

STATE PROSECUTORS, COMPLAINANTS, VS. JUDGE MANUEL T. MURO, RESPONDENT.

A.M. No. RTJ-92-876. December 11, 1995

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PER CURIAM:

In a PER CURIAM Decision dated September 19, 1994, the Court declared that respondent judge Manuel T. Muro's *motu proprio* dismissal of eleven (11) criminal cases filed against Mrs. Imelda Marcos for violation of Central Bank foreign exchange restrictions, admittedly prompted by mere newspaper reports of the lifting of all foreign exchange restrictions which are characterized as "hearsay evidence, twice removed"[1] and therefore not only inadmissible but without any probative value at all whether objected to or not,[2] and without waiting for the defense to file a motion to quash nor at least affording the prosecution the opportunity to be heard on the matter, constitutes gross ignorance of the law calling for his dismissal from the service with cancellation of eligibility, forfeiture of leave credits and retirement benefits, and disqualification from re-employment in the government service.

Respondent filed the instant motion for reconsideration of said decision to which complainants (state prosecutors) filed a comment. Respondent's reply thereto was further opposed by complainants' rejoinder. Meanwhile, the Regional Trial Court Judges Association of Manila, Inc. and the Movement of Attorneys for Brotherhood, Integrity and Nationalism, Inc. (MABINI) filed separate petitions "x x x For Leave To Intervene As Amicus Curiae". Both petitions were however denied by the Court in its Resolutions of October 18, 1994 and November 8, 1994, respectively.

In pressing for the dismissal of the complaint against him, respondent, in a nutshell, maintains that his dismissal of the criminal charges against Mrs. Marcos in the aforescribed manner was not motivated by bad faith or by any corrupt and insidious intent. And to further belie his imputed "gross ignorance of the law", respondent stresses that "he graduated from the law school, magna cum laude, the valedictorian of his class and placed 6th in the Bar examination".[3]

It may be conceded that respondent, in acting the way he did, committed a legal error which usually is remediable by appeal or by any other modes sanctioned by the Rules of Court[4] and "does not raise a question of improper judicial conduct subject to judicial discipline".[5] But egregious legal error, legal error motivated by bad faith, or a continuing pattern of legal error do amount to misconduct subject to discipline, ranging from admonishment to removal from office.[6] And legal error is egregious and serious enough to amount to misconduct when judges deny individuals their basic or fundamental rights, such as when defendants were not advised of their constitutional right to counsel, coerced to plead guilty, sentenced to jail when only a fine is provided by law, sentenced to jail for a period longer than the maximum sentence allowed by law, or particularly similar to this case when defendants were denied a full and fair hearing[7] --a constitutional right equally afforded to the prosecution but unceremoniously ignored by respondent. The gravity of his actuation cannot be shrugged off casually. Respondent has followed a course of judicial conduct which is in utter disregard of the law, established rules of practice and basic notions of fair play, and his impressive scholastic record as student of law all the more

punctuates his blunder rather than temper it. Thus, we reiterate with the same fervor that:

"xxx xxx xxx

IV. This is not a simple case of a misapplication or erroneous interpretation of the law. The very act of respondent judge in altogether dismissing sua sponte the eleven criminal cases without even a motion to quash having been filed by the accused, and without at least giving the prosecution the basic opportunity to be heard on the matter by way of a written comment or on oral argument, is not only a blatant denial of elementary due process to the Government but is palpably indicative of bad faith and partiality.

The avowed desire of respondent judge to speedily dispose of the cases as early as possible is no license for abuse of judicial power and discretion, nor does such professed objective, even if true, justify a deprivation of the prosecution's right to be heard and a violation of its right to due process of law.

The lightning speed, to borrow the words of complainants, with which respondent judge resolved to dismiss the cases without the benefit of a hearing and without reasonable notice to the prosecution inevitably opened him to suspicion of having acted out of partiality for the accused. Regardless of how carefully he may have evaluated changes in the factual situation and legal standing of the cases, as a result of the newspaper report, the fact remains that he gave the prosecution no chance whatsoever to show or prove that it had strong evidence of the guilt of the accused. To repeat, he thereby effectively deprived the prosecution of its right to due process. More importantly, notwithstanding the fact that respondent was not sure of the effects and implications of the President's announcement, as by his own admission he was in doubt whether or not he should dismiss the cases, he nonetheless deliberately refrained from requiring the prosecution to comment thereon. In a puerile defense of his action, respondent judge can but rhetorically ask: "What explanation could have been given? That the President was talking 'through his hat' and should not be believed? That I should wait for the publication of a still then nonexistent CB Circular?" The pretended cogency of this ratiocination cannot stand even the minutest legal scrutiny.

