

LUZVIMINDA C. COMIA, COMPLAINANT, VS. JUDGE CONRADO R. ANTONA, RESPONDENT.

A.M. No. RTJ-99-1518 (Formerly OCA IPI No. 99-712-RTJ). August 14, 2000

Ponente: BUENA, J.

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BUENA, J.:

The administrative matter at bar stems from a sworn affidavit-complaint dated 22 March 1999, filed by herein complainant Luzviminda C. Comia, imputing to respondent Judge Conrado R. Antona of the Regional Trial Court (RTC) of Batangas City, Branch 4, a plethora of charges involving “gross ignorance of the law, by deliberately committing a mockery of judicial proceedings, (for) knowingly rendering an unjust judgment in favor of the accused, (for) capriciously allowing the accused in the custody of their counsel, (for) treating the private prosecutor in a despotic, tyrannical, oppressive and dictatorial manner during the January 6, 1999 hearing, (for) allowing accused to post bail despite the fact that the crime committed is a capital offense and a heinous crime, at that; (of) depriving the prosecution the procedural requirement of due process, (for) acting most prejudicial to the best interest, image, trust, confidence and integrity of the court, and (for) deliberately violating the existing doctrines and jurisprudence laid down by the Honorable Supreme Court.”

In a Memorandum dated 12 April 2000, Court of Appeals Justice Buenaventura J. Guerrero, who was tasked by this Court to conduct an investigation, and submit a report and recommendation on the instant administrative matter, classified the charges against respondent judge into three:[1]

- A) Ignorance of the law;
- B) Conduct prejudicial to the best interest of the Court; and
- C) Deliberately violating existing doctrines and jurisprudence laid down by the Supreme Court.

As borne by the records, this administrative matter arose as a result of respondent judge’s handling of Criminal Case No. 9309 for Murder, particularly the hearing and resolution of the petition for bail therein.

Based on the Memorandum submitted by Investigating Justice Buenaventura J. Guerrero, the material antecedents and proceedings in the instant administrative case are as follows:

“On 19 January 1998, an information for murder for the death of complainant’s husband, Numeriano Comia, was filed with the Regional Trial Court, Fourth judicial Region, and raffled to Branch 4, Batangas City, presided by respondent Judge. Docketed as Criminal Case No. 9309 and entitled ‘People of the Philippines vs. Fajardo, et al.,’ accused were Dante Fajardo, Sr. and Filipina Fajardo-Arce, as principals, the latter’s husband Pio Arce as accomplice.

“On 29 January 1998, counsels for accused Fajardo Sr., Filipina Arce and Pio Arce, filed an ‘Urgent Motion to Defer Issuance of the Warrants of Arrest with Supplemental Petition to Quash, Lift and or Dissolve Warrant of Arrest if Already Issued.’ Private Prosecutor Atty. Isabelita Bathan Manigbas with the conformity of 2nd Assistant City Prosecutor Leonardo Suyu of Batangas City submitted a comment/opposition. Taking

cognizance that a petition for review against the resolution of the City Prosecutor had been filed by the accused with the Department of Justice, respondent judge held that ‘such fact does not in any way preclude the court from acting on the information already filed with the Court’ hence denied the urgent motion for lack of merit. Counsel for the accused filed a motion for reconsideration. On 10 March 1998, respondent Judge granted the motion decreeing ‘that the efficacy of the said warrants of arrest against all the herein accused dated January 27, 1998 are hereby suspended until further order of the court.’

“A motion for reconsideration was filed by the Private Prosecutor with the conformity of the 2nd Assistant City Prosecutor Leonardo Suyo. On 31 March 1998, respondent Judge denied the motion ruling, *inter alia*, that:

‘X X X In any case, a reading of the subsequent orders of the Secretary of Justice merely gave the justification for the prosecutors to file informations with the Court even if there were appeals and/or petitions for review of their resolutions seasonably filed. There is, however, nothing in these orders and/or circulars which in any way affects the discretion of the Court on whether or not warrants of arrest should be issued and although already issued, the Court may order its recall and as what had been made in this case, suspend the effectivity of said warrants of arrest.

