

ANTONIO A. GALLARDO, ANTONIO AREVALO, CRESENCIO ECHAVEZ, EMMANUEL ARANAS, PALERMO SIA, RONNIE RAMBUYON, PRIMO NAVARRO AND NOEL NAVARRO, PETITIONERS, VS. JUDGE SINFOROSO V. TABAM...

A.M. No. RTJ-92-881. June 02, 1994

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

For this Court's consideration is a letter-complaint, dated May 5, 1992 of Governor Antonio A. Gallardo of the Province of Camiguin and other officials of the said province, charging Judge Sinforoso V. Tabamo, Jr. of the Regional Trial Court, Branch 28, at Mambajao, Camiguin with manifest bias and partiality and highly irregular and outrightly illegal acts in connection with two cases filed before his court, namely:

A. Special Civil Case No. 465 entitled "Pedro P. Romualdo vs. Governor Antonio A. Gallardo, et. al." for Injunction, Prohibition, and Mandamus with Prayer for the Issuance of a Writ of Preliminary Injunction and Restraining Order; and

B. Criminal Case No. 561 entitled "People vs. Ruel D. Dagondon, et. al." for Illegal Possession of Indian Hemp (marijuana).

In Special Civil Action No. 465, respondent judge issued an Order restraining the continuance of various public works projects being undertaken by the provincial government and the disbursement of funds therefor, allegedly in violation of a 45- day ban on public works imposed by the Omnibus Election Code. Complainant alleged that respondent Judge, in spite of the fact that it was the Commission on Elections, not the Regional Trial Court, which had jurisdiction over the case, took cognizance of the same and issued the temporary restraining order.

In Criminal Case No. 561, respondent Judge is accused to have imposed the wrong sentence in violation of specific provisions of the Dangerous Drugs Law, the Indeterminate Sentence Law and the Revised Penal Code in order to afford the accused in said case the right to avail of provisions of the Probation Law.

Respondent Judge's actuations, according to complainant, were intended to favor the political faction of Congressman Pedro P. Romualdo in the struggle with the group of Governor Gallardo for political supremacy in the 1992 elections. This Court, in a resolution dated March 18, 1993, referred the administrative matter to Justice Salome A. Montoya of the Court of Appeals for investigation, report and recommendation. Complying with said resolution, Justice Montoya, in her final report, found the evidence as follows:

"A. Re: SPECIAL CIVIL ACTION NO. 465:

"It appears that Cong. Pedro P. Romualdo and Gov. Antonio R. Gallardo were both candidates in the May 11, 1992 elections for the positions of congressmen and governor, respectively, of Camiguin. They belonged to opposing political factions and were in a bitter electoral battle.

"On April 10, 1992 or about a month before the elections, Cong. Romualdo filed a petition docketed as Special Civil Action No. 465 before the Regional Trial Court of Camiguin (Br. 28) presided over by respondent Judge Tabamo against Gov. Gallardo, the Provincial Treasurer, the Provincial Auditor, the Provincial Engineer, and the Provincial Budget Officer as respondents. In this petition Cong. Romualdo sought to prohibit and restrain the respondents from undertaking and/or pursuing certain public works projects and from disbursing, releasing, and/or spending public funds for said projects, allegedly because, among other reasons, said projects were undertaken in violation of the 45-day ban on public works imposed by the Omnibus Election Code (B.P. Blg. 881); that the public works projects were commenced without the approved detailed engineering plans and specification and corresponding program of works; that the expenditures of the 20% development fund for projects other than for maintenance violated the Local Government Code; that locally funded projects had been pursued without the provincial budget having been first approved, and reviewed by the Department of Budget and Management; and that the illegal prosecution of the said public works projects requiring massive outlay or public funds during the election period was done maliciously and intentionally to corrupt voters and induce them to support the candidacy of Gov. Gallardo and his ticket in the May 11, 1992 elections.

"In the afternoon of the same day that the petition was filed, Judge Tabamo issued a temporary restraining order as prayed for by the petitioner Cong. Romualdo, as follows:

'It appearing from the verified petition in this case that great and irreparable damage and/or injury shall be caused to the petitioner as candidate and taxpayer, such damage or injury taking the form and shape occasioned by the alleged wanton, excessive, abusive and flagrant waste of public money, before the matter can be heard on notice, the respondents are hereby Temporarily Restrained from pursuing or prosecuting the project itemized in Annexes 'A' and 'A-1' of the petition; from releasing, disbursing and/or spending any public funds for such projects; from issuing, using or availing of treasury warrants or any device undertaking future delivery of money, goods, or other things of value chargeable against public funds in connection with the said projects.'

