

LIGAYA V. SANTOS, EDNA CORTEZ, GIRLIE CASTILLO AND CHRISTOPHER CASTILLO, COMPLAINANTS, VS. REGIONAL TRIAL COURT, BRANCH 257, PARAÑAQUE CITY, RESPONDENT.

A.M. NO. RTJ-05-1946 (FORMERLY OCA IPI NO. 05-2181-RTJ). January 26, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is an administrative complaint^[1] dated January 31, 2005 filed by Ligaya V. Santos, Edna Cortez, Girlie Castillo and Christopher Castillo (complainants) against Judge Rolando G. How (respondent), Regional Trial Court, Branch 257, Parañaque City, for Gross Ignorance of the Law, Manifest Partiality and Serious Misconduct, relative to Criminal Case Nos. 01-0921, entitled “People of the Philippines v. Ligaya V. Santos,” and 01-0425, entitled “People of the Philippines v. Rolly Tonion, Jhunrey Soriano, Christopher Castillo, Girlie Castillo, Robert Bunda and Pedro Jimenez.”

The facts of the case as found by the Office of the Court Administrator (OCA) are as follows:

Complainant Ligaya V. Santos is the Chairwoman of Barangay 659-A, Arroceros, Manila, while the other complainants are Barangay Councilors and Barangay Policemen, respectively. They are presently detained without bail in Parañaque City Jail as accused in the aforementioned criminal cases involving the successive ‘ambush’ incidents during the second quarter of 2001 against two sons of Manila Assistant City Prosecutor Domingo I. Orda, Jr. On the second ‘ambush’ incident, the Parañaque City Prosecutor’s Office found probable cause against the accused (complainants herein) but the Department of Justice (DOJ), upon review, recommended the dismissal of the complaints in a Joint Resolution dated 13 June 2002.

On 21 June 2002, the City Prosecutor of Parañaque City, acting on the DOJ Joint Resolution, moved for the withdrawal of the Information against complainants. It was granted by the trial court in an Order dated 5 July 2001. The Court of Appeals, acting on the Petition filed by Prosecutor Orda in CA GR SP 72962, nullified the order of withdrawal. As a consequence, the accused were arrested on the basis of the previous warrants of arrest issued by the trial court. This Honorable Court, on review, in GR No. 158236, sustained the ruling of the Court of Appeals.

Upon receipt of the Supreme Court Resolution, the trial court directed the resumption of the proceedings on the subject criminal cases. However, Prosecutor Orda filed a motion to inhibit Presiding Judge Raul E. de Leon for partiality in the issuance of the previous order granting the withdrawal of the Information. Judge de Leon inhibited himself, and the cases were re-raffled and eventually assigned to respondent judge before whose court complainants filed their petition for bail.

On 14 December 2004, the prosecution presented as its first witness, SABINO FRIAS, the same star witness who previously surfaced with an affidavit after erstwhile ‘star witness’ GINA AZARCON repudiated her prior declarations. Frias re-affirmed his affidavit and positively identified all the alleged malefactors, including herein complainants.

On 16 December 2004, the prosecution presented its second witness, JONAS AGNOTE, a Lawton jeepney

dispatcher and alleged co-conspirator, who volunteered to testify only the day before. Agnote directly implicated Ligaya Santos as the mastermind who instructed him to look for gun-for-hire, which he provided in the person of 'Dagul' who was eventually hired for a price of P100,000.00 to kill Prosecutor Orda.

Respondent Judge held that he would resolve the petition for bail on the basis of the evidence presented by the prosecution. When complainants manifested that they would present one witness to identify the documents on record, respondent branded the request as 'misplaced.' He even rejected outright the request of the defense counsel to make a tender of proof and instead declared the petition deemed submitted for resolution, subject to the filing of memorandum by the parties within five (5) days.

