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FIRST DIVISION

[A.M. No. RTJ-99-1444. August 3, 2000]
(Formerly OCA-IPI-96-227-RTJ)

STATE PROSECUTOR ROMULO S. J. TOLENTINO, Acting Provincial Prosecutor, *complainant, vs.* **JUDGE NILO A. MALANYAON, Regional Trial Court, Branch 30, Camarines Sur,** *respondent.*

SYNOPSIS

Not finding a probable cause for the issuance of warrants of arrest prayed for, Judge Nilo A. Malanyaon dismissed five (5) criminal cases pending before his *sala.* Several motions incidental to said dismissed cases were filed but were left unacted upon. Hence, this administrative complaint. Upon investigation, the Office of the Court Administrator (OCA) recommended the dismissal of the charges against respondent relating to the alleged grave abuse of discretion in dismissing the aforesaid criminal cases. According to the OCA, said charges concerned errors properly addressed via appeal or petition for *certiorari,* not in an administrative case. However, on the matter of the pending motions and incidents, the OCA recommended that respondent judge be severely censured.

The Supreme Court found the recommendations of the OCA to be well taken. Good faith, absence of malice, corrupt motives or improper consideration are sufficient defenses protecting a judicial officer charged with ignorance of the law and promulgation of an unjust decision from being held accountable for errors of judgment on the premise that no one called upon to interpret the law or try the facts in the administration of justice can be infallible. With respect to the pending motions and incidents, respondent was remiss in his duty. A judge shall dispose of the court's business promptly. The charges against respondent Judge were dismissed, but was found guilty for his failure to resolve pending motions and/or incidents, and imposed the penalty of reprimand.

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SYLLABUS

1. **JUDICIAL ETHICS; ACCOUNTABILITY OF JUDGES; JUDGES ARE NOT ACCOUNTABLE FOR ERRORS OF JUDGMENT IN THE ABSENCE OF MALICE AND BAD FAITH.** — Good faith and absence of malice, corrupt motives or improper consideration are sufficient defenses protecting a judicial officer charged with ignorance of the law and promulgation of an unjust decision from being held accountable for errors of judgment on the premise that no one called upon to try the facts or interpret the law in the administration of justice can be infallible.

2. **ID.; POWERS AND AUTHORITIES OF JUDGES; JUDGES MAY ORDER PROSECUTORS TO PRESENT EVIDENCE TO SUPPORT A PRAYER FOR WARRANTS OF ARREST AND MAY REFUSE TO ISSUE WARRANTS IN CASE OF FAILURE TO FIND PROBABLE CAUSE THEREFOR; CASE AT BAR.**— It is settled that it is the judge who must be satisfied that there is a probable cause for the issuance of the warrant of arrest. If, in the exercise of his or her discretion, the judge finds no probable cause, the judge may require the prosecutor to present further evidence to provide a factual basis for the finding of probable cause. The fact that the prosecutor may disagree with such finding is not a valid ground for the refusal to comply with the valid orders of the judge. In the case at bar, during the preliminary examination for the issuance of the warrant of arrest, the criminal cases were dismissed on the ground that the respondent judge did not find probable cause for the issuance of the warrants prayed for after the prosecutor refused to present further evidence to provide a factual basis for his finding of probable cause.

3. **ID.; DUTY OF JUDGES; A JUDGE SHALL DISPOSE OF THE COURT'S BUSINESS PROMPTLY AND DECIDE CASES WITHIN THE REQUIRED PERIOD.**— On the matter of the pending motions and other incidents, which respondent had long been pending without respondent having acted thereon or resolved the same, we find respondent remiss in his duty. The five (5) motions/incidents were left unacted upon from three (3) to five (5) months and were still pending when the administrative complaint was filed against respondent. Respondent should be aware of his duties as an arbiter of justice. Under Rule 3.05 of the Code of Judicial Conduct, a judge shall dispose of the court's business promptly and decide cases within the required periods.

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RESOLUTION

KAPUNAN, *J.*:

A letter-complaint, dated July 8, 1996 was filed by State Prosecutor and Camarines Sur Acting Provincial Prosecutor Romulo S. J. Tolentino against Honorable Nilo A. Malanyaon, Acting Designate Judge of RTC, Branch 30, San Jose, Camarines Sur for acts in excess of his jurisdiction and in grave abuse of discretion and for violations of Canons 1, 2, and 3 of the Canons of Judicial Conduct, by knowingly issuing unjust orders dismissing the following criminal cases without seriously determining the operative facts and applicable law, namely:

1. *People vs. Judge Panday,* Criminal Case No. 1461, for Child Abuse;
2. *People vs. Estephen Florece,* Criminal Case Nos. T-1458 and 1460, for Child Abuse;
3. *People vs. Estephen Florece,* Criminal Case Nos. T-1457 and T-1459, for Corruption of a Minor.