"In the same Order of April 10, 1993 the judge gave the respondents ten (10) days from receipt of a copy of the petition to answer the same, and set the prayer for the issuance of a preliminary injunction for hearing on April 24, 1992 at 8:30 A.M.

"Gov. Gallardo testified that when he received a copy of the restraining order and reviewed the petition filed, being a lawyer, he at once saw that the same was not within the jurisdiction of the Regional Trial Court. He said that the elections were nearing and all their projects were suspended, the laborers could not get their salaries, and the judge had set the hearing of the injunction on April 24, 1992 or very close to the elections of May 11, 1992. Believing that he could not get justice from the respondent court, he decided to go to the Supreme Court where he filed a petition for certiorari (docketed as G.R. No. L-104848) questioning the issuance of the temporary restraining order and the jurisdiction of the court over Special Civil Action No. 465.

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"On April 13, 1992 a rally or demonstration was held in front of the premises of the Regional Trial Court of Camiguin. People, composed mostly of the unpaid laborers, carried placards which protested the restraining order and urged Judge Tabamo to order the release of their salaries. Most of the placards expressed contempt and ridicule for the judge and referred to him as the 'tuta' of Cong. Romualdo and to the RTC as the 'Romualdo-Tabamo-Court' and 'Romualdo Tabamo-Corruption.'

"Respondent Judge Tabamo testified in this regard that the rallyists were laborers affected by the restraining order. They were taken from all over the island of Camiguin and loaded in several cargo trucks chartered by the followers of Gov. Gallardo. Judge Tabamo saw some of his relatives among the rallyists and when he asked them why they were there, he was told that the laborers were gathered on the representation that they would collect their salaries in Mambajao, they were told that they could not receive their salaries because of the restraining order issued by Judge Tabamo, and the laborers did not feel good about it.

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"In the afternoon of April 23, 1992 Judge Tabamo received a telegram from the Supreme Court in connection with G.R. No. L--104848, the petition for certiorari filed by Gov. Gallardo reading as follows:

'SUPREME COURT IN AN ORDER DATED APRIL 20 IN GR NUMBER 104848 ENTITLED ANTONIO GALLARDO ET AL VERSUS HONORABLE SINFOROSO TABAMO JR ET AL. REQUEST RESPONDENTS TO COMMENT ON PETITION WITHIN TEN DAYS FROM NOTICE AS WELL AS ISSUED TEMPORARY RESTRAINING ORDER EFFECTIVE IMMEDIATELY AND CONTINUING UNTIL FURTHER ORDERS FROM COURT ORDERING RESPONDENTS JUDGE TO CEASE AND DESIST FROM IMPLEMENTING AND ENFORCING YOUR QUESTIONED ORDER DATED APRIL 10, 1992 AND FROM CONTINUING WITH THE PROCEEDINGS IN SPECIAL ACTION NUMBER 465 ENTITLED PEDRO ROMUALDO VERSUS GOVERNOR ANTONIO GALLARDO ET AL STOP FORMAL ORDERS FOLLOWS END. SUPREME COURT ASSISTANT CLERK LUZVIMINDA PUNO.'

"After receiving this telegram Judge Tabamo issued an Order on the same day of April 23, 1992 cancelling the hearing of the application for a writ of preliminary injunction which had been previously set for April 24, 1992. He also said that he decided not to go to court on April 24, 1992 in order to avoid being caught in the crossfire between the two great political leaders in his province.

"It appears that on April 24, 1992 people came to the premises of the court for the hearing of the application for injunction in SP No. 465. They were composed of followers of both Gov. Gallardo and Cong. Romualdo. Gov. Gallardo said he went there to inform the judge about the temporary restraining order issued by the Supreme Court, thinking that the same had not been communicated to the judge. Cong. Romualdo was then likewise present. The Clerk of Court of Judge Tabamo announced that the case would not be heard any more as the Supreme Court had issued an order for Judge Tabamo not to hear the case. After this announcement, Cong. Romualdo announced to the people that he had already ordered Gov. Gallardo to give the salaries of the laborers and when the latter heard the announcement, he told the people that it was not Cong. Romualdo responsible for the release of the salaries.

