

**ATTY. ROSALIO DE LA ROSA, COMPLAINANT, VS. COURT OF APPEALS JUSTICES JOSE L. SABIO, JR., PERLITA TRIA-TIRONA, OSWALDO AGCAOILI, MARIANO DEL CASTILLO, METC JUDGE EUGENIO MENDINUE...***A.M. No. CA-03-35 (A.M. OCA-IPi No. 02-55-CAJ). July 24, 2003*

Ponente: YNARES-SANTIAGO, J.

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On August 14, 2002, a letter-complaint[1] addressed to the Chief Justice was received by the Office of the Court Administrator, charging respondents with deliberately causing the delay of the prosecution of Criminal Case No. 59354 for Estafa entitled, "People of the Philippines, Plaintiff versus Ferdinand Santos, Robert John Sobrepeña, Federico Campos, Polo Pantaleon, and Rafael Perez De Tagle, Jr., Accused" pending before the Metropolitan Trial Court of Pasig City, Branch 72. Complainant is the private prosecutor in the said criminal case.

During the preliminary investigation of the case, the City Prosecutor of Pasig City dismissed the complaint for estafa on the ground of insufficiency of evidence. On appeal to the Secretary of Justice, the said Resolution was set aside and the City Prosecutor of Pasig City was directed to file the necessary Information for Estafa under Article 316, paragraph 1 of the Revised Penal Code against the five accused.[2] The case was raffled to the Metropolitan Trial Court of Pasig City, Branch 72, presided by respondent Judge Eugenio C. Mendinueto.

Accused Polo S. Pantaleon and Federico O. Campos filed a "Motion for Judicial Determination of Probable Cause".[3] On the other hand, accused Ferdinand Santos, Robert John Sobrepeña, and Rafael Perez De Tagle, Jr. filed a "Petition for Review with Urgent Prayer for Issuance of Temporary Restraining Order/Preliminary Injunction" before the Court of Appeals, which was docketed as CA-G.R. SP No. 67388.

Meanwhile, a hearing was conducted by the trial court to determine the existence of probable cause. It appeared from the evidence presented therein that accused Pantaleon and Campos were not connected with the Fil-Estate Properties Properties, Inc. when the transaction complained of occurred. Consequently, the criminal case against them was dismissed.[4] As to the other three accused, respondent Judge suspended the proceedings pending the outcome of CA-G.R. SP No. 67388.

On November 8, 2001, the Court of Appeals, through the Special Sixteenth Division, composed of respondent Associate Justices Jose L. Sabio, Perlita J. Tirona and Mariano C. Del Castillo, issued a Temporary Restraining Order directing the trial court and the City Prosecutor of Pasig City to refrain from conducting any further proceedings in Criminal Case No. 59354 until further orders.[5] The Court of Appeals further directed complainant to file his comment to the petition for review. Instead of filing the required comment, complainant filed a motion to quash the Temporary Restraining Order.[6] The three accused (petitioners therein), through their respective counsel, respondent Attys. Gilbert Reyes, Deogracias Fellone and Antonio Hernandez, filed written oppositions to the motion.[7]

Meanwhile, the Temporary Restraining Order expired after the period of sixty days without a writ of preliminary injunction being issued. Hence, complainant filed with the trial court a "Motion to Commence Proceedings", which was denied on the ground that it would be practical as well as procedurally appropriate to await the final resolution of CA-G.R. SP No. 67388 in order to avoid the possibility of conflicting resolutions. The motion for reconsideration filed by complainant was likewise denied.[8]

On September 2, 2002, the Court of Appeals, through its Fourteenth Division, denied due course and dismissed the petition in CA-G.R. SP No. 67388.[9]

Thus, complainant filed the instant administrative complaint against respondent Justices Jose L. Sabio, Jr., Oswaldo Agcaoili, Perlita Tria-Tirona and Mariano Del Castillo for ignorance of the law and inexcusable negligence when they issued the Temporary Restraining Order without basis. Complainant alleged that respondent Justices deliberately delayed the prosecution of Criminal Case No. 59354 by issuing the Temporary Restraining Order despite the fact that respondent Judge Mendinueto was mandated by the Constitution and Rule 112 of the Rules of Criminal Procedure to act within ten days from receipt of the Information; and that respondent Justices failed to resolve the Motion to Quash despite the lapse of more than ten months. Complainant further charged that respondent Judge was likewise guilty of deliberately delaying Criminal Case No. 59354, when he refused to commence proceedings despite the lapse of the Temporary Restraining Order.

