

RODRIGO SANTOS, COMPLAINANT, VS. JUDGE CARLOS C. OFILADA, RESPONDENT.

A.M. No. RTJ-94-1217. June 16, 1995

Ponente: REGALADO, J.

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REGALADO, J.:

The present administrative matter was commenced by a sworn complaint dated June 22, 1994 filed by Rodrigo Santos, through counsel, before the Office of the Court Administrator charging Judge Carlos C. Ofilada with incompetence, gross ignorance of the law, oppression and grave misconduct relative to Criminal Cases Nos. 1433-M-94 for murder and 1434-M-94 for illegal possession of firearm.

The records reveal that for the killing of complainant's son, Ronnie Santos, two separate informations for murder and for illegal possession of firearm, docketed as Criminal Cases Nos. 1433-M-94 and 1434-M-94, respectively,[1] were filed against accused Rolando Lopez before Branch 15, Regional Trial Court of Malolos, Bulacan, presided over by respondent Judge.

Subsequently, the corresponding warrants of arrest were issued by respondent judge in Criminal Case No. 1433-M-94 where no bail was recommended by the public prosecutor, and in Criminal Case No. 1434-M-94 where bail of P200,000.00 was recommended.[2] Thereafter, counsel for the accused filed a "Motion To Reinstate Former Bail and Reduction of the Amount of New Bail Bond."

In an order dated May 4, 1994, respondent judge granted said motion, fixing the bail bond in Criminal Case No. 1433-M-94 at P40,000.00 and reducing the recommended P200,000.00 bail in Criminal Case No. 1434-M-94 to P40,000.00.[3]

Subsequently, the present administrative complaint was filed, assailing the said order of respondent judge on the contention that the grant of said motion without hearing or notice to the provincial prosecutor constitutes a clear violation of the Rules of Court. Complainant further alleged that respondent judge manifested unusual interest in the case by rudely and arrogantly ordering the deletion of the names of the prosecution's witnesses when there was no appearance for the prosecution during the arraignment of the accused which is a clear indication of his unfairness; and that the "Motion for Reconsideration and Disqualification" of respondent judge filed by the provincial prosecutor was denied by the former by merely writing on the face thereof the notation "denied" without the corresponding written order.[4]

In our resolution of August 22, 1994, respondent judge was required to comment on the aforesaid administrative complaint.[5]

On September 12, 1994, complainant, through counsel, filed an "Urgent Motion to Order Re-raffle of Cases," praying that Criminal Cases Nos. 1433-M-94 and 1434-M-94 be re-raffled to another branch of the Regional Trial Court of Malolos in the interest of justice, considering that respondent judge refused to voluntarily inhibit himself from trying said cases.[6] In the resolution of this Court dated September 26, 1994, said motion was merely noted,

pending filing of the comment of respondent judge on the administrative complaint.[7]

In his comment which was thereafter received, Judge Ofilada vehemently denied the allegations in the complaint. According to him, the amount of bail recommended by prosecutors is almost always not followed. He claims that one who believes that the court should follow the recommendation regarding the amount of bail like a strait-jacket is misinformed. He further averred that the matter of hearing before the grant or reduction of bail was handled by the Municipal Trial Court of San Miguel, Bulacan, which made a predetermination of the amount of the bail.

With respect to the information for illegal possession of firearm, he asserted that the revelation of the investigator that the gun was not recovered weakened the prosecution's case, hence reduction of bail was justified. Respondent judge further argued that the reduction of the amount of bail is all right as long as the accused would diligently attend the trial of the cases until the promulgation of the judgments therein. The law, he added, even allows the posting of recognizance in favor of the accused in certain cases and under certain conditions.[8]

On November 16, 1994, the Court resolved to refer this administrative matter to the Office of the Court Administrator for evaluation, report and recommendation.[9] On February 12, 1992, Deputy Court Administrator Reynaldo C. Suarez, submitted to the Court his memorandum duly approved by the Court Administrator.[10]

The general rule is that all persons in custody shall, before final conviction, be entitled to bail as a matter of right. The exception thereto is when the accused is charged with a capital offense or an offense which, under the law at the time of its commission and at the time of the application for bail, is punishable by reclusion perpetua, when the evidence of guilt is strong,[11] which has since been ramified to include the penalties of life imprisonment and death.