On 29 December 2004, respondent issued an Order denying bail to the accused. Complainants assail the order for being based on a one-sentence conclusion that the evidence of guilt is strong, without any supporting evaluation or consideration of the issues raised.[2]

In his Comment,[3] respondent professes impartiality in handling the subject criminal cases. He asserts that he had explained to the parties that, for purposes of bail hearing, only the prosecution is required to present evidence since it is not yet a trial of the main case and the court is only preliminarily tasked to determine if the evidence of guilt is strong.

Respondent argues that, even granting the accused may be allowed to present their evidence but the Judge did not allow it, the disallowance cannot be considered partiality or misconduct. He claims that he believed in good faith that he would fairly and correctly resolve the petition for bail by evaluating it based solely on the evidence of the prosecution; and that allowing both parties to present their evidence would mean resolving the merits of the case itself. He contends that if ever he committed any error, it was an error of judgment committed in good faith for which complainants have remedies under the Rules.

Respondent further contends that it is inaccurate and unfair to claim that his Order denying bail was without supporting evaluation of the evidence and only made a one-sentence conclusion that the evidence of guilt is strong. He stresses that the questioned Order contains a summary of the testimonies of the witnesses of the prosecution and it is only after the summary that he made a conclusion that the evidence of guilt of the accused is strong. He explains that he did not elaborate each and every point in support of the conclusion since they are already contained in the summary. He avers that he intentionally made the conclusion terse because an outright conclusion of everything might be considered a prejudgment of the case.

In the Agenda Report dated July 13, 2005,[4] the OCA made the following evaluation and recommendation, to wit:

EVALUATION:

x x x x

Respondent Judge insists that, for purposes of bail hearing, only the prosecution is required to present evidence since it is not yet a trial of the main case and the court is only preliminarily tasked to determine if the evidence of guilt is strong. He claims that in decreeing such position he merely exercised his discretion, bail being discretionary in the subject cases, and that if ever he erred in his ruling it is merely an error of judgment.

The Constitution guarantees to every person under legal custody the right to bail, except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong. The rules likewise mandate that before ruling on an application for bail, a hearing should first be conducted to determine the existence of a strong evidence against the accused.

A hearing for bail is summary in nature or otherwise in the discretion of the court. Summary hearing means such brief and speedy method of receiving and considering the evidence of guilt as is practicable and

consistent with the purpose of the hearing which is merely to determine the weight of the evidence for purposes of bail. The course of the inquiry may be left to the discretion of the court which may confine itself to receiving such evidence as has reference to substantial matters avoiding unnecessary thoroughness in the examination and cross-examination of witnesses and reducing to a reasonable minimum the amount of corroboration particularly on details that are not essential to the purpose of the hearing.

It is true that the weight of the evidence adduced is addressed to the sound discretion of the court. However, such discretion may be exercised only after the hearing called to ascertain the degree of guilt of the accused for the purpose of determining whether or not he should be granted provisional liberty. At the hearing, the court should assure that the prosecution is afforded the opportunity to adduce evidence relevant to the factual issue, with the applicant having the right of cross-examination and to introduce his own evidence in rebuttal. Both the prosecution and the defense must be given reasonable opportunity to prove, in the case of the prosecution, that evidence of guilt of the applicant is strong; and, in the case of the defense, that such evidence of guilt is not strong. The accused has the right to cross-examine the witnesses presented by the prosecution and to introduce his evidence in rebuttal to establish his right to bail.

In fine, the hearing is for the purpose of enabling the court to exercise sound discretion as to whether or not under the Constitution and laws in force the accused is entitled to provisional release on bail. At the hearing, the petitioner can rightfully cross examine the witnesses presented by the prosecution and introduce his own evidence in rebuttal.

In the instant case, respondent cut short the hearing after the prosecution presented its evidence and dispensed altogether with the defense's turn to adduce evidence in rebuttal. Said denial of the request to present evidence shows deficiency in prudence, discretion and judgment on the part of respondent Judge. The deficiency is magnified by respondent's outright denial of complainants' request to make a tender of proof, which is allowed under the Rules. It is not accurate to contend that hearing the prosecution overcome its burden of proof would suffice. Dictates of fair play should have at least reminded respondent to inquire first the nature of the evidence proposed to be presented, determine whether or not they will be essential for the purpose of ascertaining entitlement to bail, before discarding any evidence outright. This is in keeping with procedural due process, given established rules and jurisprudence on bail.