Complainant also charged respondent lawyers, Attys. Gilbert Reyes, Deogracias Fellone and Antonio Hernandez, for having masterminded the scheme to frustrate the prosecution of the case against their three clients through the petition for review filed before the Court of Appeals.

In their joint comment[10] filed on October 1, 2002, respondent Justices Sabio, Tria-Tirona, Del Castillo and Agcaoili denied that there was delay in the disposition of CA-G.R. SP No. 67388. They alleged that the petition was resolved relatively early considering the pendency of other cases of equal importance and the heavy caseload of the Justices concerned. Specifically, the petition, which was filed on October 26, 2001, was resolved on September 2, 2002. In addition, respondent Justice Sabio, to whom CA-G.R. SP No. 67388 was raffled, was designated by the Presiding Justice, together with other Court of Appeals Justices, to help expedite the disposition of cases of "1997 and below" vintage under the Zero Backlog Project of the Court of Appeals.

In his comment[11] filed on October 7, 2002, respondent Judge Mendinueto explained that he refused to proceed with Criminal Case No. 59354 notwithstanding the lapse of the sixty-day effectivity of the Temporary Restraining Order in deference to the final outcome of CA-G.R. SP No. 67388 and in order to avoid the absurd possibility of two conflicting resolutions by the trial court and the Court of Appeals.

In their joint comment,[12] respondent lawyers averred that their filing of the petition before the appellate court was a legitimate move to protect the interests of their clients. They contended that while the Secretary of Justice is not among the quasi-judicial agencies whose orders or judgments may be the subject of a petition for review, the enumeration in Rule 43, Section 2 of the Rules of Court is not exclusive, as held in the case of *Carpio v. Sulu Resources Development Corporation*. [13] They further alleged that any error in the remedy they chose did not render them administratively liable considering that they did not act in bad faith.

After several exchanges of various pleadings between complainant and the three-lawyer respondents,[14] the Court referred the matter to the Office of the Court Administrator for investigation, report and recommendation.[15] However, considering that some of the respondents are incumbent Justices of the Court of Appeals, the case was subsequently referred to Retired Justice Romulo S. Quimbo, Consultant of the Office of the Court Administrator,[16] pursuant to Section 3, Rule 140[17] of the Rules of Court, as amended by A.M. No. 01-8-10-SC, dated September 11, 2001.

On June 5, 2003, Justice Quimbo submitted his report with the recommendation that the administrative case against all the respondents be dismissed for lack of merit.

The Investigating Justice found that respondent Justices of the Court of Appeals did not commit error in requiring complainant (respondent therein) to comment and in granting the prayer for a Temporary Restraining Order so as not to frustrate or prejudice whatever action the said court may take relative to the petition. While the petition was eventually dismissed on the ground that Rule 43 was inapplicable, respondent Justices cannot be held administratively liable for not dismissing the petition outright since such omission did not amount to a flagrant disregard of the facts, jurisprudence and applicable law. Likewise, there is no showing that respondent Justices knowingly issued an unjust and baseless Temporary Restraining Order. Moreover, the length of time the petition remained pending before the Court of Appeals was justified by the heavy caseload of the Justices concerned.

Similarly, there were no grounds to impose administrative sanctions on respondent Judge Eugenio C. Mendinueto. His decision to suspend the proceedings in the criminal case even after the expiration of the Temporary Restraining Order showed a becoming modesty and deference to a higher court. There was also no showing that respondent Judge connived and confederated to frustrate justice in said criminal case.

In the same way, the complaint against respondent lawyers was found to be unsubstantiated. There was no evidence that they misused the rules of procedure to defeat the ends of justice; or that they deliberately delayed the case, impeded the execution of a judgment, or misused court processes. Rather, the action of the three respondent lawyers was well within the bounds of the fair and honorable conduct referred to in the Code of Professional Responsibility.

The Investigating Justice, however, took note of the allusion by complainant in his pleadings to the three respondent lawyers as "brilliant lawyers", "legal supermen" or "sages," which he said amounted to sarcasm.

We agree with the recommendation of the Investigating Justice Romulo S. Quimbo.

No evidence was presented to show that all the respondents, either individually or collectively, adopted a schematic plan to delay the prosecution of Criminal Case No. 59354. Apparently, the conspiracy theory advanced by complainant was formulated after the respondent Justices granted the Temporary Restraining Order and required complainant to comment on the petition filed by the three respondent lawyers, instead of dismissing the petition outright.