‘Moreover, the right of an accused to appeal and/or petition for review resolutions of Prosecutors to the Secretary of Justice had not been removed but only qualified. It is unfortunate that what impressed the Private prosecutor was the apparently no longer effective Circular No. 17 of the Department of Justice. But as can be gleaned from the order of March 10, 1998, the suspension of the efficacy of warrants of arrest was primarily premised on the sense of fair play of the Court to give full meaning to the due process that should be accorded every person accused of a criminal offense and in the interest of substantial justice in the face of the existence of warrants of arrest which undoubtedly would affect the rights of the accused to ventilate (*sic*) their arguments and evidence before the Secretary of Justice.’

“On 04 November 1998, defense’s appeal to the Department of Justice was dismissed.

“On 04 December 1998, respondent Judge issued the second warrants of arrest against accused Fajardo Sr., Filipina and Pio. While still at large, Atty. Reynaldo P. Dimayacyac, Sr. filed an Urgent Petition for the Grant of Bail to Accused Dante Fajardo, Sr. and Filipina Arce with Supplemental Motion for Reduction of Bail Recommended for Accused Pio Arce, Jr. dated 14 December 1998.

On 16 December 1998, respondent Judge merely directed that the urgent petition be filed with the records it appearing the court has not yet acquired jurisdiction over the persons of all accused who are still at large.

“On 04 January 1999, acting on the manifestation/motion of counsel for the accused, respondent Judge issued an order setting tentatively the hearing of the petition for bail of Fajardo, Sr. and Filipina Arce and reduction of bail of Pio Arce, Jr. on 06 January 1999 at 9:30 a.m. In the same order, respondent judge directed that a copy thereof be furnished the City Prosecutor, and upon request of the defense counsel, subpoena ad testificandum be issued to three witnesses named in the request.

“On 06 January 1999, the scheduled hearing of the petition for bail was held. First to speak was the private prosecutor who manifested they only learned ‘today’ of the return of the warrant dated January 6, 1999 showing that the warrant was served by the PNP Criminal Investigation and Detection Group, Camp Crame, Quezon City in the evening on January 5, 1999. Inasmuch as the accused were present, she continued that a commitment order be issued for their confinement at the City Jail of Batangas, adding that a representative of the PNP Batangas is present for the purpose.

“Defense’s counsel retorted the proceedings was for petition for bail and since the court had ruled that the petition could not be heard without the accused-movants submitting themselves to the jurisdiction of the court, they surrendered themselves to the Criminal Investigation and Detection Group of the PNP, Camp Crame and

were pressing (sic) for a speedy trial.

“Respondent Judge then remarked that the matter to be heard as shown in the order setting the hearing, was subject to the condition that the accused voluntarily surrender themselves which they did. Regarding the plea of the private counsel that a commitment order for the confinement of the accused in Batangas City Jail be issued, he said it ‘will be resolved later on but first things first.’ Continuing, he observed that ‘the motion here set for hearing is the one for the movants to show their cause why this motion should be granted and in the matter of granting bail and with respect to the other accused in the matter of reduction of bail, so first things first.’

“Private prosecutor then asserted that under the Rules of Criminal Procedure, in application for bail particularly for capital offense (the burden of) ‘showing (that the evidence of) the guilt of the accused is strong, lies in the prosecution. It is the prosecution who should present evidence to prove (that the evidence of) the guilt of accused is strong.’ Citing Section 8 of Rule 114, she argues that ‘all of the evidence presented by the prosecution shall [be] automatically form part (of) the trial on the merits of the case. So, it would be unprocedural (sic) Your Honor, with due respect to the Honorable Court and to defense counsel that this application for bail be conducted without first submitting the accused to the proper agency; that they be properly arraigned and the Prosecution then will be given the proper opportunity to file an opposition to the petition for bail and to give proper opportunity for the prosecution to present its evidence to prove that the evidence of guilt is strong; the accused here has not yet been arraigned; they had not been committed to the proper agency where they should had been properly detained, Your Honor.’” (Emphasis Ours)

During the course of the bail hearing, the defense further moved – to the objection of the prosecution – that the accused be held in custody at the Criminal Investigation and Detection Group, Camp Crame, claiming that accused, Fajardo, Sr., was then scheduled for medical operation “as early as December 14th.”[2] Respondent judge granted the motion of defense counsel.

On 12 January 1999, the prosecution filed an “Omnibus Motion to (a) reconsider the order of custody of the accused; (b) declare the proceedings on the bail null and void; (c) inhibit; and, (d) defer further proceedings.”