It is a pressing responsibility of judges to endeavor at all times to avoid such actions as would impress upon litigants the disregard of due process. On this, respondent had been remiss.

True, as a matter of public policy, a judge may not be disciplined for error of judgment absent proof that such error was made with a conscious and deliberate intent to cause injustice. This does not mean, however, that a judge need not observe propriety, discreteness and due care in the performance of his official functions. In every case, a judge shall endeavor diligently to ascertain the facts and the applicable law unswayed by partisan interests, public opinion or fear of criticism.

The records, however, fail to establish bad faith, corruption, dishonesty or fraud on the part of respondent, thereby meriting for him a tempered penalty. In fact, a finding of good faith is consistent with the fact that respondent still granted both parties opportunity to submit their respective memorandum after he disallowed the defense to present evidence.

Finally, the rest of the charges against respondent lack merit. Specifically, the charge of bias and partiality was not substantiated. Moreover, that the decision was based on a one-sentence conclusion that the evidence of guilt is strong is inaccurate. The conclusion to that effect was actually preceded by a thorough summary of the evidence. The fact that there was no categorical discussion on how the conclusion was reached does not make it less a reasonable conclusion. Obviously, respondent accorded the evidence probative weight, which he deemed to be adequate for his inference. At any rate, the inadequacy of expression of the questioned Order is outweighed by its substantial compliance with the requirements for an Order granting or denying bail.

RECOMMENDATION: Respectfully submitted for consideration of the Honorable Court are our recommendations that:

- The instant complaint be RE-DOCKETED as a regular administrative case;
- For deficiency in prudence, which borders on disregard of due process, respondent be REPRIMANDED with Stern Warning that subsequent infractions shall be dealt with more severely;

The rest of the charges against respondent be DISMISSED for lack of merit.

We adopt the findings of facts and recommendation of the OCA.

On September 12, 2005, respondent manifested that there is a related case – Administrative Case No. 6701 entitled “Judge Rolando G. How v. Atty. Roan I. Libarios.” He avers that since the present case and the latter case arose from the same incident, the two cases should be consolidated.[5] In its Resolution of August 23, 2006, the Court denied consolidation and considered the matter submitted for resolution based on the pleadings filed.

On September 23, 2005, complainants manifested their willingness to submit the case for resolution based on the pleadings filed.[6]

At issue is whether or not the acts committed by respondent judge constitute gross ignorance of the law, manifest partiality and serious misconduct.

On gross ignorance of the law.

No person charged with a capital offense, or an offense punishable by reclusion perpetua or life imprisonment, shall be admitted to bail when evidence of guilt is strong, regardless of the stage of the criminal prosecution.[7]

Stressing our ruling in *Basco v. Rapatalo*, [8] we held that when the grant of bail is discretionary, the prosecution has the burden of showing that the evidence of guilt against the accused is strong. However, the determination of whether or not the evidence of guilt is strong, being a matter of judicial discretion, remains with the judge. This discretion, by the very nature of things, may rightly be exercised only after the evidence is submitted to the court at the hearing. Since the discretion is directed to the weight of the evidence and since evidence cannot properly be weighed if not duly exhibited or produced before the court, it is obvious that a proper exercise of judicial discretion requires that the evidence of guilt be submitted to the court, the petitioner having the right of cross examination and to introduce his own evidence in rebuttal.[9]

The discretion of the trial court is not absolute nor beyond control. It must be sound, and exercised within reasonable bounds.[10] Judicial discretion, by its very nature, involves the exercise of the judge's individual opinion and the law has wisely provided that its exercise be guided by well-known rules which, while allowing the judge rational latitude for the operation of his own individual views, prevent them from getting out of control.[11] An uncontrolled or uncontrollable discretion on the part of a judge is a misnomer. It is a fallacy. Lord Mansfield, speaking of the discretion to be exercised in granting or denying bail, said: “but discretion when applied to a court of justice, means sound discretion guided by law. It must not be arbitrary, vague and fanciful; but legal and regular.”[12]