"Thereafter, there were passionate exchanges of words between the two factions and a rumble occurred among the followers of Cong. Romualdo and Gov. Gallardo, where many were hurt and during which Gov. Gallardo claims his life was placed in danger.

"Aristeo Marbella, Jr., who testified in this case for the complainants, said that he was then with Gov. Gallardo and he was choked by Jayjay Romualdo, the eldest son of the congressman; that another son of Romualdo tried to hit him and still another son, Gogo Romualdo, also choked him; that thereafter, Jayjay and Gogo attacked Rollie Gallardo, brother of Gov. Gallardo, and when he (Marbella) turned around, Cong. Romualdo himself choked him and wrestled with him; that he pleaded with the congressman who was his godfather but the latter continued to pull and wrestle with him and then the brother of the congressman pulled his hair and George Romualdo, a son of the congressman, hit him at the back, and he fell down. Marbella said that Gov. Gallardo tried to help him and Rollie Gallardo but was held down by his bodyguards.

"Thereafter, Marbella went to the police and reported the matter, as shown in the police blotter of the Mambajao Police Station. He said that he decided not to file a case knowing that the same would fall in the sala of Judge Tabamo and it would be useless as Judge Tabamo is the 'tuta' or tool of Cong. Romualdo.

"Another witness for the complainants on rebuttal was Camilo Abanil, who testified that on April 23, 1992 he was with Edmundo Damisa and Ruben Cloma in a Ford Fiera going around the province of Camiguin on request of Gov. Gallardo who asked them to announce to the laborers that they could already collect their salaries from the province; that when they reached the town of Sagay, they were stopped by Mayor Talian and Vice Mayor Mabolo who was angry and said that they were poisoning the minds of the people; that the

younger brother of Vice Mayor Mabolo pulled down Damisa from the Ford Fiera where they were riding; that he (witness) went down to pacify the person who pulled Damisa but he was the one mauled; and that he pleaded to the men and to the Mayor, asking the latter to forgive him as they had not committed any fault but only followed Gov. Gallardo.

"Abanil said that he too reported the matter to the police station where the incident was placed in the blotter, and that he later had himself examined by a doctor who gave him a medical certificate. Thereafter, he filed a case for slight physical injuries against Tata Mabolo (Crim. Case No. 3488).

"Abanil also testified on the incident of April 24, 1992 when he went to the court premises to witness the hearing because he was among those not paid his salary. He said he saw Junar Marbella being mauled by the group of Cong. Romualdo and Rollie Gallardo being chased by the same group; that he saw Gov. Gallardo trying to help his brother and Jun Marbella and when he (witness) tried to go near Gov. Gallardo, he was also chased by the group of Cong. Romualdo who caught him at the steps of the Capitol Building where Cong. Romualdo boxed him, and Dandan Romualdo kicked him, Gogo Romualdo boxed him, and Dandan Romualdo wrestled with him; that he fell to the ground and the group of Cong. Romualdo took turns kicking him; that he has a medical certificate to show the injuries he sustained; and that he at first thought of filing a case but decided not to, believing that the case will fall in the sala of Judge Tabamo who is the 'tuta' or tool of Cong. Romualdo. He further claimed that the reputation of Judge Tabamo in Camiguin is no longer good and that his court is termed RTC or Romualdo-Tabamo-Court.

"Edmundo Damisa, corroborated the testimony of Camilo Abanil on the incident of April 23, 1992 when they went around the province to announce that the laborers can get their salaries already, adding that Mayor Talian told them to leave the municipality of Sagay, otherwise they would be killed. He also testified that on April 24, 1992 he was outside the Capitol Building when he noticed a big commotion in front of the RTC which was about 30 to 40 meters away; that he saw Rollie Gallardo being chased by the men of Cong. Romualdo and saw Junar Marbella being chased and then choked and boxed by the group of the congressman; that he also saw Gov. Gallardo being held tightly by his security men as he wanted to free himself and help Marbella and Rollie Gallardo; that he also saw the group run after and maul Camilo Abanil; that he himself was chased by Cong. Romualdo who was holding a small gun so he ran up the stairs of the Capitol; and that he helped Gov. Gallardo get inside the Capitol because the commotion was already very tense.

