

**ROSALIA DOCENA-CASPE, COMPLAINANT, VS. JUDGE ARNULFO O. BUGTAS, REGIONAL TRIAL COURT, BRANCH II, BORONGAN, EASTERN SAMAR, RESPONDENT.**

*A.M. No. RTJ-03-1767 [OCA-IPi No. 01-1314-RTJ]. March 28, 2003*

Ponente: YNARES-SANTIAGO, J.

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**YNARES-SANTIAGO, J.:**

The refusal or failure of the prosecution to adduce evidence or to interpose objection to a petition for bail will not dispense with the conduct of a bail hearing.[1] Neither may reliance to a previous order granting bail justify the absence of a hearing in a subsequent petition for bail,[2] more so where said order relied upon was issued without hearing and while the accused was at large.[3]

The instant administrative case for gross ignorance of the law and incompetence against respondent judge stemmed from a murder case filed against accused Celso Docil and Juan Docil for the death of Lucio Docena. In her sworn complaint, complainant alleged that on September 3, 1993, Judge Gorgonio T. Alvarez of the Municipal Trial Court of Taft, Eastern Samar, conducted a preliminary investigation on the said murder case, and thereafter issued the corresponding warrants of arrest. No bail was recommended for the two (2) accused who were at large since the commission of the offense on August 29, 1993.

Complainant further stated that the information for murder was filed with the Regional Trial Court of Borongan, Eastern Samar, Branch II, then presided by Judge Paterno T. Alvarez. The latter allegedly granted a P60,000.00 bailbond each to both accused without conducting a hearing, and while the two were at large. Meanwhile, accused Celso Docil was apprehended on June 4, 2000.

Subsequently, Provincial Prosecutor Vicente Catudio filed before the Regional Trial Court of Borongan, Eastern Samar, Branch II, now presided by respondent Judge Arnulfo O. Bugtas, a motion praying that an alias warrant of arrest be issued for the other accused, Juan Docil; and that both accused be denied bail. Said motion was granted by the respondent Judge. Thereafter, accused Celso Docil filed a motion for reconsideration praying that he be allowed to post bail on the grounds that – (1) he is entitled to bail as a matter of right because he is charged with murder allegedly committed at the time when the imposition of the death penalty was suspended by the Constitution; and that (2) both the investigating Judge and the First Assistant Prosecutor recommended P60,000.00 bail for his temporary liberty.

On August 11, 2000, the respondent Judge denied said motion.[4] He explained that notwithstanding the suspension of the imposition of the death penalty at the time the accused committed the offense, bail for the crime of murder remains to be a matter of discretion. He cited Section 13, Article III, of the Constitution which explicitly provides that “(a)ll 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 respondent Judge added that contrary to the accused’s claim, there is nothing in the records which show that bail was recommended for his temporary liberty.

Accused Celso Docil filed a motion for reconsideration reiterating his previous contentions. Then, he filed a manifestation pointing out that on page 49 of the records is an order granting him and his co-accused the recommended bail of P60,000.00. The court gave the prosecution five (5) days within which to file a comment to the accused's motion for reconsideration but the former failed to do so.

On January 15, 2001, the respondent Judge issued a Resolution granting the said motion for reconsideration on the basis of a previous order granting bail to the accused.[5] He ratiocinated that on page 49 of the records, there indeed appears a final and executory order dated July 22, 1994 issued by his predecessor, Judge Paterno T. Alvarez granting bail of P60,000.00 to the accused, hence, the inevitable recourse is to grant bail to accused Celso Docil.

On August 16, 2001, the complainant filed the instant administrative case against the respondent Judge for granting bail to accused Celso Docil without conducting a bail hearing.

In his Comment,[6] the respondent insisted that he committed no gross ignorance of the law or incompetence. He contended that the prosecution is estopped from objecting to the grant of bail to accused Celso Docil because it questioned the said order issued by his predecessor Judge only on February 4, 2000, or after six (6) years from the issuance thereof on July 22, 1994. He added that despite the five-day period given to the prosecution, it failed to file a comment to the motion for reconsideration of the accused, warranting the presumption that it has no objection to the accused's petition for bail.