Jurisprudence is replete with decisions on the right of petitioner in bail proceedings to introduce his own evidence in rebuttal.[13] Respondent failed to observe and consider for his proper determination and evaluation the weight of evidence presented by the prosecution. This, to our mind, is a clear denial of complainants’ right to due process and equal protection of the law as embodied in our Constitution.[14]

Records show that during the hearing of the application for bail, complainants' counsel insisted on presenting their evidence to disprove the allegations of the prosecution. However, respondent argued that the prosecution has to

establish evidence against the accused because if he will go to the defense evidence, there will be no way of stopping it, it will go through and through, as if, he is already hearing the main case.[15] This line of argument by respondent is misplaced considering that what the complainants were asking is for their evidence, which is already a part of the record, to be presented and admitted as tender of proof.

The reasons given by respondent that for purposes of bail hearing, only the prosecution is required to present evidence since it is not yet a trial of the main case; that the court is only preliminarily tasked to determine if the evidence of guilt is strong; and that to allow complainants to present their evidence would mean resolving the merits of the case itself, are not plausible.

Respondent, in effect, deprived the accused with their right to present rebuttal evidence which to our mind is a clear violation of their right to due process and equal protection of the law. As aptly observed by the OCA, dictates of fair play should have at least reminded respondent to inquire first of the nature of the evidence proposed to be presented, determine whether or not it will be essential for the purpose of ascertaining entitlement to bail, before discarding any evidence outright. This is in keeping with procedural due process, given established rules and jurisprudence on bail.[16]

It is clear from the foregoing that respondent is remiss in his responsibility to endeavor at all times to avoid such actions as would impress upon litigants the disregard of due process.

It is settled that as a matter of policy, the acts of a judge in his judicial capacity are not subject to disciplinary action. He cannot be subjected to liability – civil, criminal or administrative – for any of his official acts, no matter how erroneous, as long as he acts in good faith.[17] To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment.[18]

However, although a judge may not always be subjected to disciplinary action for every erroneous order or decision he renders, relative immunity is not a license to be negligent, abusive or arbitrary in the performance of his adjudicatory prerogatives.[19]

To constitute gross ignorance of the law, it is not enough that the subject decision, order or actuation of the judge in the performance of his official duties is contrary to existing law and jurisprudence but, most importantly, he must be moved by bad faith, fraud, dishonesty, or corruption.[20] Good faith and absence of malice, corrupt motives or improper considerations, are sufficient defenses in which a judge charged with ignorance of the law can find refuge.[21]

However, good faith in situations of fallible discretion inhered only within the parameters of tolerable judgment and does not apply where the issues are so simple and the applicable legal principles evident and basic as to be beyond possible margins of error.[22]

In this case, respondent's act of cutting short the hearing after the prosecution presented its evidence, without affording the defense to adduce evidence in rebuttal together with his outright denial of complainants' request to offer proof, is a clear disregard of the right of the accused to disprove that the evidence of guilt is strong. It is of no moment that respondent required complainants to submit their memorandum. What is significant is that complainants were deprived of their constitutional right to present evidence during the hearing which the respondent may intelligently appreciate and evaluate in the light of the circumstances then obtaining.

It must be stressed that occupying the exalted position of a judge entails a lot of responsibilities, foremost of which is proficiency in the law. Canon 3, Rule 3.01 of the Code of Judicial Conduct mandates that a judge shall be faithful to the laws and maintain professional competence. He is mandated to be conversant with the law and to

have more than a cursory acquaintance with the rules and authoritative doctrines. When the law is elementary, not to be aware of it constitutes gross ignorance thereof. Judges are expected to have more than just a modicum of acquaintance with the statutes and procedural rules.

On manifest partiality and serious misconduct.