In order that bias may not be imputed to a judge, he should have the patience and circumspection to give the opposing party a chance to present his evidence even if he thinks that the oppositor's proofs might not be adequate to overthrow the case for the other party. A display of petulance and impatience in the conduct of the trial is a norm of conduct which is inconsistent with the "cold neutrality of an impartial judge". At the very least, respondent judge acted injudiciously and with unjustified haste in the outright dismissal of the eleven cases, and thereby rendered his actuation highly dubious."^[8]

However, certain notable matters and turn of events since the filing of respondent's motion for reconsideration stir the Court to undertake a re-examination of the penalty of dismissal originally imposed on him. Respondent attests to his unsullied name and service record prior to this administrative case and further displays a humble and contrite gesture by making a "solemn commitment" that:

"a) he will avoid creating a situation that spawns suspicion of arbitrary and improper conduct (Canon of Judicial Ethics, par. 17);

b) he would 'adopt the usual and expected method of doing justice and not seek to be extreme or peculiar in his judgment or spectacular or sensational in the conduct of the court.' (Ibid, par. 19);

c) he would avoid all appearances of impropriety, specially those that create suspicion of partiality, bias or improper motive. (Ibid, par. 3; Code of Judicial Conduct, Canon 2)."^[9]

And as if moved by the verity of respondent's attestation and the sincerity of his renewed pledge, complainants, in their Comment^[10] to the motion for reconsideration and Rejoinder^[11] to respondent's reply to their Comment, have mellowed down in pushing for respondent's removal from the service and now leave to these Court's sound discretion whether to lessen or modify respondent's penalty.

These indeed are favorable considerations warranting the commutation of respondent's penalty of dismissal, if only to give him the chance to redeem himself from an error of this magnitude which he committed only for the first time. After all, this Court is not bereft of compassion and mercy. But respondent ought to be reminded of certain fundamental legal precepts which just might have escaped him momentarily and which will keep him guarded against committing the same or similar mistake a second time.

"Although a speedy determination of an action or proceeding implies a speedy trial, it should be borne in mind that speed is not the chief objective of a trial. Careful and deliberate consideration for the administration of justice is more important than a race to end the trial. A genuine respect for the rights of all parties, thoughtful consideration before ruling on important questions, and a zealous regard for the just administration of law are some of the qualities of a good trial judge, which are more important than a reputation for hasty disposal of cases." [12] "In every litigation, x x x, the manner and attitude of a trial judge are crucial to everyone concerned, the offended party, no less than the accused. It is not for him to indulge or even to give the appearance of catering to the at-times human failing of yielding to first impressions. He is to refrain from reaching hasty conclusions or prejudging matters. It would be deplorable if he lays himself open to the suspicion of reacting to feelings rather than to facts, of being imprisoned in the net of his own sympathies and predilections. It must be obvious to the parties as well as the public that he follows the traditional mode of adjudication requiring that he hear both sides with patience and understanding to keep the risk of reaching an unjust decision at a minimum. It is not necessary that he should possess marked proficiency in law, but it is essential that he is to hold the balance true. What is equally important is that he should avoid any conduct that casts doubt on his impartiality. What has been said is not merely a matter of judicial ethics. It is impressed with constitutional significance." [13]

"What is required on the part of judges is objectivity. An independent judiciary does not mean that judges can resolve specific disputes entirely as they please. There are both implicit and explicit limits on the way judges perform their role. Implicit limits include accepted legal values and the explicit limits are substantive and procedural rules of law." [14]

"The judge, even when he is free, is still not wholly free. He is not to innovate at pleasure. He is not a knight-errant, roaming at will in pursuit of his own ideal of beauty or of goodness. He is to draw his inspiration from consecrated principles. He is not to yield to spasmodic sentiment, to vague and unregulated benevolence. He is to exercise a discretion informed by tradition, methodized by analogy, disciplined by system, and subordinate to the 'primordial necessity of order in the social life'." [15]

In line with the Court's pronouncement in "In Re: Petition for the Dismissal from Service and/or Disbarment of Judge Baltazar R. Dizon" [16] and borrowing the words therein, the decision to dismiss respondent judge took effect on September 19, 1994. On the basis of the foregoing considerations, we feel he has been sufficiently punished for the administrative infraction. We, therefore, order his reinstatement.