On the basis of its evaluation, the Office of the Court Administrator recommended that the instant case be re-docketed as a regular administrative matter and that respondent Judge be fined in an amount equivalent to one (1) month salary, with a warning that the commission of the same or similar acts in the future will be dealt with more severely.[7]

In a Resolution dated February 6, 2002, the Court required the parties to manifest whether they are submitting the case for resolution on the basis of the pleadings filed.[8] On April 24, 2002, the respondent Judge manifested his conformity to the said Resolution.[9] The complainant's manifestation, on the other hand, was dispensed with by the Court.

Jurisprudence is replete with decisions on the procedural necessity of a hearing, whether summary or otherwise, relative to the grant of bail especially in cases involving offenses punishable by death, reclusion perpetua, or life imprisonment, where bail is a matter of discretion.[10] Under the present rules, a hearing is required in granting bail whether it is a matter of right or discretion.[11] It must be stressed that the grant or the denial of bail in cases where bail is a matter of discretion hinges on the issue of whether or not the evidence on the guilt of the accused is strong, and the determination of whether or not the evidence is strong is a matter of judicial discretion which remains with the judge. In order for the latter to properly exercise his discretion, he must first conduct a hearing to determine whether the evidence of guilt is strong.[12]

In *Santos v. Ofilada*,[13] it was held that the failure to raise or the absence of an objection on the part of the prosecution in an application for bail does not dispense with the requirement of a bail hearing. Thus –

Even the alleged failure of the prosecution to interpose an objection to the granting of bail to the accused will not justify such grant without hearing. This Court has uniformly ruled that even if the prosecution refuses to adduce evidence or fails to interpose any objection to the motion for bail, it is still mandatory for the court to conduct a hearing or ask searching and clarificatory questions from which it may infer the strength of the evidence of guilt, or lack of it, against the accused. Where the prosecutor refuses to adduce evidence in opposition to the application to grant and fix bail, the court may ask the prosecution such questions as would ascertain the strength of the State's evidence or judge the adequacy of the amount of the bail. Irrespective of

respondent judge's opinion that the evidence of guilt against the accused is not strong, the law and settled jurisprudence demand that a hearing be conducted before bail may be fixed for the temporary release of the accused, if bail is at all justified.

Thus, although the provincial prosecutor had interposed no objection to the grant of bail to the accused, the respondent judge therein should nevertheless have set the petition for bail for hearing and diligently ascertain from the prosecution whether the latter was not in fact contesting the bail application. In addition, a hearing was also necessary for the court to take into consideration the guidelines set forth in the then Section 6, Rule 114 of the 1985 Rules of Criminal Procedure for the fixing of the amount of the bail. Only after respondent judge had satisfied himself that these requirements have been met could he then proceed to rule on whether or not to grant bail.

Clearly therefore, the respondent Judge cannot seek refuge on the alleged belated objection of the prosecution to the order dated July 22, 1994 issued by his predecessor, Judge Paterno T. Alvarez; nor on the prosecution's failure to file a comment to the accused's motion for reconsideration of the August 11, 2000 order denying the application for bail.

It is certainly erroneous for the respondent to rely on the order of Judge Paterno T. Alvarez. As a responsible judge, he should have looked into the real and hard facts of the case before him and ascertained personally whether the evidence of guilt is strong.[14] To make things worse, respondent Judge relied on the said July 22, 1994 order despite the fact that the same appears to have been issued by his predecessor Judge also without a hearing and while the accused was at large. In addition to the requirement of a mandatory bail hearing, respondent judge should have known the basic rule that 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.[15]

In *Basco v. Rapatalo*,[16] the Court laid down the following rules which outlined the duties of a judge in case an application for bail is filed:

(1)

Notify the prosecutor of the hearing of the application for bail or require him to submit his recommendation;

(2)

Conduct a hearing of the application for bail regardless of whether or not the prosecution refuses to present evidence to show that the guilt of the accused is strong for the purpose of enabling the court to exercise its discretion;

(3)

Decide whether the evidence of guilt of the accused is strong based on the summary of evidence of the prosecution;

(4)

If the guilt of the accused is not strong, discharge the accused upon the approval of the bailbond. Otherwise, petition should be denied.