Nothing in the records suggests that respondent was motivated by malice or corrupt motives to deny the application for bail. Complainants failed to substantiate their other allegations with competent proof besides their own bare allegations. Respondent did what he thought was right under the law and established principles. Hence, respondent could not be held liable for manifest partiality and serious misconduct. The Court cannot presume partiality based on the circumstances alleged in the complaint.

Moreover, for serious misconduct to exist, the judicial act complained of should be corrupt or inspired by an intention to violate the law or a persistent disregard of well-known legal rules.[23] The records are bereft of any evidence to this effect to warrant disciplinary action against respondent.

On denying bail based on a one-sentence conclusion that the evidence of guilt is strong.

We agree with the OCA that although there was no categorical discussion on how the conclusion, that the evidence of guilt is strong, was reached, the same does not make it less a reasonable conclusion. The inadequacy of expression of the questioned Order is outweighed by its substantial compliance with the requirements for an Order granting or denying bail.

In sum, the act of respondent in denying the complainants the right to present evidence constitutes simple ignorance of the law; but in the absence of malice, corrupt motives or improper considerations on the part of the respondent, the penalty of reprimand recommended by the OCA is just and reasonable.

ACCORDINGLY, the Court finds Judge Rolando G. How guilty of simple ignorance of the law and REPRIMANDS him with a STERN WARNING that a repetition of the same or similar acts will be dealt with more severely.

SO ORDERED.

Ynares-Santiago, (Chairperson), Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 1-29.

[2] Id. at 519-520.

[3] Id. at 410-419.

[4] Id. at 522-524.

[5] Id. at 527-528.

[6] Id. at 529-530.

[7] Sec. 7, Rule 114, Revised Rules on Criminal Procedure.

[8] 336 Phil. 214 (1997).

[9] Paderenga v. Court of Appeals, 317 Phil. 862, 876 (1995).

[10] Supra note 8.

[11] Id.

[12] Id., citing Francisco, Ricardo J., *Criminal Procedure*, 1993 ed., p. 226, citing *Rex v. Wilkee*, 4 Burr., 2527; 98 Reprint, 327, citing in note 26 (a), 6 C.J., p. 254.

[13] Id. at note 9.

[14] Section 13, Article III, 1987 Constitution.

Section 13. All persons, except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the writ of habeas corpus is suspended. Excessive bail shall not be required.

[15] Rollo, pp. 17-18.

[16] Id. at 523.

[17] *Hilado v. Reyes*, A.M. No. RTJ-05-1910, April 15, 2005, 456 SCRA 146, 162.

[18] *Sacmar v. Reyes-Carpio*, A.M. No. RTJ-03-1766, March 28, 2003, 400 SCRA 32, 35.

[19] *Managuelod v. Paclibon, Jr.*, A.M. No. RTJ-02-1726, March 29, 2004, 426 SCRA 377, 382.

[20] *Officers and Members of the IBP, Baguio-Benguet Chapter v. Pamintuan*, A.M. No. RTJ-02-1691, November 19, 2004, 443 SCRA 87, 110; *Ong v. Rosete*, A.M. No. MTJ-04-1538, October 22, 2004, 441 SCRA 150, 159; *Pesayco v. Layague*, A.M. No. RTJ-04-1889, December 22, 2004, 447 SCRA 450, 460; *Dadizon v. Asis*, A.M. No. RTJ-03-1760, January 5, 2004, 419 SCRA 456, 463-464; *Zuño v. Cabebe*, A.M. OCA No. 03-1800-RTJ, November 26, 2004, 444 SCRA 382, 391.

[21] *Balsamo v. Suan*, A.M. No. RTJ-01-1656, September 17, 2003, 411 SCRA 189, 200.

[22] *Dantes v. Caguioa*, A.M. No. RTJ-05-1919, June 27, 2005, 461 SCRA 236, 246.

[23] *Francisco v. Cosico*, A.M. No. CA-04-37, March 16, 2004, 425 SCRA 521, 525.

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