On 28 January 1999, the prosecution likewise filed a “Supplement to the Omnibus Motion dated December 14, 1998 with Additional Arguments to Support its Motion for Reconsideration Anent the order of January 6, 1999.”

In an order[3] dated 01 February 1999, respondent judge denied the Omnibus Motion to which the prosecution moved to reconsider said order. On 03 February 1999, respondent judge denied the Motion for Reconsideration of the prosecution and declared the bail hearings terminated.

Upon arraignment, accused Fajardo Sr. and Filipina Fajardo- Arce pleaded not guilty to the charge against them.

In an order dated 15 February 1999,[4] respondent judge granted the petition for bail and fixed the amount thereof at P200,000.00 each for accused Fajardo Sr. and Filipina Fajardo-Arce, and reduced the amount of bail to P100,000.00 for accused Pio Arce, Jr.

On 25 February 1999, respondent judge inhibited himself from the hearing and trial of Criminal Case No. 9309.[5]

ADMINISTRATIVE CASE

Acting on the sworn affidavit-complaint filed by herein complainant Luzviminda Comia and considering the gravity of the charges imputed therein, the Office of the Court Administrator (OCA) recommended to the High Court that the instant administrative matter be referred to the Court of Appeals for immediate raffle, investigation, report and recommendation.

In a Resolution dated 06 December 1999, this Court referred the case to the Court of Appeals and, upon subsequent raffle, was assigned to Justice Buenaventura J. Guerrero for investigation, report and recommendation.

On 23 February 2000, herein complainant, through counsel, filed a memorandum.[6] For his part, respondent judge submitted a Manifestation[7] on 06 March 2000, and a Memorandum[8] on 17 March 2000, to which complainant filed a Compliance with Reply-Memorandum[9] dated 28 March 2000.

In a Memorandum dated 12 April 2000, Investigating Justice Buenaventura J. Guerrero submitted to the High Court his findings and recommendations on the administrative matter, to wit:

“1. Ignorance of the law: On the basis of the foregoing, respondent Judge may be held administratively liable and ordered to pay a fine of P20,000.00 ;

“2. Conduct prejudicial to the best interest of the Court: No Fraud, dishonesty or corruption has been charged much less proven against respondent Judge. Hence, he may be exonerated; and,

“3. Deliberately violating existing doctrines and jurisprudence laid down by the Supreme Court: There is no evidence that respondent Judge was aware of herein aforecited jurisprudential doctrines on application for admission to bail in a capital offense. Not one of these cases—or any case for that matter involving petition for bail in a charge for a capital offense—was brought to the attention of respondent Judge by the prosecution to show that his order was in violation of existing jurisprudence. Hence, respondent Judge may be exonerated.”(Emphasis Ours)

THE COURT’S RULING

The findings and recommendations of the investigating justice are well-taken. A thorough perusal of the records and evidence adduced by the complainant lend credible substantiation to the charge of gross ignorance of the law on the part of respondent judge. Verily, the actuation of respondent judge specifically in the handling, hearing and resolution of the petition for bail constitutes not only ignorance of fundamental rules relating to bail applications, but demands stern rebuke from this Court as well.

Without doubt, the rules and principles relating to bail transgressed by respondent judge are – to say the least – basic that unfamiliarity therewith entails a finding of administrative liability and necessitates the imposition of the proper penalty.

Section 8 of Rule 114 of the Rules of Court is explicit:

“Sec. 8. Burden of Proof in Bail Application. – At the hearing of an application for admission to bail filed by any person who is in custody for the commission of an offense punishable by death, reclusion perpetua or life imprisonment, the prosecution has the burden of showing that evidence of guilt is strong. The evidence presented during the bail hearings shall be considered automatically reproduced at the trial, but upon motion of either party, the court may recall any witness for additional examination unless the witness is dead, outside of the Philippines or otherwise unable to testify.” (Emphasis Ours)

Likewise, jurisprudence on the matter is crystalline. Bereft of any ambiguity of language, this Court, as early as *Feliciano vs. Pasicolan*,^[10] articulated the principle in this jurisdiction that since bail is intended to obtain the provisional liberty of the accused, the same cannot be authorized or posted before custody of said accused has been acquired by the judicial authorities by his arrest or voluntary surrender.