Based on the above-cited procedure and requirements, after the hearing, the court's order granting or refusing bail must contain a summary of the evidence for the prosecution.[17] A summary is defined as a comprehensive and usually brief abstract or digest of a text or statement. Based on the summary of evidence, the judge formulates his own conclusion on whether such evidence is strong enough to indicate the guilt of the accused.[18]

In the instant case, it appears that when the respondent judge initially granted the prosecution's motion praying that the accused be denied bail, no hearing was conducted. Irrespective of his opinion on the strength or weakness of evidence of the accused's guilt, he should have conducted a hearing and thereafter made a summary of the evidence for the prosecution. The importance of a bail hearing and a summary of evidence cannot be downplayed, these are considered aspects of procedural due process for both the prosecution and the defense; its absence will invalidate the grant or denial of bail.[19]

The indispensable nature of a bail hearing in petitions for bail has always been ardently and indefatigably stressed by the Court. The Code of Judicial Conduct enjoins judges to be faithful to the law and maintain professional competence. A judge is called upon to exhibit more than just a cursory acquaintance with statutes and procedural rules; it is imperative that he be conversant with basic legal principles and be aware of well-settled authoritative doctrines. He should strive for excellence exceeded only by his passion for truth, to the end that he be the personification of justice and the Rule of Law.[20]

In *Dericto v. Bautista*,[21] the Court imposed a fine of P5,000.00 on the respondent Judge for granting bail without conducting a bail hearing. We explained therein that although the Rules of Court authorize the investigating judge to determine the amount of bail, such authority does not include the outright granting of bail without a preliminary hearing on the matter, more so in cases where the crime charged is punishable with death, reclusion perpetua, or life imprisonment. And while it may be true that the determination of whether or not the evidence of guilt is strong is a matter of judicial discretion, this discretion lies not in the determination of whether or not a hearing should be held, but in the appreciation and evaluation of the weight of the prosecution's evidence of guilt against the accused.

In *Goodman v. De La Victoria*,[22] the erring Judge was found guilty of serious misconduct in office and ordered to pay a fine of P5,000.00 for failing to conduct a bail hearing in the manner required by law. It was held that the brief inquiry conducted by the said Judge before granting bail did not constitute the hearing mandated by law, for such proceeding did not elicit evidence from the prosecution to guide respondent in the proper determination of the petition.

In *Marzan-Gelacio v. Flores*,[23] the Court sustained the recommendation of the OCA to impose the penalty of fine in the amount of P10,000.00 on the erring judge for granting bail without hearing to the accused in a rape case.

In *Cabatingan, Sr. v. Arcueno*,[24] the Court imposed the penalty of fine of P15,000.00 on the investigating Judge for denying bail on the ground of lack of jurisdiction. In said case, the accused was arrested in the municipality presided by the respondent judge. The Court ruled that the latter had the authority to grant bail and to order the release of the accused, even if the records of the case had been transmitted for review to the Office of the Provincial Prosecutor. The Court further noted therein that the respondent Judge was previously found guilty of gross ignorance of the law and ordered to pay a fine of P5,000.00, when without a hearing, he granted bail to an accused charged with a capital offense.

In the following cases, the Court imposed a P20,000.00 fine on the Judges found to be grossly ignorant of the rules and procedures in granting or denying bail, to wit:

- (1) *Manonggiring v. Ibrahim*,[25] where the respondent Judge, in violation of Rule 114, Section 17(b), of the Revised Rules on Criminal Procedure, granted bail to the accused in a criminal case which was then pending with another branch involving an offense punishable by reclusion perpetua to death;
- (2) *Panganiban v. Cupin-Tesorero*,[26] where the erring Municipal Trial Court Judge who conducted the preliminary investigation granted bail to the accused – (a) without jurisdiction and in violation of Rule 114,

Section 17a, of the Revised Rules on Criminal Procedure, the corresponding Information against the accused being pending with the Regional Trial Court; (b) without notice to the prosecutor of the request to approve the bail bond in violation of Rule 114, Section 18; and (c) without conducting a bail hearing;

(3) *Tabao v. Barataman*, [27] and *Comia v. Antona*, [28] where the Judges concerned entertained an application for bail even though the court had not yet acquired jurisdiction over the person of the accused.

