

SOCORRO YULO-TUVILLA, COMPLAINANT, VS. JUDGE ROLANDO V. BALGOS, RESPONDENT.*A.M. No. MTJ-98-1149. March 31, 1998*

Ponente: ROMERO, J.

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In a letter addressed to Chief Justice Narvasa dated January 29, 1996, Negros Occidental Sangguniang Panlalawigan Board Member Socorro Yulo-Tuvilla charged Judge Rolando V. Balgos, MTC, Hinigaran, Negros Occidental with Grave Abuse of Discretion and Improper Conduct. The complaint stemmed from a case brought before respondent for preliminary examination. Complainant Tuvilla alleged that Myra Gumban, then 14 years old, was kidnapped and brought to the house of one Norman Mapagay where she was detained and raped by several men. Gumban was able to escape and reported to the authorities that there were more than 10 other young girls still in captivity in the house of Mapagay.

A complaint was thereafter filed before respondent Judge who conducted a preliminary examination leading to the issuance of warrants of arrest on December 8, 1995 against Mapagay and his companions. Mapagay, through counsel, filed a motion to recall the warrant of arrest issued against him. This incident was immediately heard and granted by Judge Balgos without the presence of private complainant for the purpose of identifying Mapagay.

Complainant Tuvilla argued that respondent judge should not have acted on the motion filed by Mapagay and should instead have inhibited himself from hearing the same since Mapagay's counsel, Atty. Manlapao, is the lawyer of the family of Judge Balgos in a civil case pending before the RTC of Himamaylan, Negros Occidental. Tuvilla stated that respondent judge eventually inhibited himself from further hearing the case only when the community protested against him. However, the inhibition was useless since damage had already been done.

In his comment dated July 29, 1996, respondent judge claimed that the charges against him are unreasonable. He averred that the present complaint stemmed from a case for Kidnapping and Serious Illegal Detention filed for preliminary investigation in his sala. The complaining witness, Myra Gumban, also filed a separate complaint for Rape against Mapagay and several others. Respondent Judge issued corresponding warrants of arrest after conducting a joint preliminary examination of the complaining witness and her mother. He admitted to recalling the warrant of arrest against Mapagay claiming that he did so only because he believed that it was within his discretion to do so. Respondent stated that he found that the evidence adduced at the hearing "overwhelming countervailed his finding of probable cause after preliminary examination." Respondent further cited the illness of Mapagay of cancer and the fact he was due for an operation at St. Luke's hospital (which the records show he did undergo).

Regarding the charge that the lawyer of Mapagay (Atty. Manlapao) was his family's lawyer in Civil Case No. 277 entitled "Jose Gran, et al. v. Maximo Villavera," he argued that the said case had been submitted for decision long before the complaint against Mapagay was filed. He noted that Atty. Manlapao was counsel for many cases filed before him but no one had ever questioned his impartiality.

The Court referred the case to Judge Rodolfo Layumas, RTC, Branch 61, Kabankalan, Negros Occidental for investigation, report and recommendation.

Judge Layumas reported to the Court on April 15, 1997 that when he set the administrative case for hearing, the complainant failed to appear, although she sent a handwritten manifestation stating that she was no longer interested in pursuing the case against respondent judge.

Judge Layumas rescheduled the case for hearing on March 20, 1997, but complainant again failed to appear. He considered the case submitted for resolution, further directing complainant to appear before him on April 7, 1997 to show cause why she should not be punished for contempt.

On the allegation that respondent judge acted with undue haste in recalling the warrant of arrest, Judge Layumas found:

“An inquiry (into) the pleading attached to the records of the present Administrative Case reveals that the Motion to recall warrant of arrest is dated January 13, 1996 and the order granting the said motion is dated January 16, 1996; that a hearing was conducted by the respondent, and according to the said respondent in his comment to the letter-complaint, the prosecution cross-examined the movants’ witnesses.

If these were so, considering that there is no evidence to the contrary, then the respondent did not act on the motion with undue haste for the prosecution was given the opportunity to cross-examine the defense witnesses and in fact did so.”

However, Judge Layumas concluded that as far as the issue of whether it was proper or not for respondent to act on the motion filed by Mapagay’s counsel (who was his family’s counsel as well), there was indeed a violation by respondent of Rule 2.03 of Canon 2 of the Code of Judicial Conduct which states that:

“A judge shall not allow family, social or other relationship to influence judicial conduct or judgment. The prestige of judicial office shall not be based or lent to advance the private interests of others, nor convey or permit others to convey the impression that they are in special position to influence the judge.” (Underscoring supplied)

By not immediately inhibiting himself from hearing the complaint filed by Gumban, respondent created the impression upon the complainant and the public in general that Atty. Manlapao’s client was in a special position to influence him.

The investigating judge, however, pointed out that respondent has a mitigating circumstance in his favor, i.e., his having inhibited himself from further trying the case after he was made aware of his questionable action by others.

After a careful examination of the records of this case, the Court concurs with the findings of the investigating judge that while the motion to recall the warrant of arrest was not acted upon with undue haste, there was a definite violation of the Code of Judicial Conduct because Mapagay’s counsel was respondent’s family’s counsel.

Time and again, the Court has warned judges that they should endeavor to maintain at all times the confidence and high respect accorded to those who wield the gavel.[1] It is imperative that a judge’s official conduct should be free from the appearance of impropriety, and that his personal behavior in everyday life shown to be beyond reproach.[2]

The fact that the original complaint displayed no further interest in pursuing the administrative case against respondent and that respondent inhibited himself from hearing the case are not sufficient reasons for the Court to

set the matter at rest. It is in lapses such as these that the image of the judiciary is tarnished, and they cannot be allowed to pass without censure.

WHEREFORE, respondent Judge Rolando V. Balgos is hereby REPRIMANDED and REMINDED that the foremost duty of a magistrate is to uphold the people's trust and confidence in the judiciary.

SO ORDERED.

Narvasa C.J. (Chairman), Kapunan, and Purisima, concur.

[1] Cuaresma v. Aguila, 226 SCRA 73 (1993).

[2] Dinapol v. Baldado, 225 SCRA 110 (1993).

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