The letter-complaint charged that respondent judge dismissed the criminal cases without seriously determining the operative facts, in cavalier disregard of due process, motivated by bad faith, partiality, falsehood, intentionally to cause undue injury to the state and the private complainant by giving unwarranted benefits to the accused.

The charges may be summarized as follows:

In Criminal Case No. T-1461, respondent Judge issued an order dated November 17, 1995, finding "no factual basis for the conclusion made by the Regional State Prosecutor that the victim is a child exploited in prostitution," directing the prosecutor "to show cause why this court should order the arrest of the accused" and setting the case for hearing on December 14, 1995 for reception of additional affidavits of witnesses.

At the date set for hearing, complainant prosecutor did not present additional affidavits, maintaining that there was no necessity for proving the factual basis of his conclusion alleged in the information

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because his materiality of evidence for this purpose is proper for presentation during the trial.

On January 10, 1996, respondent issued an order dismissing the aforesaid case holding that probable cause had not been established by the prosecution, hence it was constitutionally impermissible to issue a warrant for the arrest of accused Judge Panday.

Likewise, on January 25, 1996, respondent Judge also dismissed Criminal Cases Nos. T-1458 and T-1460 ruling that there was no evidence in the records of the case that the victim is a child exploited in prostitution as defined in Section 5, Article 111 of RA 7610 and that there was no probable cause for the issuance of a warrant for the arrest of accused Florece.

Complainant further alleged that Criminal Case No. T-1457 and T-1459 were also dismissed by the respondent on March 11, 1996 for the reason that complainant's non-appearance and his failure to adduce evidence violated accused's right to speedy trial. The motion for reconsideration thereafter filed by herein complainant was likewise dismissed.

Finally, complainant had filed several motions and incidents but the same had remained unresolved by the respondent up to the date the instant complaint was filed, to wit: (a) Motion dated January 22, 1996 for the inhibition of respondent; (2) Omnibus Motion dated March 4, 1996 in the five (5) cases for respondent's inhibition, consolidation and joint trial and for resolution of complainant's objection and queries; (3) Motion for Reconsideration and Motion to Resolve Pending Incidents in the five (5) cases dated March 18, 1996; (4) Motion to Resolve dated April 4, 1996; and (5) Last Motion To Resolve Pending Incidents by Recalling Order of April 15, 1996 and Notice *Ex Abundante Cautela* dated April 23, 1996.[1]

In his Comment, dated March 26, 1997,[2] respondent Judge argued that the petition be dismissed on the ground that the petitioner is guilty of forum-shopping having filed the instant administrative case with this Court and a petition for review with the Court of

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[1] *Rollo*, pp. 11-26.

[2] *Id.*, at 76-83.

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Appeals in CA-G.R. SP No. 43348 to set aside the five (5) orders of respondent in the criminal cases, the dismissal of which was the ground of the administrative complaint. Respondent claimed that complainant concealed from this Court the fact that he had earlier filed the petition for review with the Court of Appeals docketed involving the facts and issues.

With regard to his alleged failure of the respondent to resolve the motions/incidents beyond the reglementary period, respondent made the following explanation:

First, on the motion for his inhibition in Criminal Case No. T-1461, respondent Judge alleges that his inhibition is being asked because of his refusal to be cowed by the threat of herein complainant and his refusal to submit to the imposition of herein complainant on the pretext of violation of their rights to due process.[3]

Second, on the motion for consolidation of the five (5) criminal case, respondent reasons that the said motion dated March 4, 1996 was filed after the Order in Criminal Case No. T-1461 and in Criminal Case Nos. T-1458 and T-1460 both dated January 10, 1996, finding no probable cause for the issuance of warrants of arrest against accused Judge Panday and Florece, respectively, was already issued by respondent Judge. Respondent claims that the learned complainant may well be informed that by the Order of the Honorable Court dated January 4, 1996, respondent Judge had already jointly tried the above criminal cases and jointly dismissed the same. Likewise, Criminal Cases Nos. T-1457 and T-1459 were jointly tried with the three (3) above cases, though the same were dismissed on the subsequent order of January 25, 1996.[4]

Third, the Omnibus Motion dated March 4, 1996 which contains a motion for postponement and motion to consolidate was not acted upon for the reason that it lacks proof of service and complainant did not show that he furnished a copy thereof to the accused.[5]

Fourth, on the Last Motion to Resolve pending incidents by Recalling the order of April 15, 1996, respondent alleges that this in effect is a

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[3] *Id.*, at 79.

[4] *Id.*, at 80-81.

[5] *Id.*, at 80-81.

