine for themselves whether or not a probable case exists and, if in the affirmative, to issue the corresponding warrant for the arrest of the accused. Before issuing a warrant of arrest, a judge must not rely solely on the report or resolution of the prosecutor, he must evaluate the report and the supporting documents, which will assist him to make his determination of probable cause. A finding of the existence of a probable cause is a pre-requisite to the issuance of a warrant of arrest and strict compliance therewith is required of judges. Therefore, respondent Judge's claim that it was "ministerial" on her part to sign the warrant of arrest was clearly erroneous, and an indication that she was grossly ignorant of her functions. The Court fined Judge Labayen in the amount of ten thousand pesos, which was to be deducted from the retirement benefits due her since she already retired from the judiciary.

SYLLABUS

1. **REMEDIAL LAW; CRIMINAL PROCEDURE; JURISDICTION; REGIONAL TRIAL COURT DOES NOT HAVE JURISDICTION OVER PERJURY CASES.**— From the onset of the criminal proceedings, respondent Judge Labayen had no jurisdiction to hear and decide the criminal case as the crime of perjury falls under the jurisdiction of the MTCC. While it may be true that the error lay with the prosecution for filing the Information directly before the respondent RTC instead of the

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MTCC which has jurisdiction over the case, respondent Judge Labayen cannot be totally absolved.

2. **ID.; ID.; ARREST; ISSUANCE OF A WARRANT OF ARREST IS NOT A MINISTERIAL FUNCTION OF THE COURT.**— Contrary to respondent's claim, the issuance of a warrant of arrest is not a ministerial function of the court. Under Section 7, Rule 112 of the Rules on Criminal Procedure, the Regional Trial Court may issue a warrant for the arrest of the accused upon the filing of an Information. It calls for the exercise of judicial discretion on the part of the issuing magistrate. Even if the Regional Trial Courts no longer possess the authority to conduct preliminary investigations under Section 2, Rule 112, said courts still retain the power to determine for themselves whether or not a probable case exists and, if in the affirmative, to issue the corresponding warrant for the arrest of the accused. Before issuing a warrant of arrest, a judge must not rely solely on the report or resolution of the prosecutor, he must evaluate the report and the supporting documents which will assist him to make his determination of probable cause. A finding of the existence of a probable cause is a pre-requisite to the issuance of a warrant of arrest and strict compliance therewith is required of judges. Therefore, respondent Judge's claim that it was "ministerial" on her part to sign the warrant of arrest is clearly erroneous, and an indication that she was grossly ignorant of her functions.

D E C I S I O N

GONZAGA-REYES, *J.*:

Complainants charge the respondent Judge Emma Labayen of the Regional Trial Court of Bacolod City, Branch 46 with grave abuse of authority and grave misconduct. They allege that an Information for Perjury docketed to Criminal Case No. 98-19271 was filed against several members of the Mandalangan Small Farmers Cooperative with the Regional Trial Court of Bacolod City. The case was raffled to Judge Emma Labayen of Branch 46, sitting as pairing judge of Branch 45. Judge Labayen issued a warrant of arrest against the accused therein. The accused filed a "Motion for Re-investigation and Recall of Warrant of Arrest" and a Supplemental thereto alleging that the court has no

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jurisdiction as the crime of perjury is within the jurisdiction of the Municipal Trial Court in Cities. In the Order dated October 2, 1998, Judge Labayen denied the said motion and ordered the remand of the case to the MTCC-Bacolod City considering that the case "falls under the jurisdiction" of the said court and not the RTC.

In the instant administrative complaint,[1] complainants aver that respondent Judge Labayen is administratively liable for issuing an illegal warrant of arrest after admitting that she had no jurisdiction over the case. Respondents submitted their respective comments to the complaint.

Judge Emma Labayen, in her Comment, argues that subject Criminal Case No. 98-19271 for Perjury was raffled to Branch 45 where Judge Edgardo delos Santos is the Presiding Judge; however, since Judge delos Santos was then on detail at Kabankalan, respondent Judge, as pairing judge, signed the warrant of arrest when the same was brought to her by Connie Tan, the Clerk of Court of Branch 45. Respondent Judge Labayen alleges that there was no malice nor bad faith when she signed the warrant of arrest and in fact, she ordered the remand of the case to the lower court upon a finding that the case falls within the jurisdiction of the MTCC. Respondent Judge prays for the dismissal of the instant administrative case.

