

**MAYOR DELFIN T. TING, COMPLAINANT, VS. HON. ELPIDIO B. ATAL,
MUNICIPAL JUDGE, BRANCH 2, TUGUEGARAO, CAGAYAN,
RESPONDENT.**

A.M. No. MTJ-93-877. March 11, 1994

Ponente: PADILLA, J.

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PADILLA, J.:

Complainant Mayor Delfin T. Ting charged respondent Judge Elpidio B. Atal of the Municipal Trial Court, Branch 2, Tuguegarao, Cagayan with Ignorance of the Law and Incompetence in relation to Criminal Case No. 15192 for Bribery and Criminal Case No. 15193 for Violation of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act).

Both cases were filed in respondent judge's court against Vicente Miguel y Ablan a Supervising Examiner of the Bureau of Internal Revenue for allegedly receiving Five Thousand Pesos (P5,000.00) from one Mary Jane Tolentino y Blancas for the settlement of the Non-VAT Registration of the latter's Pretty Look Garments. Vicente Miguel allegedly demanded the amount from Tolentino, otherwise, the latter would be reported as a delinquent taxpayer.

The counsel for the accused filed a motion to quash on the ground that the cases are within the exclusive and original jurisdiction of the Sandiganbayan.

Respondent judge in an Order dated 10 June 1993 granted the motion to quash and directed the release of the cash bond posted by the accused and further directed that the charges be filed in the proper forum.

In his complaint, Mayor Ting contends that Judge Atal should not have dismissed the cases since the latter has the authority to conduct a preliminary investigation in the two (2) cases. Mayor Ting further contends that the acts of respondent judge constitute gross ignorance of the law and incompetence which are grounds for dismissal from the service.

The rules of procedure relevant to the two (2) criminal cases are Section 3(4) and Section 4(g) of Administrative Order No. 7, Rules of Procedure of the Office of the Ombudsman which provide:

"Sec. 3 - Preliminary Investigation: who may conduct: Preliminary investigation may be conducted by the following:

xxx xxx xxx

(4). Investigating Officials authorized by law to conduct preliminary investigation."

"Sec. 4 - Procedure

xxx xxx xxx

(g). Upon termination of the preliminary investigation, the investigating officer shall forward the records of the

case together with his resolution to the designated authorities for their appropriate action.

No information may be filed and no complaint may be dismissed without the written authority or approval of the Ombudsman in cases falling within the jurisdiction of the Sandiganbayan or of the proper Deputy Ombudsman in all other cases."

Section 2(b) Rule 112 of the Rules of Court authorizes judges of Municipal Trial Courts to conduct preliminary investigations.

It is clear that respondent Judge Atal erred in dismissing the cases and in not conducting the preliminary investigation therein.

The circumstances however do not warrant the dismissal from the service of respondent judge.

It is of note that the dismissal of the cases was not entirely without legal basis. Respondent judge in his comment stated that he dismissed the cases for lack of jurisdiction. Respondent judge would have been correct except that the aforementioned Administrative Order No. 7 expressly grants him the authority to conduct the preliminary investigation in cases falling within the jurisdiction of the Sandiganbayan. While it is true that respondent judge failed in his duty to be updated in his knowledge of law, good faith and the lack of intent to cause prejudice or damage should be considered in his favor. In *Consolidated Bank and Trust Corporation v. Hon. Dionisio M. Capistrano*,^[1] this Court stated:

"To be sure, good faith and absence of malice and 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."

Good faith and lack of malicious intent however cannot completely free respondent Judge Elpidio B. Atal from liability.

The role of justices and judges in the administration of justice requires a continuous study of the law and jurisprudence. Respondent judge in this case failed to meet this requirement and standard.

WHEREFORE, respondent Judge Elpidio B. Atal is hereby ORDERED to pay a Fine of Two Thousand Pesos (P2,000.00) for his failure to keep himself updated on the law and further given a STERN WARNING that the commission of the same or similar offense will be dealt with more severely.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, Nocon, and Puno, JJ., concur.

[1] A.M. NO. R-66-RTJ, 18 March 1988, 159 SCRA 47

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