WHEREFORE, IN VIEW OF THE FOREGOING, the motion for reconsideration is hereby GRANTED. The Court's September 19, 1994 Decision is MODIFIED. Respondent Judge Manuel T. Muro is considered suspended from office without pay for the period from September 19, 1994 to the date this Resolution is promulgated. He may, therefore, be REINSTATED to office immediately. Let a copy of this Resolution be attached to the respondent's personal record.

SO ORDERED.

Narvasa, C.J., Davide, Jr., Romero, Melo, Puno, Vitug, Kapunan, Mendoza, Francisco, Hermosisima, Jr., and Panganiban, JJ., concur.

Regalado, J., took no part, in view of his stand on judicial objectivity and probity in the court.

Feliciano and Padilla, JJ., vote to deny the motion for reconsideration.

Bellosillo, J., see concurring and dissenting.

[1] 3 Jones, Commentaries on Evidence, 2d ed., Sec. 1084.

[2] People v. Cabral and Mercado, G.R. No. L-29412, Sept. 13, 1933; Salonga v. Pano, 134 SCRA 438.

[3] Motion for Reconsideration, p. 2.

[4] Such as the petition for certiorari brought by the "People" assailing the dismissal of the 11 criminal charges on grounds of excess of jurisdiction and grave abuse of discretion, and which was favorably acted upon by the Court of Appeals in its decision dated April 29, 1993 in C.A.-G.R. SP No. 29394 reinstating the criminal cases, Rollo, pp. 80-86.

[5] E.g., In re Quigley, 32 N.Y.S. 828 [1895]; Murtagh v. Maglio, 195 N.Y.S. 2d 900 [1960]; In re Mattera, 168 A. 2d 38 [N.J. 1961]; In re Troy, 364 Mass. 15, 306 N.E. 2d 203 [1973]; People ex rel. Harrod v. Illinois Cts. Comm'n., 372 N.E. 2d 53 [Ill. 1977]; Oklahoma ex rel. Oklahoma Bar Ass'n v. Sullivan, 596 P. 864 [Okla. 1979]; West Virginia Judicial Inquiry Comm'n. v. Dostert, 271 S.E. 2d 427 [W.Va. 1980].

[6] Stern, Is Judicial Discipline in New York a Threat to Judicial Independence? 7 Pace L. Rev. 291, 303-45 [1987].

[7] Stern, *supra*.

[8] Decision, September 19, 1994, pp. 17-19.

[9] Motion for Reconsideration, p. 10.

[10] p. 4.

[11] pp. 3-4.

[12] Barron, A Lawyer Looks At The Rules, West. Pub. Co., 1954, p. 27.

[13] Castillo v. Juan, 62 SCRA 124, 127.

[14] Yash Vyas, quoted in The Lawyers Review, Vol. VIII, Oct. 31, 1994, No. 10.

[15] Justice B.N. Cardozo, quoted in The Lawyers Review, *ibid*.

[16] Adm. Case No. 3086, May 31, 1989, 173 SCRA 719, 726.

CONCURRING AND DISSENTING OPINION

BELLOSILLO, J.:

I am glad that the majority finally decided to reconsider the Decision dismissing respondent judge from the service. Truly he does not deserve to be out of the judiciary.

However I disagree with the majority opinion, hence my dissent, insofar as it suspends him from office - and for more than one (1) year - for which reason I reiterate and incorporate herein my Dissenting Opinion in the Decision of the Court.

I find it extremely difficult to attribute bad faith on the part of respondent judge for dismissing the eleven criminal cases against the accused therein. As I have said, I see no insidious intentions on his part. For -

[D]ismissing *motu proprio* the eleven criminal cases without affording the prosecution the opportunity to be heard on the matter, erroneous though it may be, is not inescapably indicative of bad faith. The immediate dismissal of the charges is a necessary consequence of the belief that since the restrictions were lifted, no law was then being violated. It is an elementary principle in procedural law and statutory construction that the repeal of a penal law deprives the court of jurisdiction to punish persons charged with a violation of the old law prior to its repeal. Thus, where the crime no longer exists, prosecution of the person charged under the old law cannot be had and the action should be dismissed.[1]

Bad faith is the neglect or refusal to fulfill a duty, not prompted by an honest mistake, but by some interested or sinister motive.[2] It implies breach of faith and willful failure to respond to plain and well understood obligation.[3] It does not simply connote bad judgment or negligence; it imports a dishonest purpose or some moral obliquity and conscious doing of wrong; it means breach of a known duty through some motive or interest or ill will.[4]

None of these is respondent guilty of.

