

**IN RE: LETTER OF FREDDIE P. MANUEL, 65 CANAN, PANIQUI, TARLAC, WHICH APPEARED IN THE COLUMN OF POMPEYO NAVARRO'S ACTION LINE OF THE MANILA TIMES' ISSUE OF 28 OCTOBER 1993**

*A.M. MTJ-93-893. August 04, 1994*

Ponente: VITUG, J.

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**VITUG, J.:**

A letter, written by a certain Freddie P. Manuel of 65 Canan, Paniqui, Tarlac, appeared in the column, "Action Line," of Mr. Pompeyo Navarro in the Manila Times issue of 28 October 1993. The letter read:

"MY problem concerns the criminal case assigned with Judge Arnel V. Peralta of the Municipal Trial Court of Paniqui, Tarlac recalling the warrant of arrest issued by then Judge Gregorio L. Rosete whom he succeeded.

"Rosario Roxas, the accused against whom the warrant of arrest was issued, is charged with 15 counts of illegal recruitment and 15 counts of estafa. Thirteen were transferred to RTC but two were retained by Judge Peralta. Those involving an amount of less than P10,000 became mere estafa cases which were bailed at P2,800/P1,000 respectively. The RTC Judge Dario R. Navarro issued another warrant of arrest without bail for the apprehension of the accused.

"As of now, the accused is nowhere to be found and word has been going around that she is back to her fraudulent activities.

"Sir, can Judge Peralta recall the warrant of arrest issued by Judge Rosete? Can the accused be on bail while having 13 more illegal recruitment and estafa cases against her? Can Judge Peralta be held liable for the disappearance of the accused? What legal action can we do to have Judge Peralta cancel the bail bond and produce the accused?

"Whatever help you can extend us will be deeply appreciated."

The Office of the Court Administrator required Judge Arnel V. Peralta to comment. In his compliance, dated 22 November 1993 (filed with the Court on 23 November 1993), respondent judge averred that he assumed office only on 05 April 1993, and that the cases (fifteen [15] for estafa and one [1] for illegal recruitment against Rosario Roxas pending with the Municipal Trial Court of Paniqui, Tarlac) referred to in the letter were "inherited cases." Then Judge Designate Gregorio Rosete issued, on 01 March 1993, a warrant of arrest. On 06 April 1993, a day after he assumed office, Judge Peralta issued, at the instance of one of the complainants, an alias warrant of arrest. The accused was arrested and detained in the Municipal Jail of Paniqui, Tarlac.

Judge Peralta set the fourteen (14) cases for preliminary investigation and proceeded to try the two (2) other cases (Criminal Cases No. 9736 and No. 9790), both for estafa. On motion of the accused, Judge Peralta granted bail for the accused's provisional release. Upon arraignment, the accused pleaded, "Not Guilty;" thereafter, she failed to attend subsequent hearings.

During the hearing on the motion for bail, referred to in the preceding paragraph, the accused's counsel, as well as the prosecutor, likewise manifested that Judge Rosete had not conducted a preliminary investigation before issuing the warrant of arrest. They thus moved for the recall of said warrant, which respondent judge granted. The records of the other fourteen (14) cases were then transmitted to the provincial prosecutor who conducted a preliminary investigation and who ultimately found probable cause for thirteen (13) counts of estafa and one (1) count of illegal recruitment. The corresponding informations were filed with the Regional Trial Court, Branch 67, Paniqui, Tarlac, with a recommended bail of P7,000.00 each. Presiding Judge Navarro issued a warrant of arrest but the same remained unserved since the accused could not be found.

Explaining his recall of the warrant of arrest issued by Judge Rosete, respondent judge argues that under Section 6(b), Rule 112, of the Revised Rules on Criminal Procedure, in relation to Section 1 and Section 3, Article III, of the 1987 Constitution, a warrant of arrest may be issued only after a preliminary investigation.

In a memorandum, dated 08 December 1993, addressed to Chief Justice Andres R. Narvasa and approved by Court Administrator Ernani Cruz-Paño, Deputy Court Administrator Reynaldo L. Suarez opined that Judge Peralta, instead of recalling outrightly the warrant of arrest, should have deferred resolution of the motion to recall until after he would have conducted a preliminary investigation. Finding respondent judge to have acted precipitately, the Office of the Court Administrator recommended, thus:

"Wherefore in view of the foregoing, it is respectfully recommended that Judge Arnel Peralta be REPRIMANDED and ADMONISHED, with a warning that a repetition of the same or similar acts in the future will be dealt with more severely."

In the Court's resolution, dated 07 March 1994, after considering the memorandum of the Office of the Court Administrator, the parties were required to manifest to the Court whether they would be willing to submit the case on the basis of the pleadings already filed. Respondent judge responded affirmatively on 28 March 1994.

We agree with the report of the Office of the Court Administrator, finding respondent judge to have been negligent in the performance of his duties and recommending that he be reprimanded and admonished accordingly. The right to a preliminary investigation is a statutory right<sup>[1]</sup> that may be waived by the accused, either expressly<sup>[2]</sup> or impliedly.<sup>[3]</sup> The posting of a bail bond by the accused constitutes such a waiver.<sup>[4]</sup> In *Bagcal vs. Villaraza*,<sup>[5]</sup> we have also reiterated the rule that although a warrant of arrest is irregularly issued, any infirmity attached to it is cured when the accused submits himself to the jurisdiction of the court by applying for bail x x x."

WHEREFORE, this Court finds Judge Arnel V. Peralta to have been neglectful in the discharge of his duties; accordingly, he is hereby REPRIMANDED and WARNED against incurring a similar failure of circumspection in the future.

**SO ORDERED.**

Feliciano, (Chairman), Bidin, Romero, and Melo, JJ., concur.

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[1] *Luna vs. Plaza*, 26 SCRA 310, citing *People vs. Olandag*, 92 Phil. 286; *Lozada vs. Hernandez*, 92 Phil. 1051.

[2] *People vs. Ramilo*, 57 O.G. 7431.

[3] *People vs. Casiano*, 111 Phil. 73; *Nombres vs. People*, 105 Phil. 1259.

[4] *Callanta vs. Villanueva*, 77 SCRA 377; *Zacarias vs. Cruz*, 30 SCRA 728; *Luna vs. Plaza*, supra.

**[5] 120 SCRA 525.**

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