It is self evident that a court cannot authorize provisional liberty to one who is then actually in the enjoyment of his liberty, or as the Court quoted in *Feliciano*, “it would be incongruous to grant bail to one who is free.”^[11] Stated differently, the right to bail can only be availed of by a person who is in custody of the law or otherwise

deprived of his liberty and it would be premature, not to say incongruous, to file a petition for bail for someone whose freedom has yet to be curtailed.[12]

Thus in *Borinaga vs. Tamin*,[13] the High Court in categorical terms enunciated:

“X X X Where admission to bail is a matter of discretion, the prosecution has the burden of showing that evidence of guilt is strong. X X X Admission to bail as a matter of discretion presupposes the exercise thereof in accordance with law and guided by the applicable legal principles. The prosecution must first be accorded an opportunity to present evidence because by the very nature of deciding applications for bail, it is on the basis of such evidence that judicial discretion is weighed against in determining whether the guilt of the accused is strong. In other words, discretion must be exercised regularly, legally and within the confines of procedural due process, that is, after evaluation of the evidence submitted by the prosecution. X X X

“X X X

“In the first place, respondent judge did not have the authority to set the petition for bail for hearing in view of the fact that he had not even acquired jurisdiction over the criminal case X X X.” (Emphasis ours)

Under the present circumstances, respondent Judge Antona-- fully cognizant that the court had not yet acquired jurisdiction over the persons of the accused considering that the latter were “at large”-- still entertained the application for bail by setting a date of hearing therefor, albeit tentatively, and conditioned upon the voluntary surrender of the accused. In doing so, respondent judge indubitably violated settled jurisprudential doctrines regarding the purpose of bail which is to secure the temporary liberty of persons under the custody of the law, or otherwise deprived of freedom.

It is of no moment that the accused eventually surrendered to the police authorities on the same date “tentatively” scheduled for the hearing of the application for bail. To our mind, such supervening event is of no bearing and immaterial; it does not absolve respondent judge from administrative liability considering that he should not have accorded recognition to the application for bail filed on behalf of persons, who at that point, were devoid of personality to ask such specific affirmative relief from the court.

The records reveal that at the time the application for bail was filed, the accused were, in fact, in the enjoyment of their liberty, having evaded the long arm of the law despite the existence of standing warrants for their arrest issued by no less than respondent Judge Antona himself.

Similarly, respondent judge is guilty of a procedural lapse in the hearing of the petition for bail inasmuch as the order and manner of presentation of evidence in the bail hearings were flawed and highly irregular. In the case before us, the defense adduced and presented its evidence even ahead of the prosecution despite the unequivocal provision of the Rules to the effect that in bail petitions, the burden of proving that the evidence of guilt is strong lies within the fence of the prosecution. The clear import of the foregoing pronouncements is that the prosecution should be accorded all the opportunity to adduce, submit and present proof to bolster its stand that the evidence of guilt is indeed strong so as to warrant the denial of the petition for bail addressed to the court. Moreover, as gleaned from the order[14] dated 04 January 1999, only the defense witnesses were issued subpoenas *Ad Testificandum* to the exclusion of prosecution witnesses.

Likewise, respondent judge transgressed the Rules in view of the fact that his order dated 15 February 1999, granting the petition for bail in favor of the accused Dante Fajardo, Sr. and Filipina Fajardo-Arce, and reducing the bail in favor of Pio Arce, Jr., failed to recite a summary of the evidence for the prosecution. The records show that said order merely made mention and invoked as its basis the evidence presented by the defense. Notably, respondent judge’s actuation is dissident to settled doctrine on this matter that the court’s order granting or refusing bail must contain a summary of the evidence for the prosecution, otherwise the order may be invalidated

because the summary of the evidence for the prosecution, which contains the judge's evaluation of the evidence, may be considered as an aspect of procedural due process for both prosecution and the defense.[15]

To appreciate the strength or weakness of the evidence of guilt, the prosecution must be consulted or heard. It is equally entitled, as the accused, to due process.[16] The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true. This norm is of the very essence of due process, as the embodiment of justice requires that the prosecution be given the opportunity to prove that there is strong evidence of guilt.[17]

In the instant administrative matter, proof is extant that in the bail hearings the prosecution was not afforded adequate opportunity within a reasonable time to present evidence within its grasp to substantiate the degree and gravity of guilt of the accused, for purposes of resolving the bail petition. As gleaned from the order dated 15 February 1999, respondent judge relied solely on, and made strict mention of the evidence adduced by the defense without incorporating in said order a recital of the evidence for the prosecution. Respondent judge ruled and concluded, albeit erroneously, that the prosecution waived its right to adduce evidence; in effect, the prosecution was denied the opportunity to submit all the evidence it desired to present.