"Damisan said he had known Judge Tabamo since childhood days; that the judge is not popular and is nicknamed RTC or Romualdo-Tabamo-Court even in the billiard halls and cockpit; and that Judge Tabamo is often seen in the cockpit because he participates in derbies. He denied that Judge Tabamo had told him to look for a lawyer instead of making demands in the streets on April 24, 1992 and said that what Judge Tabamo told him was that it was not easy for him to lift the restraining order because he has children and it is Cong. Romualdo, who is the godfather of one of his children, who can help them; and that Judge Tabamo also said that he knew very well on whose side Damisa was and the latter also knew on whose side he (Judge Tabamo) was.

"On January 29, 1993 the Supreme Court rendered its Decision in G.R. No. L-104848, the petition for certiorari filed by Gov. Antonio Gallardo, et al. against the respondent Judge Sinforoso V. Tabamo, Jr. and Cong. Pedro P. Romualdo, granting the same. The Supreme Court ruled that the respondent court had no jurisdiction over Special Civil Action No. 465 and ordered its dismissal. The challenged temporary restraining order of April 10, 1992 was set aside.

"B. RE: CRIMINAL CASE NO. 561:

"One Ruel Dagondon was charged of Illegal Possession of Indian Hemp (Marijuana) in Criminal Case No. 561 filed before the Regional Trial Court of Camiguin (Branch 28).

"In a judgment dated July 18, 1991 the respondent Judge Sinforoso V. Tabamo, Jr. found the accused guilty as

charged and sentenced him to an imprisonment for the indeterminate period of from 2 years, 4 months and 1 day of prision correccional in its medium period to 8 years and 1 day of prision mayor in its medium period, and to pay a fine of P6,000.00.

"After this judgment was promulgated on July 31, 1991, the accused Dagondon filed a Notice of Appeal on the same day. On August 7, 1991, however, the accused withdrew his Notice of Appeal and instead filed a Motion for Reconsideration of the Judgment on August 9, 1991, praying that the penalty imposed upon him be reconsidered and that the following circumstances be considered as mitigating in his favor: (1) that the accused did not intend to commit so grave a wrong, (2) extreme poverty of the accused, (3) lack of proper education, and (4) voluntary surrender. The respondent Judge asked Public Prosecutor Julio A. Vivares to comment on the motion. The latter filed a Comment dated August 19, 1991 stating that the bases for the motion for reconsideration are matters that should have been established during the trial for the appreciation of the court and that even if these circumstances were directly or indirectly touched during the presentation of the defense of the accused, their acceptability or credibility is left to the sound discretion of the judge.

"On August 26, 1991 respondent Judge issued an Order modifying the Judgment dated July 18, 1991, by amending the penalty imposed on the accused Dagondon to a minimum of 2 years, 4 months and 1 day of prision correccional in its medium period to 6 years of prision correccional in its maximum period, 'in view of the mitigating circumstances of extreme poverty and voluntary surrender.'

"This modified judgment was promulgated in open court on August 30, 1991 in the presence of the accused Dagondon and his counsel.

"Subsequently, the accused Dagondon applied for probation, which the respondent judge granted in an Order dated November 13, 1991.

"Complainants charge that Judge Tabamo modified the penalty so that Dagondon can apply for probation, upon orders of Cong. Pedro P. Romualdo who was approached by a close relative of Dagondon.

"In support of this allegation, the complainants presented only the bare testimony of Ceferino E. Chan, Jr., a former process server in the court of the respondent judge. Chan testified in this regard that he was employed as process server in Branch 28 from January, 1978 to April 1992 when he took a leave of absence; that he is familiar with Criminal Case No. 561 because sometime in August, 1991 he served a copy of an Order modifying the judgment to the mother of Ruel Dagondon as the latter was then not in the house; and that he told Dagondon's mother that it was good that the decision was changed and the latter answered that they had gone to Cong. Romualdo to ask for help.

"Chan further testified that he resigned from his position as process server sometime in July, 1992 because the people in Camiguin no longer respect the court and even make fun of it, like saying that the RTC means Romualdo- Tabamo-Court; that people would also say that it one wants to win a case in the sala of Judge Tabamo, he should first kiss the hand of Cong. Romualdo; and that people used to ask where else they could go since the court is already controlled by Cong. Romualdo. He stated that Cong. Romualdo often goes to the chambers of Judge Tabamo sometimes only in shorts and T-shirts.

