

RANDALL-LYON GARCIA BUENO, COMPLAINANT, VS. JUDGE SAIDALI M. DIMANGADAP, MUNICIPAL CIRCUIT TRIAL COURT, MALABANG, LANA DEL SUR, RESPONDENT.

A.M. No. MTJ-02-1462. August 09, 2004

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PER CURIAM:

Before us is an administrative complaint^[1] dated February 21, 2002 against Judge Saidali M. Dimangadap, Acting Judge of the 4th Municipal Circuit Trial Court (MCTC), Malabang-Sultan Kumander-Kapatagan-Balabagan, Lanao del Sur, for gross ignorance of the law and grave abuse of discretion relative to the release of suspects in the thirteen criminal complaints filed for preliminary investigation.

In a sworn letter-complaint, P/Ins. Randall-Lyon Garcia Bueno, Chief of Police of Malabang, Lanao del Sur, charged respondent judge with grave abuse of discretion for the release of the apprehended suspects in thirteen criminal complaints he filed in court for preliminary investigation, to wit:

- People v. Sayam, Criminal Case No. 2999-M for violation of R.A. No. 6425, where the accused was released after filing a cash bond of P3,500.00, however, no receipt was issued by the Clerk of Court.
- People v. Benito, Criminal Case No. 2988 for violation of P.D. No. 1866, where the accused, who is a brother-in-law of respondent judge was released a day after the complaint was filed.
- People v. Benito, et al., Criminal Case No. 2989 for violation of R.A. No. 6425, which was dismissed without hearing a day after the complaint was filed.
- People v. Dima-ampao, Criminal Case No. 2961 for violation of R.A. No. 6425, where the accused was released without bail and “for some consideration”.
- People v. Paco, et al., Criminal Case No. 2959 for violation of R.A. No. 6425, where the accused were released “for the consideration of P24,000.00,” without the knowledge of the Clerk of Court.
- People v. Pacaambung, Criminal Case No. 2955 for violation of R.A. 6425, where the warrant of arrest was issued after four months from the filing of the complaint thereby giving the accused chance to be released from detention and to file counter-charge of frame-up against the police.
- People v. Adam, Criminal Case No. 2958 for Theft, dismissed on February 18, 2002 after the wife of the accused submitted an unsubscribed affidavit of desistance purportedly executed by the complainant, which bears a signature which was different from his signature.
- People v. Ansao, et al., Criminal Case No. 2951 for violation of R.A. No. 6425, all the accused were allowed to post a cash bond in the amount of P2,500.00 each, but no record exists of the payment.
- People v. Abedin, Criminal Case No. 2931 for violation of P.D. 1866, the accused was released after posting a cash bond of P2,500.00.
- People v. Ampuan, et al., Criminal Case No. 2926 for violation of R.A. No. 6425, the accused were released

after posting a cash bond of P3,000.00.

- People v. Adil, et al., Criminal Case No. 2921 for violation of R.A. No. 6425, where the accused were released after paying a cash bond of P5,000.00.

- People v. Diangka, et al., Criminal Case No. 2897 for violation of R.A. No. 6425, the accused were released after paying a cash bond of P3,000.00 each.

- People v. Diangka, Criminal Case No. 2912 for violation of R.A. No. 6425, a second offense, where the accused was released from detention after being allowed to post a cash bond of P8,000.00.[2]

In his comment, respondent judge denied complainant's charges and claimed that they were false, fabricated and unfounded accusations which caused him mental anguish, besmirched reputation and sleepless nights.[3]

In a resolution[4] dated November 27, 2002, the complaint was referred to Executive Judge Valerio M. Salazar of the Regional Trial Court of Lanao del Norte, Branch 6, Iligan City for investigation, report and recommendation.

In his report to the Office of the Court Administrator (OCA) dated May 10, 2003, Judge Salazar found that thirteen cases were filed for preliminary investigation, of which eleven were dismissed on various grounds. However, the resolutions and records of the cases were not transmitted to the Office of the Provincial Prosecutor, as required under Rule 112 of the Revised Rules of Criminal Procedure. Further, the cash bonds approved by respondent judge were lower than those recommended in the Bail Bond Guide. Moreover, the records do not show that official receipts were issued for the said cash bonds. In the cases of People v. Sayam, People v. Ansao, et al. and People v. Diangka, respondent judge admitted that he personally received the cash bonds and that he issued personal receipts therefor. Judge Salazar recommended that respondent judge be reprimanded with a strong warning that a repetition of the same will merit the imposition of a more serious sanction.[5]

In its memorandum dated December 15, 2003, the OCA agrees with the findings of Judge Salazar that respondent judge should be held administratively liable; however, it recommends that respondent judge be dismissed from the service with forfeiture of all the benefits, except accrued leave credits, and with prejudice to re-employment in any branch, agency or instrumentality of the government including government-owned or controlled corporations.