Evidently, respondent judge was remiss in performing the specific duty of reciting – in the subject order – the summary of evidence for the prosecution. For where the grant of bail is discretionary, as in the instant case, the issue of whether or not an accused should be admitted to bail lies on the strength of the prosecution's evidence as to their guilt,[18] without prejudice, however, to the right of the defense to cross-examine witnesses and introduce evidence in its own rebuttal.[19]

Worth stressing too, is that no reasonable notice was given to the prosecution regarding the hearing of the petition for bail. As shown by the records, the order setting the 06 January 1999 bail hearing was received by the City Prosecutor and private prosecutor on 04 January 1999 and 05 January 1999, respectively. In this jurisdiction, whether bail is a matter of right or discretion, reasonable notice of hearing is required to be given to the prosecutor or fiscal, or at least, he must be asked for his recommendation.[20]

Thus, in *Depamaylo vs. Brotarlo*,[21] the disregard by respondent judge of the mandatory three-day notice rule under Section 4, Rule 15 of the Rules of Court was deemed by the High Court to constitute "undue haste":

"The undue haste with which respondent judge granted bail also accounts for her disregard of the mandatory requirement in Rule 15, Section 4 that notice of a motion must be served on all parties at least three days in advance of the hearing."

In the same vein, despite lack of proper substantiation and presentation of documentary evidence by the defense and over the vigorous objection of the prosecution, respondent judge allowed that custody of the accused be transferred from the Batangas City Jail to the Criminal Investigation and Detection Group, specifically under Senior Inspector Eduardo S. Villena, Chief of Prosecution Department, on the ground of "health and security reasons."

As to the charge, however, of conduct prejudicial to the best interest of the court, we adopt the findings of the Investigating Justice that no fraud, dishonesty or corruption was imputed, nor proved by complainant; hence, respondent judge is not liable therefor.

On the same score, this Court finds no compelling evidence on record to substantiate the charge that respondent judge deliberately violated existing doctrines and jurisprudence enunciated by the High Court. To our mind, the procedural lapses and irregularities in the bail hearings were not consciously, purposely, and intentionally perpetrated by respondent judge so as to render him liable for said charge. At the most, respondent judge's actuation were borne by an ignorance of the pertinent rules and applicable jurisprudence and were not, in our

considered view, products of a grand design to deliberately perpetrate injustice.

All told, this Court once again seizes the moment to remind judges to keep abreast of the rules and recent pronouncements of this Court, so they may evolve into more effective dispensers of justice — magistrates of the law in the truest sense of the word.

WHEREFORE, in light of the foregoing disquisitions, the Court finds respondent Judge Conrado R. Antona liable for gross ignorance of the law. ACCORDINGLY, the Court hereby resolves to impose upon him a fine of P20,000.000 and sternly warns respondent judge that a repetition of the same or similar acts shall be dealt with more severely.

SO ORDERED.

Mendoza, (Acting Chairman), Quisumbing, and De Leon, Jr., JJ., concur.

Bellosillo, J. (Chairman), on official leave.

[1] Memorandum dated 12 April 2000, p.35.

[2] Rollo, p. 216.

[3] Rollo, pp. 35-38.

[4] Ibid, pp. 41-43.

[5] Ibid, pp. 44-45.

[6] Rollo, pp. 225-241.

[7] Ibid, pp. 245-246.

[8] Ibid, pp. 282-288.

[9] Ibid, pp. 336-342.

[10] 2 SCRA 888, cited in Aguirre vs. Belmonte, 237 SCRA 778.

[11] Aguirre vs. Belmonte, 237 SCRA 778.

[12] Cortes vs. Catral, 279 SCRA 1.

[13] 226 SCRA 206.

[14] Rollo, p. 12; ANNEX “E”.

[15] Cortes vs. Catral, 279 SCRA 1.

[16] People vs. Dacudao, 170 SCRA 489.

[17] People vs. Sola, 103 SCRA 393.

[18] Aguirre vs. Belmonte, 237 SCRA 778.

[19] Cortes vs. Catral, 279 SCRA 1; Ocampo vs. Bernabe, 77 Phil. 55 [1946].

[20] Ibid.

[21] 265 SCRA 151.

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