As held in the recent case of *Sacmar v. Judge Reyes-Carpio*,<sup>[18]</sup> a charge of knowingly rendering an unjust and baseless order will prosper, only if it is shown that the issuance of the order was indeed unjust and the respondents did not merely commit an error of judgment or took the unpopular side of a controversial point of law. Their failure to correctly interpret the law or to properly appreciate the evidence presented does not necessarily render them administratively liable.<sup>[19]</sup> Magistrates are not expected to be infallible in their judgments.

In the case at bar, the records fail to show that the respondent Justices and respondent Judge were guilty of fraud, dishonesty, corruption or, at the very least, bad faith. To merit disciplinary action from this Court, there should be a showing that the complained judicial acts of respondent Judge, more so of respondent Justices of the Court of Appeals, were attended by fraud, dishonesty, corruption or bad faith.<sup>[20]</sup> There being none, there is no cogent ground to hold them administratively liable.

Furthermore, the legal remedy taken by respondent lawyers, which was later found to be erroneous, does not constitute proof that they deliberately and knowingly intended to forestall the hearing of Criminal Case No. 59354. There was no evidence that they have overstepped the norms of their Lawyer's Oath in advocating the interest of their clients. To be sure, Canon 19 of the Code of Professional Responsibility requires them to

represent their clients with zeal within the bounds of law. Accordingly, in the judicial forum, their clients were entitled to the benefit of any and every remedy and defense that is authorized by the law of the land, and the three respondent lawyers were expected to avail of such remedy or defense. Indeed, complainant failed to show adequate proof that the three respondent lawyers deliberately and knowingly "hatched a scheme and toyed with the law"[21] when they filed the said petition before the Court of Appeals.

It bears stressing that it is the duty of a lawyer to conduct himself with courtesy, fairness and candor toward his professional colleagues.[22] As officers of the court, lawyers are mandated to conduct themselves honorably, fairly and candidly toward each other. Though a lawyer's language may be forceful and emphatic, it should always be dignified and respectful, befitting the dignity of the legal profession. Obviously, complainant's use of sarcasm in calling the three respondent lawyers "brilliant lawyers", "legal supermen" and "sages" fell short of this mandate. It served no useful purpose. The use of intemperate language and unkind ascriptions have no place in the dignity of judicial forum. Civility among members of the legal profession is a treasured tradition that must at no time be lost to it.[23]

WHEREFORE, in view of all the foregoing, the complaint against all the respondents is DISMISSED for lack of merit.

**SO ORDERED.**

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Panganiban, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.  
Quisumbing, and Sandoval-Gutierrez, JJ., on official leave.

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[1] Rollo, pp. 1-22.

[2] Id., pp. 23-33.

[3] Id., pp. 37-53.

[4] Id., pp. 101-104.

[5] Rollo, pp. 106-107; Associate Justice Jose L. Sabio, ponente and Acting Chairman (Associate Justice Agcaoili was on official leave per Office Order No. 46-01-AM [Amended] dated 17 October 2001), and with Associate Justices Perlita J. Tria-Tirona and Mariano C. Del Castillo, concurring.

[6] Id., pp. 108-113.

[7] Id., pp. 120-127.

[8] Id., p. 210.

[9] Rollo, pp. 249-258; Associate Justice Jose L. Sabio, Jr., ponente, with Associate Justices Romeo A. Brawner, Chairman, and Mario L. Guariña III, concurring.

[10] Id., pp. 246-248.

[11] Id., pp. 259-263.

[12] Rollo, pp. 303-331.

[13] G.R. No. 148267, 8 August 2002.

[14] Rejoinder dated January 14, 2003 [Rollo, pp. 395-408]; Comment on Rejoinder dated December 10, 2002 [Rollo, pp. 337-343].

[15] Rollo, p. 333.

[16] Id., pp. 335-336.

[17] Re: Discipline of Judges of Regular and Special Courts and Justices of the Court of Appeals and the Sandiganbayan.

[18] A.M. No. RTJ-03-1766 [formerly OCA-IPI No. 00-979-RTJ], 28 March 2003.

[19] Mina v. Judge Gatdula, A.M. No. MTJ-00-1264, 4 February 2002.

[20] See Frani v. Pagayatan, 363 SCRA 707, 713 [2001].

[21] Complaint, p. 15.

[22] Canon 8, Code of Professional Responsibility.

[23] Castillo v. Atty. Padilla, Jr., 212 Phil. 685 [1984].

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