Respondent judge failed to comply with Rule 112, Section 5 of the Revised Rules on Criminal Procedure, which specifies the duty of the investigating judge upon conclusion of the preliminary investigation.

SEC. 5. Resolution of investigating judge and its review. - Within ten (10) days after the preliminary investigation, the investigating judge shall transmit the resolution of the case to the provincial or city prosecutor, or to the Ombudsman or his deputy in cases of offenses cognizable by the Sandiganbayan in the exercise of its original jurisdiction, for appropriate action. The resolution shall state the findings of facts and the law supporting his action, together with the record of the case which shall include: (a) the warrant, if the arrest is by virtue of a warrant; (b) the affidavits, counter-affidavits and other supporting evidence of the parties; (c) the undertaking or bail of the accused and the order for his release; (d) the transcripts of the proceedings during the preliminary investigation; and (e) the order of cancellation of his bail bond, if the resolution is for the dismissal of the complaint.

Within thirty (30) days from receipt of the records, the provincial or city prosecutor, or the Ombudsman or his deputy, as the case may be, shall review the resolution of the investigating judge on the existence of probable cause. Their ruling shall expressly and clearly state the facts and the law on which it is based and the parties shall be furnished with copies thereof. They shall order the release of an accused who is detained if no probable cause is found against him.

Respondent judge's failure to transmit the resolutions and records in eleven of the thirteen cases for preliminary

investigation was a disregard of the clear mandate of the aforecited provision that it is mandatory for the investigating judge to transmit to the provincial or city prosecutor the resolution dismissing or admitting the complaint, together with the entire records of the case.

Respondent judge cannot feign ignorance of this mandatory duty, considering that he transmitted the resolutions and records in the cases of *People v. Ansao* and *People v. Dima-ampao* to the provincial prosecutor for review. Indubitably, the parties adversely affected by the dismissal of the complaints after preliminary investigation were denied the statutory right of review that should have been conducted by the provincial prosecutor.

Respondent judge's argument that the provincial prosecutor will dismiss the case anyway for lack of basis is untenable. Under Rule 112 of the Revised Rules on Criminal Procedure, it is the duty of respondent judge to conduct preliminary investigation and thereafter to transmit his findings to the Office of the Public Prosecutor for further action.

Thus, in *Domingo v. Reyes*,^[6] a judge was held administratively liable when he assumed jurisdiction on a case filed for preliminary investigation instead of transmitting the resolution and records to the provincial prosecutor. We held that "this procedure must be followed regardless of the belief or opinion of the investigating judge concerning the case . . ."

Further, respondent judge violated Section 39, Article X, Republic Act No. 6425, otherwise known as The Dangerous Drugs Act of 1972, as amended, which provides that "the preliminary investigation of cases filed under this Act shall be terminated within a period of thirty (30) days from the date of their filing" when he failed to terminate the preliminary investigations within the period required by law, as shown by the drug-related cases:

- 1) *People v. Ampuan, et al.*, Criminal Case No. 2926, filed on August 13, 2001 and dismissed on August 26, 2002, or after 378 days;
- 2) *People v. Pacaambung*, Criminal Case No. 2955, filed on October 29, 2001 and dismissed on February 20, 2002, or after 88 days;
- 3) *People v. Diangka*, Criminal Case No. 2912, filed on July 9, 2001 and dismissed on September 3, 2001, or after 34 days;
- 4) *People v. Paco, et al.*, Criminal Case No. 2959, filed on November 5, 2001 and dismissed on March 4, 2002, or after 119 days;
- 5) *People v. Dima-ampao*, Criminal Case No. 2961, filed on October 21, 2001 and forwarded to the Provincial Prosecutor on March 4, 2002, or after 134 days;
- 6) *People v. Benito, et al.*, Criminal Case No. 2989, filed on February 4, 2002 and dismissed on May 6, 2002, or after 91 days; and
- 7) *People v. Ansao, et al.*, Criminal Case No. 2951, filed on October 22, 2001 and transmitted to the Provincial Prosecutor on May 10, 2002, or after 200 days.

