

RENATO ALVARO RUPERTO, COMPLAINANT, VS. JUDGE TIRSO F. BANQUERIGO, RESPONDENT.*A.M. No. MTJ-98-1154. August 26, 1998*

Ponente: REGALADO, J.

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This administrative matter was initiated by a verified complaint of one Renato Alvaro Ruperto against Judge Tirso F. Banquerigo of the Municipal Circuit Trial Court (MCTC) of Tayasan Jimmalud, Negros Oriental, in his acting capacity as presiding judge of the MCTC, Bindoy-Ayungon-Manjuyod, for alleged ignorance of the law, malicious prosecution, grave abuse of discretion and malicious delay in the administration of justice.[1]

Complainant alleges that this administrative case stems from the questionable ruling of respondent Judge Banquerigo in a case he filed against the spouses Anselmo and Pacita Mojillo, for ejectment with damages, on August 2, 1995. This case was docketed as Civil Case No. A-178 of the MCTC of Bindoy-Ayungon-Manjuyod.

The Mojillo spouses failed to file their answer to the complaint within the reglementary period. Since the case falls under the Revised Rule on Summary Procedure, herein complainant filed a motion with the trial court on September 1, 1995 to summarily decide the case in accordance with the aforesaid Rule. Respondent judge, however, failed to act on the motion and, worse, he further granted therein defendant spouses an additional ten days within which to file their answer. The case was set for hearing on December 14, 1995, and, thereafter, it was again reset to March 14, 1996. Thus, complainant contends, Judge Banquerigo failed to promptly act as provided for under the Revised Rule on Summary Procedure, but he instead allowed the case to unduly drag on.

Complainant accordingly submits that although the case is governed by the Revised Rule on Summary Procedure, seven months have already elapsed and the Mojillo spouses have failed to offer a valid defense; that respondent judge should have ruled on the motion to decide the case through the required summary procedure; that Judge Banquerigo's refusal to act on said motion has delayed the administration of justice; that his utter disregard of the Rule is a blatant and irresponsible actuation, tantamount to grave abuse of discretion; and that respondent should not go unpunished since he has made a mockery of our justice system.

Regarding the charge of malicious prosecution, complainant alleges that respondent judge issued a warrant for his arrest on February 26, 1990 for two alleged crimes of qualified theft, despite the fact that the supposed crimes were committed in the presence of many persons and in broad daylight. Of greater importance, so he contends, is that the land in question belongs to him, hence he cannot be liable for theft of coconuts thereon while the ownership of the land was still in issue. To further bolster his claim, complainant points out that said criminal cases for qualified theft were dismissed by the Regional Trial Court of Dumaguete City on March 13, 1991 as no criminal intent was proved. Hence, the issuance of the warrant of arrest by respondent judge was malicious and tantamount to grave abuse of discretion.

Respondent Judge Tirso F. Banquerigo, after several motions for extension, finally filed his comment. He stressed that he was only an acting judge of the MCTC, Manjuyod-Bindoy-Ayungon, which had jurisdiction over the cases

in question and that he was reporting to that court, which had 226 pending cases, only twice a week. He retorts that it is complainant who is guilty of malicious prosecution because the filing of this administrative action has wasted the precious time of his court.

Respondent admits that he issued a warrant for the arrest of complainant, but adds that the same was done after it was established that there was prima facie evidence, hence the issuance of the warrant was in order. He further asserts that he should not be accused of malicious prosecution since he did not file any case against complainant.

As to the charges of ignorance of the law, grave abuse of discretion and malicious delay in the administration of justice in connection with the ejectment case filed by complainant against the Mojillo spouses, respondent avers that the case was filed in August, 1995. Considering that there were several cases filed with the MCTC of Manjuyod-Bindoy-Ayungon, the case was set for hearing on March 14, 1996 allegedly as agreed upon by the parties and their counsel.

He claims that his failure to act on the motion of complainant to decide the case in accordance with Section 6 of the Revised Rule on Summary Procedure was because, in the interest of justice and equity, he believed that said motion should be set for hearing. He contends that it was complainant's own act which allowed technicalities to set in, because he filed a responsive pleading or reply to the affirmative defenses and an answer to the counterclaim of therein defendant spouses. It is the opinion of respondent judge that the filing of such pleadings by complainant was tantamount to abandoning his motion for the resolution of the case based on Section 6 of the aforecited Rule.