Thus, the grant of bail becomes a matter of discretion if the accused is charged with a capital offense. Where admission to bail is a matter of discretion, a hearing is mandatory before an accused can be granted bail.[12] At the hearing, 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.[13]

In the case involved herein, the accused was charged with murder, a capital offense, in Criminal Case No. 1433-M--94. Hence, it is specifically required that the prosecution must be accorded ample opportunity to prove that the evidence of his guilt is strong. It appears from the records that respondent judge granted bail to the accused without any hearing, thereby denying the prosecution a chance to prevent said grant of bail by adducing evidence showing the strength of the evidence of his guilt.

We have held that 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 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. Any order issued in the absence thereof is not a product of sound judicial discretion but of whim, caprice and outright arbitrariness.[14]

Accordingly, while the determination of whether or not the evidence of guilt is strong is a matter of judicial discretion, this discretion, by the nature of things, may rightly be exercised only after the evidence is submitted to the court at such hearing. Whether the motion for bail of an accused who is in custody for a capital offense be resolved in a summary proceeding or in the course of a regular trial, the prosecution must always be given an

opportunity to present, within a reasonable time, all the evidence that it may desire to introduce before the court may resolve the motion for bail. If the prosecution should be denied such an opportunity, there would be a violation of procedural due process, and the order of the court granting bail should be considered void on that ground.[15]

Moreover, it is apparent from a reading of the impugned order granting bail that it lacked the requisite summary or resume of the evidence presented by the parties and necessary to support the grant of bail. There is no recital therein of any evidence presented by the prosecution, much less a conclusion or a pronouncement therefrom that the guilt of the accused is not evident.

We have repeatedly stressed that the order granting or refusing the bail must contain a summary of the evidence presented by the prosecution. The reason therefor is obvious. On the basis thereof, the judge should formulate his own conclusion as to whether or not the evidence of guilt is strong, in order to determine whether bail should be granted or withheld.[16]

Respondent judge tried to justify the grant of bail without a hearing by stating that the matter of the need for such a hearing before the reduction or grant of bail was determined by the judge of the municipal trial court who predetermined the bail issue and granted the same prior to the filing of the information in the regional trial court. The said justification is effete and unacceptable.

The fact that the judge of the municipal trial court granted bail to the accused during the preliminary investigation cannot be the basis for the grant of bail by the regional trial court after an information was already filed and where the investigating public prosecutor recommends no bail for the indicttee.

The bail was granted by said judge of the lower court on the bases of the evidence then at hand at that stage. It could very well happen that thereafter the prosecution may have secured further evidence, in addition to or in connection with that which it already possessed, which evidence taken all together are sufficiently strong to prove the guilt of the accused of a capital offense. Thus, it is still necessary for the judge of the regional trial court, in whose sala the information is filed, to set the petition for bail for hearing in order that the parties can feasibly introduce whatever additional evidence they may be minded to adduce therein as an aid in determining the guilt of the accused and the proper amount of the bail.

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 the 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 bail.[17] 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.[18]

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 ascertained 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 fixing the amount of 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.[19]

Clearly, therefore, respondent's act in granting bail to the accused under the aforementioned circumstances obtaining in this administrative matter amounts to such a whimsical and arbitrary exercise of jurisdiction which calls for the exercise of the disciplinary power of this Court. It is indeed lamentable that despite the series of its pronouncements on the same administrative offense, this Court still has to contend with the same problem all over again and to impose once more the same sanction.