Time and again, judges have been reminded of the need to decide cases promptly and expeditiously, for it cannot be gainsaid that justice delayed is justice denied. Delay in the disposition of cases undermines the people's faith and confidence in the judiciary. Hence, judges are enjoined to decide cases with dispatch. Their failure to do so constitutes gross inefficiency and warrants the imposition of administrative sanctions on them.^[7]

Respondent judge demonstrated further disregard of the rules or gross ignorance of the same when, instead of requiring the accused to deposit the cash bonds with the nearest collector of internal revenue, or provincial, city, or municipal treasurer, he personally received the same and issued his own personal receipt therefor in the cases

of *People v. Sayam*, *People v. Ansao*, et al. and *People v. Diangka*, et al. Respondent judge's claim that he personally received the cash bond in *People v. Sayam* because the clerk of court was on leave is belied by the records which showed that the complaint was received personally by the clerk of court, on the same day as the posting of the cash bond.

All the foregoing clearly show respondent judge's ignorance of the law and the rules. As a judge, he is the visible representation of law and justice. Under Canon 1.01 of the Code of Judicial Conduct, he is expected to be "the embodiment of competence, integrity, and independence" to maintain public confidence in the legal system.[8] Judges are expected to keep abreast of developments in law and jurisprudence[9] and is expected to have more than a cursory knowledge of the rules on preliminary investigation and bail. Respondent judge's failure to observe the basic laws and rules is not only inexcusable, but renders him susceptible to administrative sanction for gross ignorance of the law and incompetence. Failure to follow basic legal commands embodied in the law and the rules constitutes gross ignorance of the law from which no one is excused, and surely not a judge.[10]

Under Rule 140, Section 8 of the Rules of Court, as amended by A.M. No. 01-8-10-SC, gross ignorance of the law or procedure is classified as a serious charge.[11] Section 11 of the same Rule provides:

SEC. 11. Sanctions. – A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:

- Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;
- Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
- A fine of more than P20,000.00 but not exceeding P40,000.00.

The OCA recommends that respondent judge be dismissed from the service with forfeiture of all the benefits, except accrued leave credits, and with prejudice to re-employment in any branch, agency or instrumentality of the government including government-owned or controlled corporations.

We agree. Respondent judge's continued adherence to improper procedures on preliminary investigation and bail greatly prejudiced the administration of justice, thereby making him unworthy to wear the judicial robe.

WHEREFORE, in view of the foregoing, respondent Judge Saidali M. Dimangadap, Acting Judge of the 4th Municipal Circuit Trial Court (MCTC), Malabang-Sultan Kumander-Kapatagan-Balabagan, Lanao del Sur, is found GUILTY of gross ignorance of the law and procedure and is DISMISSED from the service with forfeiture of all the benefits, except accrued leave credits, and with prejudice to re-employment in any branch, agency or instrumentality of the government including government-owned or controlled corporations.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, and Chico-Nazario, JJ., concur.
Sandoval-Gutierrez, J., on leave.

[1] Rollo, pp. 4-6.

[2] Id., pp. 33-34.

[3] Id., p. 9.

[4] Id., p. 38.

[5] Report and Recommendation dated May 10, 2003.

[6] A.M. No. MTJ-98-1165, 21 June 2001, 308 SCRA 537.

[7] Tierra Firma Estate and Development Corporation v. Quintin, A.M. No. MTJ-02-1434, 2 July 2002, 383 SCRA 508, 512.

[8] Morales, Sr. v. Dumlao, A.M. No. MTJ-01-1339, 13 February 2002, 376 SCRA 573, 577-578.

[9] Osumo v. Serrano, A.M. No. RTJ-00-1607, 3 April 2002, 380 SCRA 110, 115.

[10] Guillen v. Cañon, A.M. No. MTJ-01-1381, 14 January 2002, 373 SCRA 70, 76.

[11] Capulong v. Gozum, A.M. No. MTJ-00-1287, 17 February 2003, 397 SCRA 486, 492-493.

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