I do not agree with the findings of the majority that respondent judge committed an egregious legal error "serious enough to amount to misconduct." It was a simple case of believing in good faith that the basis for the criminal charges against the accused had been eliminated, having heard the public announcement of no less than the President himself that among the beneficiaries of the lifting of the foreign exchange restrictions was the accused herself. Hence there was no reason for the cases to remain pending in the calendar having in mind the desire of the Court to unclog court dockets.

Thus, as I said in my dissent, where the conclusions of the judge in his decision are not without logic or reason, it cannot be said that he is incompetent or grossly ignorant to call for an administrative sanction.[5] Accordingly, if respondent judge committed any error at all it was a "legal error" rectifiable by appeal, not by administrative sanction. Let it be emphasized that the policy of the Court as regards administrative cases is to dismiss the charge if the remedy is judicial, as in the case before us. Why then should we single out respondent judge among all other judges whose cases against them have been dismissed on the ground that the remedy of complainants was judicial and not administrative?

Time and again this Court has ruled that a judge cannot be subjected to liability - civil, criminal or administrative - for any of his official acts, no matter how erroneous, so long as he acts in good faith. He cannot be held to account or answer criminally, civilly or administratively for an erroneous decision rendered by him in good faith. As a matter of public policy, in the absence of fraud, dishonesty or corruption the acts of a judge in his judicial capacity are generally not subject to disciplinary action, even though such acts are erroneous.[6]

There is no showing whatsoever that respondent judge issued the assailed order in bad faith or with conscious and deliberate intent to perpetrate an injustice. Consequently, I have no choice but to maintain my vote to exonerate him.

But assuming *arguendo* that respondent judge committed a "legal error" which would make him liable to judicial discipline, I find too excessive the commuted penalty, i.e., suspension from office from 19 September 1994 until the resolution of this Court commuting his dismissal is promulgated. By that time respondent judge would have been suspended from office for more than one (1) year which is quite disproportionate to the "infraction" committed.

The severity of the penalty should be commensurate with the gravity of the offense. The period of suspension arrived at by the majority may be a convenient device to do away with a hiatus that would be created were a

shorter period of suspension be imposed by the Court, with the respondent judge having served his penalty and yet unable to assume office in the meantime that the instant motion for reconsideration is being resolved. I maintain that if a shorter period of suspension is called for because it is just and fair, then let it be so imposed, even if a time fracture is created. For under this circumstance, respondent judge could very well be considered simply as being on leave from office for that period. After all, a verification from the Leave Section of this Court reveals that he has sufficient leave credits to offset the period he is out of the service.

There should be no question that in the imposition of an administrative sanction the primary consideration is not facility or convenience but the proper and fair administration of justice.

To this extent, I must dissent.

[1] Dissenting Opinion, p. 6.

[2] *State v. Griffin*, 100 S.C. 331, 84 S.E. 876, cited in *Black's Dictionary*, 4th Ed., 1951, p. 176.

[3] 5 Words and Phrases 14, citing *Nelson v. Board of Trade*, 58 Ill. App. 399.

[4] *Board of Liquidators, v. Kalaw*, No. L-18805, 14 August 1967, 20 SCRA 1007.

[5] See Dissenting Opinion, p. 9., citing *Lampauog v. Judge Villarojo*, Adm. Matter No. 381-MJ, 28 January 1974, 55 SCRA 304.

[6] *Id.*, p. 2, citing *Louis Vitton S.A. v. Judge Villanueva*, Adm. Case No. RTJ-92-643, 27 November 1992, 216 SCRA which in turn cited *Mendoza v. Judge Villaluz*, Adm. Case No. 1797-CCC, 27 August 1981, 106 SCRA 664, and *Valdez v. Judge Valera*, Adm. Matter No. 1676-CAR, both promulgated 31 January 1978, 81 SCRA 246; *Morada v. Judge Tayao*, A.M. No. RTJ-93-978, 7 February 1994, 229 SCRA 723.

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