"The respondent judge presented Alfreda Daiz, OIC Clerk of Court of Branch 28 of the RTC of Camiguin. She testified that although Chan did not tell her the real reason for his resignation from the court, there was a time that Chan told them that his mother wanted him to administer their vast idle lands because even they, the owners, did not know the location and boundaries of their lands; and that Chan also had the plan to put up a business, particularly that of selling motor parts, because he noticed the motorcycle drivers travel as far as Cagayan de Oro just to buy parts for their motorcycles.

"Judge Tabamo denied that he had sent Chan to serve a copy of the modified decision to the residence of Dagondon. He stated that the modified decision was promulgated in open court on August 30, 1991, during

which the accused was present with his counsel, hence there was no need to serve a copy of the decision in his house. The judge maintained that in all his 23 years in the judiciary it was never his practice to serve copies of decisions in criminal cases to parties because they are promulgated in open court and that his practice was to furnish their counsels after the decision is read and that in the Dagondon case the lawyer was furnished a copy of the modified judgment in open court. He added that if Chan had served a copy of the decision before it was promulgated, then Chan had leaked it out and should have been made to answer for the act had he known earlier about it.

"At any rate, Judge Tabamo points out that Chan has not presented any proof to show that he served a copy of the decision to Dagondon's mother and the records of the case indeed do not show that the alleged service was made.

"Judge Tabamo denied that Cong. Romualdo goes often to his chambers in shorts and T-shirts, since the congressman stays most of the time in Manila and goes home only for special occasions. He explained that Cong. Romualdo used to go around the province to inspect his projects and visit his leaders and constituents, in the same manner that Gov. Gallardo, being a lawyer, makes it a point to visit the offices of the Register of Deeds, the fiscals, the courts and other offices and engage the officials in conferences regarding matters of vital concern, like the construction of the Hall of Justice.

"Judge Tabamo said that he had to maintain a healthy relationship with the officials of the province. Incidentally, the Mayor of Mambajao is the wife of Cong. Romualdo.

"Judge Tabamo further testified that before Chan resigned on July 1, 1992, the latter went on leave to campaign for his father who ran for mayor of Mambajao; that Chan's father lost in the elections but Chan refused to go back to work; and that he had to send Alfreda Daiz to tell Chan to go back to work or to resign. Judge Tabamo also said that Chan was bitter because a sister of his lost a estafa case in the court and a brother-in-law of Chan also lost his first case before the court.

"The complainants point out in regard to Criminal Case No. 561 that the court considered the mitigating circumstance of voluntary surrender in favor of Dagondon when the records show that he was arrested in a buy-bust operation; and that the court imposed a maximum of six (6) years and one (1) day provided under B.P. Blg. 179 for the offense committed by Dagondon."

FINDINGS -

RE: SPECIAL CIVIL ACTION NO. 465

It may be conceded that on the basis alone of the actuations of respondent Judge in relation to Special Civil Case No. 465, there may be no clear and convincing evidence that respondent Judge had acted with manifest bias and partiality for Cong. Romualdo.

The staging of the rally in front of the courthouse on April 13, 1992 cannot be imputed to respondent Judge. Obviously, the rally was orchestrated by the group of Gov. Gallardo who picked up the participants from the different parts of the province. Also, the chaos that took place on April 24, 1992 after this Court set aside the temporary restraining order issued by respondent Judge was occasioned by the attempt of Cong. Romualdo to get the credit for the fact that the laborers would now be paid. This was resented by Gov. Gallardo and his followers, resulting in the clash between the two contending groups. The motive of Gov. Gallardo in initiating the rally is not hard to find. He had sponsored a number of public works projects and hired hundreds of laborers, which fact boosted his chances of political victory. When the projects were stopped and the laborers could not get paid, he had to find a scapegoat, thus, the rally against respondent Judge.