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second motion for reconsideration of an already final orders which is not allowed by the Rules. [6]

The administrative complaint was referred to the Office of the Court Administrator (OCA) for investigation, report and recommendation. In its report, the OCA recommended the dismissal of the charges against respondent relating to the alleged violations of Canons 1, 2, and 3, acts in excess of jurisdiction, grave abuse of authority and discretion and gross ignorance of the law on the ground that said charges concern errors which are properly addressed via appeal or petition for *certiorari*, not in an administrative case which should not be used as a substitute for appropriate judicial remedies.

However, on the matter of the pending motions and incidents which had been unacted upon, the OCA recommended that the respondent judge be severely censured in consonance with Canon 3, Rule 3.05, which provides that judges should act on all pending motions whether to grant or deny the same.

We find the recommendations of the OCA to be well taken and hold that the respondent judge is not liable for dismissing the five (5) criminal cases due to his honest belief that there was no probable cause.

Good faith and absence of malice, corrupt motives or improper consideration are sufficient defenses protecting a judicial officer charged with ignorance of the law and promulgation of an unjust decision from being held accountable for errors of judgment on the premise that no one called upon to try the facts or interpret the law in the administration of justice can be infallible.[7]

It is settled that it is the judge who must be satisfied that there is a probable cause for the issuance of the warrant of arrest. [8] If, in the exercise of his or her discretion, the judge finds no probable cause, the judge may require the prosecutor to present further evidence to

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[6] *Id.*, at 82.

[7] *Consolidated Bank and Trust Corp. vs. Capistrano*, 159 SCRA 47, 56 (1988); *Filipinas Bank vs. Tirona-Liwag*, 190 SCRA 834, 846 (1990).

[8] *Soliven vs. Makasiar*, 167 SCRA 393 (1988). And *People vs. Inting*, 182 SCRA 788 (1990).

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provide a factual basis for the finding of probable cause. The fact that the prosecutor may disagree with such finding is not a valid ground for the refusal to comply with the valid orders of the judge. In the case at bar, during the preliminary examination for the issuance of the warrant of arrest, the criminal cases were dismissed on the ground that the respondent judge did not find probable cause for the issuance of the warrants prayed for after the prosecutor refused to present further evidence to provide a factual basis for his finding of probable cause.

Significantly, the Court of Appeals in CA-G.R S.P. No. 43348, promulgated its decision on November 17, 1998 finding no grave abuse of discretion on the part of the respondent in dismissing the five (5) criminal cases. The judgment which had become final and executory was entered on September 27, 1999.

However, on the matter of the pending motions and other incidents, which respondent had long been pending without respondent having acted thereon or resolved the same, we find respondent remiss in his duty. The five (5) motions/incidents were left unacted upon from three (3) to five (5) months and were still pending when the administrative complaint was filed against respondent. Respondent should be aware of his duties as an arbiter of justice. Under Rule 3.05 of the Code of Judicial Conduct, a judge shall dispose of the court's business promptly and decide cases within the required periods. While the prosecutor in this case is not without fault, the respondent cannot escape responsibility for his inaction of the pending motions before him. Even assuming *arguendo* that the various motions filed by the prosecutor were considered to be mere scraps of paper or without merit, the judge must nevertheless resolve on those matters promptly by granting or denying them. It is the duty of the judge to rule upon the motions filed before him even if his actions are merely to deny them.

WHEREFORE, the charges of violations of Canons 1, 2 and 3, acts in excess of jurisdiction, grave abuse of discretion and authority, gross ignorance of the law with respect to the orders of dismissal of Criminal Cases T-1457 to T-1461 are *DISMISSED*. However, respondent Judge is found guilty for his failure to resolve pending motions and/or incidents and, accordingly, a penalty of

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REPRIMAND is imposed upon him with warning that a repetition of the same or similar violation will be dealt with more severe penalty by this Court.

SO ORDERED.

Davide, Jr., C.J. and *Pardo, J.*, concur.
Puno, J., took no part due to close relation to a party.
Ynares-Santiago, J., no part.

FIRST DIVISION

[G.R. No. 122769. August 3, 2000]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **RENANTE GONZALES @ *"Oyong"* and BLAS ROSARIO,** *accused.* **BLAS ROSARIO,** *accused-appellant.*

SYNOPSIS

In the evening of March 10, 1990, Angelo de Guzman and his wife were inside their house when Blas Rosario shot Angelo, then seated near the window of their *sala.* Renante Gonzales meantime supported the arm of Rosario that was holding the shotgun. Rosario and Gonzales were accordingly charged with murder and were found guilty thereof and sentenced to suffer the penalty of *reclusion perpetua*. Hence, this appeal.

Appellate courts will not disturb the credence, or lack of it, accorded by the trial court to the testimonies of witnesses, unless it be clearly shown that the latter court had overlooked or disregarded arbitrarily the facts and circumstances of significance in the case. In the case at bar, the findings of the trial court are supported by substantial evidence. Treachery qualified the killing to murder.