Then Court Administrator Alfredo Benipayo recommended that Judge Labayen be held administratively liable for gross ignorance of the law for refusing to withdraw the warrant of arrest she issued despite having admitted in her order that the case was within the jurisdiction of the MTCC. He recommended that respondent Judge Labayen be fined in the amount of ₱20,000.00 with a stern warning that the commission of the same or similar act in the future would be dealt with more severely.

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[1] The complaints for serious misconduct, gross negligence and inefficiency against Executive Judge Edgardo G. Garvilles of the RTC-Bacolod City, Branch 47; Clerk of Court VI Ildefonso M. Villanueva, Jr. of RTC-OCC, Bacolod City; Clerk of Court V Benjamin B. Maido of RTC-Bacolod City, Branch 47; and Clerk of Court V Connie F. Tan of RTC-Bacolod City, Branch 45, were earlier dismissed in the Resolution dated July 5, 2000.

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In this Court's Resolution dated July 5, 2000, complainants and respondent Judge Labayen were required to manifest to the Court whether they were submitting the case on the basis of the pleadings/records already filed and submitted.

Complainants filed a Manifestation submitting the case on the basis of the pleadings/records already filed. Respondent Judge Labayen filed a Supplemental Pleading reiterating that as pairing judge of Branch 45, it was ministerial on her part to sign warrants of arrest coming from Branch 45 and that when she realized that the case was within the jurisdiction of the MTCC, she had the case remanded as shown in her Order dated October 2, 1998. Respondent Judge claims she acted without malice and in good faith.

From the onset of the criminal proceedings, respondent Judge Labayen had no jurisdiction to hear and decide the criminal case as the crime of perjury falls under the jurisdiction of the MTCC. While it may be true that the error lay with the prosecution for filing the Information directly before the respondent RTC instead of the MTCC which has jurisdiction over the case, respondent Judge Labayen cannot be totally absolved.

Contrary to respondent's claim, the issuance of a warrant of arrest is not a ministerial function of the court. Under Section 7, Rule 112 of the Rules on Criminal Procedure,[2] the Regional Trial Court may issue a warrant for the arrest of the accused upon the filing of an Information. It calls for the exercise of judicial discretion on the part of the issuing magistrate.[3] Even if the Regional Trial Courts no longer possess the authority to conduct preliminary investigations under Section 2, Rule 112, said courts still retain the power to determine for themselves whether or not a probable case exists and, if in the affirmative, to issue the corresponding warrant for the arrest of the accused.[4] Before issuing a warrant of arrest, a judge must not rely solely on the report or

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[2] Amended and is now Section 6, Rule 112 pursuant to A.M. No. 00-5-03-SC (effective December 1, 2000).

[3] *Placer vs. Villanueva*, 126 SCRA 463.

[4] *Castillo vs. Villaluz*, 171 SCRA 39.

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resolution of the prosecutor, he must evaluate the report and the supporting documents which will assist him to make his determination of probable cause.[5] A finding of the existence of a probable cause is a pre-requisite to the issuance of a warrant of arrest and strict compliance therewith is required of judges.[6] Therefore, respondent Judge's claim that it was "ministerial" on her part to sign the warrant of arrest is clearly erroneous, and an indication that she was grossly ignorant of her functions.

Judges are duty bound to be extra solicitous and equally alert to the possibility that the prosecutor could be in error. It is not enough that there be diligence on the part of the trial court as well as acquaintance with the applicable law and jurisprudence. Where the issues are so simple and the facts so evident as to be beyond permissible margins of error, to still err thereon amounts to ignorance of the law.[7]

Accordingly, the recommendation of the Court Administrator imposing a fine on respondent Judge Labayen for gross ignorance of the law is well-taken. However, we find that the fine in the amount of ₱20,000.00 is excessive and the same is reduced to ₱10,000.00.

WHEREFORE, Judge Emma Labayen of the Regional Trial Court of Bacolod City is hereby *FINED* in the amount of *TEN THOUSAND PESOS (₱10,000.00).* Considering that Judge Labayen retired from the judiciary last January 26, 2001, the said amount shall be deducted from the retirement benefits due her.

SO ORDERED.

Melo (Chairman), Vitug, Panganiban, and *Sandoval-Gutierrez, JJ.,* concur.

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[5] *Roberts, Jr. vs. CA*, 254 SCRA 307.

[6] *People vs. Bonzo*, 55 SCRA 547; *Doce vs. CFI of Quezon, Branch II*, 22 SCRA 1029.

[7] *DBP vs. Llanes,* 266 SCRA 212.