(4) *Layola v. Gabo, Jr.*, [29] where a Regional Trial Court Judge granted bail in a murder case without the requisite bail hearing.

The record shows that this is not the first administrative case of the respondent Judge. In a decision promulgated on April 17, 2001, in RTJ-01-1627, he was found guilty of gross inefficiency for failure to resolve a civil case within the three-month reglementary period and consequently ordered to pay a fine of P5,000.00. For this second infraction, respondent Judge deserves a heavier penalty.

WHEREFORE, in view of all the foregoing, respondent Judge Arnulfo O. Bugtas is ordered to pay a FINE in the amount of Twenty Thousand Pesos (P20,000.00) and STERNLY WARNED that a repetition of the same or similar acts shall be dealt with more severely.

**SO ORDERED.**

Davide, Jr., C.J. (Chairman), Vitug, Carpio, and Azcuna, JJ., concur.

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[1] *Te v. Perez*, A.M. No. MTJ-00-1286, 21 January 2002.

[2] *Basco v. Rapatalo*, 336 Phil. 214, 230-231 [1997]; citing *Baylon v. Sison*, 313 Phil. 99 [1995]; *Tucay v. Domangas*, 312 Phil. 135 [1995].

[3] *Comia v. Antona*, A.M. No. RTJ-99-1518, 14 August 2000, 337 SCRA 656, 665-666.

[4] Resolution, Rollo, p. 5.

[5] Rollo, p. 9.

[6] Rollo, p. 12.

[7] Rollo, p. 20.

[8] Rollo, p. 23.

[9] Rollo, p. 24.

[10] *Dericto v. Bautista*, A.M. No. MTJ-99-1205, 29 November 2000, 346 SCRA 226, 227; *Basco v. Rapatalo*, supra, at 219-220; *People v. Cabral*, 362 Phil. 697, 708-709 [1999].

[11] *Te v. Perez*, supra.

[12] *Marzan-Gelacio v. Flores*, A.M. No. RTJ-99-1488, 20 June 2000, 334 SCRA 1, 12; citing *Aleria, Jr. v. Velez*, 359 Phil. 141 [1998]; *Basco v. Rapatalo*, supra; *Almeron v. Sardido*, 346 Phil. 424 [1997].

[13] 315 Phil. 11, 21 [1995]; citing *Aguirre v. Belmonte*, A.M. No. RTJ-93-1052, 27 October 1994, 237 SCRA 778; *Borinaga v. Tamin*, A.M. No. RTJ-93-936, 10 September 1993, 226 SCRA 206; *Libarios v. Dabalos*, A.M. No. RTJ-89-286, 11 July 1991, 199 SCRA 48; *Tucay v. Domagas*, supra, note 2.

[14] *Basco v. Rapatalo*, supra at 233.

[15] *Comia v. Antona*, supra at 665-666.

[16] *Supra* at 237.

[17] *People v. Cabral*, supra at 716; citing *People v. San Diego*, 135 Phil. 514 [1968].

[18] *People v. Gako, Jr.*, G.R. No. 135045, 15 December 2000, 348 SCRA 334, 351; citing *People v. Cabral*, supra.

[19] *Id.*, citing *Narciso v. Sta. Romana-Cruz*, G.R. No. 134504, 17 March 2000, 328 SCRA 505.

[20] *Tabao v. Barataman*, A.M. No. MTJ-10-1384, 11 April 2002.

[21] *Supra* at 227-228; citing *Aleria, Jr. v. Velez*, supra; *Bantuas v. Pangadapun*, 354 Phil. 635 [1998]; *Gimeno v. Arcueno, Sr.*, 320 Phil. 463 [1995].

[22] 382 Phil. 545, 552 [2000].

[23] *Supra*, at 19.

[24] A.M. No. MTJ-00-1323, 22 August 2002.

[25] A.M. No. RTJ-01-1663, 15 November 2002.

[26] A.M. No. MTJ-02-1454, 27 August 2002.

[27] A.M. No. MTJ-01-1384, 11 April 2002.

[28] *Supra*, note 3.

[29] 380 Phil. 318, 327 [2000].

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