The Office of the Court Administrator recommends that a fine of P20,000.00 be imposed on respondent judge and that he be warned against a repetition of the same administrative misconduct. We approve the recommendation since it is but in accordance with the penalty imposed by the Court in previous cases involving the same issues.[20]

ON THE FOREGOING CONSIDERATIONS, respondent Judge Carlos C. Ofilada of the Regional Trial Court, Branch 15, Malolos, Bulacan is hereby ORDERED to pay a FINE of P20,000.00, with a STERN WARNING that a repetition of the same or similar acts in the future will definitely warrant a more severe sanction. Let a copy of this decision be attached to the personal record of respondent judge.

Additionally, in the best interest of a fair trial and a just disposition of the criminal actions involved, it is hereby ORDERED that Criminal Cases Nos. 1433-M-94 and 1434--M-94, be RE-RAFFLED among the other branches of the Regional Trial Court of Malolos, Bulacan. The judge or judges to whom the cases shall thereafter be assigned shall forthwith cancel the present bail bonds of the accused Rolando Lopez in the aforesaid cases, promptly issue the corresponding warrants of arrest therein, and thereafter conduct the proper hearings with due notice to all parties concerned of such bail petitions as may be filed by said accused.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, and Francisco, JJ., concur.

Quiason, J., on official leave.

[1] Rollo, 8-11.

[2] Ibid., 12-13.

[3] Ibid., 15.

[4] Ibid., 14.

[5] Ibid., 18.

[6] Ibid., 19-22.

[7] Ibid., 63.

[8] Ibid., 65-66.

[9] Ibid., 72.

[10] Ibid., 73-75.

[11] Section 13, Article III of the 1987 Constitution; Section 3, Rule 114, 1985 Rules on Criminal Procedure.

[12] Section 5, Rule 114, *id.*

[13] *People vs. San Diego, etc., et al.*, L-29676, December 24, 1968, 26 SCRA 522; *People vs. Sola, et al.*, G.R. Nos. 56158-64, March 17, 1981, 103 SCRA 39; *People vs. Calo, Jr., et al.*, G.R. No. 88531, June 18, 1990, 186 SCRA 620; *Carpio, etc., et al. vs. Maglalang, etc., et al.*, G.R. No. 78162, April 19, 1991, 196 SCRA 41; *Pico vs. Combong, Jr., etc.*, A.M. RTJ-91-764, November 6, 1992, 215 SCRA 421.

[14] *Borinaga vs. Tamin, etc.*, A.M. No. RTJ 93-936, September 10, 1993; 226 SCRA 206, citing *People vs. Nano, etc., et al.*, G.R. No. 94639, January 13, 1992, 205 SCRA 155.

[15] *Borinaga vs. Tamin, etc.*, *supra*, citing *Ocampo vs. Bernabe, et al.*, 77 Phil. 55 (1946) and *People vs. San Diego, etc., et al.*, *ante*.

[16] See *Carpio, etc., et al. vs. Maglalang, etc., et al.*, *supra*; *People vs. Nano, etc., et al.*, *supra*; *Borinaga vs. Tamin, etc.*, *supra*; *Aguirre, et al. vs. Belmonte, etc.*, A.M. No. RTJ-93-1052, October 27, 1994; *Baylon, etc. vs. Sison, etc.*, A.M. No. 92-7-360-0, April 6, 1995.

[17] *Aguirre, et al. vs. Belmonte, etc.*, *supra*; *Borinaga vs. Tamin, etc.*, *supra*.

[18] *Libarios vs. Dabalos*, A.M. No. RTJ-89-286, July 11, 1991, 199 SCRA 48.

[19] *Borinaga vs. Tamin, etc.*, *supra*; *Tucay vs. Domagas*, A.M. No. RTJ-95-1286, March 2, 1995.

[20] *Libarios vs. Dabalos*, *supra*; *Borinaga vs. Tamin, etc.*, *supra*; *Aguirre, et al. vs. Belmonte, etc.*, *supra*; *Tucay vs. Domagas*, *supra*; *Baylon, etc. vs. Sison, etc.*, *supra*.

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