Respondent judge, to further justify his actuations, calls attention to the fact that he was, at that time, also assigned as acting presiding judge of several courts, as a consequence of which he could not always keep track of all the cases filed in his own regular sala and those to which he was detailed.[2]

The office of a judge exists for one solemn end -- to promote the ends of justice by administering it speedily and impartially. The judge, as the person presiding over that court, is the visible representation of the law and justice. These are self-evident dogmas which do not even have to be emphasized, but to which we are wont to advert when some members of the judiciary commit legal missteps or stray from the axioms of judicial ethics, hopefully only through unwitting error or inattention.

These fundamental tenets hold true regardless of the ranking of the court and its magistrate in the hierarchy of our judicial system. The fact that the cases involved in the present administrative matter are comparatively among the minor transgressions in criminal and civil law, and the respondent judge presides over a court on the lowest rung of the judicial ladder, all the more requires the attention of this highest Court. As we have stated in *Miguel Abarquez vs. Judge Bienvenido M. Rebosura*: [3]

It is perceptively said that for the common tao, the municipal trial court may well be the tribunal of first and last resort. This court presents him his only view of the legal system, with its presiding judge as the sole personification of a dispenser of justice, and with his case as the example of how rights are protected or disregarded. This scenario is replicated on a national scope, and we cannot allow a wrong impression of the judiciary to be created by the shortcomings of those manning its frontiers.

We hold that Judge Banquerigo failed to comply with what is specifically required as a judicial duty. The ejectment case filed by complainant against the defendant spouses therein clearly falls under the Revised Rule on Summary Procedure. To disregard its provisions is clearly ignorance of the law; and a judge who, through gross ignorance of the law, frustrates the purpose for which it was enacted, commits a disservice to the cause of justice.

In *Rural Bank of Macalalag, Inc. vs. Maniwang*, [4] we ruled that a judge is remiss in the performance of his

duties when he fails to decide a case covered by the Revised Rule on Summary Procedure after the defendants failed to file their answers therein. This is obviously so since the Revised Rule on Summary Procedure provides:

SEC. 6. Effect of failure to answer — Should the defendant fail to answer the complaint within the period above provided, the court, motu proprio, or on motion of the plaintiff, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein; Provided, however, that the court may in its discretion reduce the amount of damages and attorney's fees claimed for being excessive or otherwise unconscionable. This is without prejudice to the application of Section 4, Rule 18 of the Rules of Court if there are two or more defendants.

On the other charge for malicious prosecution, however, we find that the issuance of the warrant of arrest by respondent judge was in accordance with the procedure therefor and was not done with malice or any dubious intent. As he explained in his comment, which has not been refuted, a prima facie case was established during the preliminary investigation. His findings were sustained by the Provincial Prosecutor's Office and an information was consequently filed. A petition for reinvestigation was denied. Whether the case was subsequently dismissed on the merits or upon a stipulation of facts of the parties contained in a motion to dismiss does not detract from the propriety of respondent's issuance of the warrant of arrest.

We accordingly find respondent judge to be accountable only for failure to duly act on the civil case, in violation of some provisions of the Revised Rule on Summary Procedure. We, however, believe that respondent judge should be merely reprimanded, in view of the fact that he was not only detailed to the court where the cases herein involved were pending, but also to other courts. Such multiple assignments, in one way or another, affected his efficient handling of cases.[5] In addition, there was no showing of malice, corrupt motives or improper considerations on the part of respondent judge which would justify the imposition of a more severe penalty,[6] or that he has heretofore been found guilty of any administrative offense.

WHEREFORE, respondent Judge Tirso F. Banquerigo is hereby SEVERELY REPRIMANDED, with a stern warning that a repetition of the same or similar offense will definitely be dealt with more severely.

SO ORDERED.

Melo, Puno, Mendoza and Martinez JJ., concur.

[1] Rollo, 1-3.

[2] Ibid., 19-22.

[3] A.M. No. MTJ-94-986, jointly decided with Office of the Court Administrator vs. Judge Bienvenido M. Rebosura, A.M. No. MTJ-95-1052, and Aniceta Tarle vs. Judge Bienvenido M. Rebosura, A.M. No. MTJ-95-1069, January 28, 1998.

[4] A.M. No. MTJ-93-799, May 13, 1994, 232 SCRA 414.

[5] Rollo, 79.

[6] See *Filipinas Bank vs. Justice Socorro Tirona-Liwag*, A.M. CA-90-11, October 18, 1990, En Banc Minute Resolution.

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