However, respondent Judge can hardly justify his acts not only of entertaining Special Civil Case No. 465 and

issuing a temporary restraining order stopping the prosecution of the public works projects on the ground that it violated the 45-day ban on public works imposed by the Omnibus Election Code, but also, as will be discussed later, of imposing a wrong penalty in Criminal Case No. 561 and, almost simultaneously, reducing the penalty with the evident purpose of allowing the accused to avail of the benefits of the Probation Law. Being an experienced judge, it is highly inconceivable that he was not aware of *Zaldivar vs. Estenzo* (23 SCRA 533) where this Court categorically held that considering that the COMELEC is vested by the Constitution with the exclusive charge of the enforcement of all laws relative to the conduct of elections, the assumption of jurisdiction by the trial court over a case involving the enforcement of the Election Code "is at war with the plain constitutional command, the implementing statutory provisions, and the hospitable scope afforded such grant of authority so clear and unmistakable in recent decisions."

RE: CRIMINAL CASE NO. 561:

We agree with respondent Judge that the testimony of Ceferino E. Chan, Jr. hardly deserves any credence. Respondent Judge emphasized without contradiction that he had never served copies of his decisions in criminal cases to the parties; he promulgated his decisions in open court and thereafter furnished copies thereof to counsels. If, indeed, Chan served a copy of respondent Judge's order modifying his decision to the mother of Ruel Dagondon, during which the mother allegedly blurted out her having gone to Cong. Romualdo to ask for his help to reduce her son's penalty, proof of service of the order to the accused's mother should have been presented in evidence. The bare testimony of Chan lacks any corroboration.

Neither was Chan's declaration that Cong. Romualdo frequented respondent Judge's chambers buttressed by any independent proof. Respondent Judge admitted though that at times, Cong. Romualdo would make official visits to his court regarding matters like the construction of the Hall of Justice, in the same way that he would also visit other provincial offices.

Nonetheless, the facts as established in their totality, more particularly respondent Judge's taking cognizance of Special Civil Case No. 465, despite his lack of jurisdiction, his issuance of a temporary restraining order in said case, his imposition of the penalty in Criminal Case No. 561 which was unconscionably unwarranted given the facts and the law applicable, and his reduction of the penalty by the application of two non-existent mitigating circumstances with the obvious result of enabling the accused to avail of the Probation Law, demonstrate an unmistakable pattern of highly irregular acts constitutive of gross ignorance of the law and grave arbitrariness. Respondent Judge has a long experience as a judge, having been in the judiciary for over 20 years. It is, therefore, difficult for this Court to sustain the contention that what he had done were mere errors of judgment. In fact, no discretion was required in both instances: the applicable legal provisions are crystal clear and need no interpretation.

In his July 18, 1991 judgment in Criminal Case No. 561 (*People vs. Dagondon, et al.*), respondent judge found the accused guilty as charged of Illegal Possession of Indian Hemp (marijuana) and sentenced him to imprisonment for an indeterminate period of from two (2) years, four (4) months and one (1) day of prision correccional in its medium period to eight (8) years and one (1) day of prision mayor in its medium period. Additionally, the accused was ordered to pay a fine of Six Thousand Pesos (P6,000.00).

On the same day judgment was promulgated, the accused filed a notice of appeal which he later withdrew in favor of a Motion for Reconsideration of Judgment praying that the circumstances of voluntary surrender, extreme poverty and lack of proper education be considered as mitigating in his favor. On August 26, 1991, respondent judge issued an order amending the penalty imposed to a minimum of two (2) years, four (4) months and one (1) day of prision correccional in its medium period to six (6) years of prision correccional in its maximum period. In

modifying the judgment, the alleged mitigating circumstances of extreme poverty and voluntary surrender were taken into consideration by the respondent judge. The reduction of the penalty enabled the accused, Ruel Dagondon to apply for probation which was granted by respondent Judge in an Order dated November 13, 1991.

It should be noted that the accused was charged with violation of B.P. Blg. 179 (Dangerous Drugs Act), a special law. Under the Indeterminate Sentence Law, when an offense is punishable by a law other than the Revised Penal Code, the court should sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by law and the minimum shall not be less than the minimum term prescribed by the same. The accused Dagondon should have been sentenced to imprisonment anywhere from six (6) years and one (1) day to twelve (12) years as mandated by B.P. 179. In applying the Indeterminate Sentence Law after finding no mitigating or aggravating circumstances, the minimum penalty originally imposed by respondent Judge should not have been two (2) years, four (4) months and one (1) day but six (6) years and one (1) day. The incorrect minimum penalty was obviously mistakenly arrived at by applying the rule applicable only for crimes punishable under the Revised Penal Code, not a special law like B.P. 179. The basic error of respondent Judge stemmed from his unwarranted assumption that the penalty of imprisonment ranging from 6 years and 1 day to 12 years, provided for the offense involved by Sec. 8 of the governing law, is the same as prison mayor despite the fact that the technical terminology of penalties for felonies in the Revised Penal Code were not used in the Dangerous Drugs Act at that time. He should likewise have readily noted that neither were the terms prison correctional or reclusion temporal used therein and, for that matter, life imprisonment and not reclusion perpetua was used in and imposed under that law then in force. The inexorable conclusion, therefore, is that drug offenses were then considered, not as felonies, but as crimes punished under a special law, hence the provisions of Arts. 13, 64, 71 and 76 of the Revised Penal Code could not be given suppletory effect. Consequently, the indeterminate sentence should have been within the range for offenses punished by special laws as provided in Sec. 1 of the Indeterminate Sentence Law.

To compound his error, respondent Judge considered in favor of the accused the mitigating circumstances of extreme poverty and voluntary surrender. Justice Montoya noted:

"Extreme poverty is not among the mitigating circumstances enumerated in Article 13 of the Revised Penal Code and it is doubtful whether it may be considered as a circumstance of a similar nature or analogous to those mentioned in said Article. On the other hand, there appears to be no voluntary surrender on the part of the accused because the decision itself states that the accused was arrested by the authorities in a buy-bust operation and was brought to the police station in Mambajao, and later to the PC-INP Headquarters at Camp Gen. Bonifacio Aranas. In stating that there was voluntary surrender, the respondent postulated in his Order modifying the judgment that the accused, after committing the crime and having all the chances to escape, voluntarily gave himself up to the authorities."

It might, perhaps, have been easy for this Court to act with extreme leniency if the only mistake committed by respondent Judge was the application of Article 64 of the Revised Penal Code to an offense punishable by a special law. However, the pattern of the "errors" committed one after another, which eventually enabled the respondent Judge to apply the provisions of the Probation Law in letting off the accused with a virtual slap in the wrist was so gross as to be unconscionable.

Considering his experience in the bench and the ready availability of legal sources and materials from which he could check and verify his findings and conclusions, respondent Judge was clearly negligent in misapplying the law. He knew or ought to know that our laws impose severe penalties on violations of our dangerous drugs laws; consequently, he should have been alerted to the possibility of error when the penalty imposed was finally reduced to a ridiculously lenient one. The inexplicably low penalty which respondent Judge meted out on the accused in Criminal Case No. 561, was certainly out of proportion to the crime for which the latter had been

convicted of.

The policy of the law in imposing strict penalties for violations of the Dangerous Drugs Act cannot be gainsaid. The intendment of the law is to eradicate a menace to our society by a pernicious evil which day in and day out victimizes our youth. To lightly dismiss the respondent judge's mistakes in Criminal Case No. 561 would be to send the wrong signals.

The office of a judge exists for one solemn end - to promote justice by administering it fairly and impartially. The judge is the visible representation of the law and justice. A judge who, through gross ignorance of the law or serious misconduct frustrates the ends of justice commits a rank disservice to the cause of justice which calls for the application of appropriate disciplinary measures (*Villa vs. Amonoy*, 194 SCRA 48 [1991]).

Finally, respondent Judge failed to meet the standard mandated by Rules 3.01 and 3.02 of Canon 3 of the Code of Judicial Conduct, to wit:

"Rule 3.01 - A judge shall be faithful to the law and maintain professional competence.

"Rule 3.02 - In every case, a judge shall endeavor diligently to ascertain the fact and the applicable law unswayed by partisan interests, public opinion or fear of criticism."

ACCORDINGLY, the Court resolved to hold respondent Judge administratively liable for gross ignorance of the law and with grave abuse of discretion, and to impose on him a fine of TEN THOUSAND PESOS (P10,000.00) with a STERN WARNING that a repetition of the same or similar act or acts in the future will be dealt with more severely.

SO ORDERED.

Feliciano, Padilla, Bidin, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Puno, and Vitug, JJ., concur.
Narvasa, C.J., Cruz, and Regalado, JJ., on leave.

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