

**BAIKONG AKANG CAMSA, COMPLAINANT, VS. JUDGE AURELIO D. RENDON, MUNICIPAL TRIAL COURT, ISULAN, SULTAN KUDARAT, AND SHERIFF EDWIN G. CABUG, REGIONAL TRIAL COURT, BRANCH 19, ISULAN...**

*A.M. No. MTJ-02-1395 (Formerly OCA IPI No. 98-580-MTJ). February 19, 2002*

Ponente: VITUG, J.

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**VITUG, J.:**

In a complaint, dated 08 April 1998, Judge Aurelio D. Rendon was charged with violation of the Anti-Graft and Corrupt Practices Act (R.A. 3019), as well as with gross ignorance of the law, and Sheriff Edwin Cabug with gross ignorance of the law and violation of the Code of Conduct and Ethical Standards for public officials and employees, both in connection with the execution of the judgment in Civil Case No. 688, entitled "Philippine Evangelical Enterprises vs. Baikong Akang Camsa."

On 22 May 1997, respondent judge rendered a decision in favor of plaintiff Philippine Evangelical Enterprises and ordered defendant Baikong Akang Camsa -

- "1. To restore the plaintiff in complete possession of the two parcels of land subject of this controversy, Lot No. 3, Sgs-12-000273 and Lot No. 1, Sgs-12-000273, aforementioned;
- "2. To remove the wire fence she erected on the property at her own expense;
- "3. To pay the plaintiff P50,000.00 as attorney's fees and P10,000.00 as litigation expenses;
- "4. To pay the plaintiff the sum of P40,000.00 as exemplary damages; [and]
- "5. To pay the cost of this suit."

The decision was not appealed to the Regional Trial Court. When the decision became final and executory, the plaintiff filed a motion for the issuance of a writ of execution. On 15 December 1997, the writ was issued. Respondent sheriff, however, failed to enforce the writ. According to complainant, respondent judge then issued, *motu proprio*, an alias writ of execution, the contents of which did not conform with the dispositive portion of the decision, dated 22 May 1997, in that the alias writ of execution included an order of demolition. Complainant also asserted that prior to the rendition of the decision, respondent judge demanded, through a mutual friend, the amount of P60,000.00 in exchange for a favorable decision but that complainant was only able to give P30,000.00. In the case of respondent sheriff, complainant claimed that extraordinary force was used by the sheriff in the enforcement of the writ of execution.

In his comment, respondent judge denied having issued an alias writ of execution *motu proprio* but that he only issued it upon motion filed by the plaintiff. He explained that the contents of the alias writ of execution was in total conformity with the dispositive portion of the decision of the court. He strongly disavowed having demanded P60,000.00, or having received P30,000.00, from complainant in exchange for a favorable decision.

Respondent sheriff, in his own comment, maintained that the enforcement of the alias writ of execution was done in accordance with standard rules, and that complainant, in defiance of the writ of execution, had refused to vacate the property, prompting respondent sheriff to then seek the assistance of Provincial Commander Col. Acme and his assistant Col. Rinazo so as to ensure an orderly enforcement of the writ of execution.

On 19 February 2001, an omnibus manifestation was submitted to the Office of the Court Administrator ("OCA") by Renee Rendon-Lozano, daughter of respondent judge, informing the OCA of the death of her father, respondent Judge Aurelio D. Rendon, on 01 February 2001 and seeking a partial release of his retirement benefits.

The OCA, in its memorandum of 25 June 2001, opined that based on the complaint and comment submitted by respondents and "considering the seriousness of the charges against respondents and the conflicting allegations of the parties, a more thorough investigation (was) imperative," and recommended that the matter be referred to Executive Judge German Malcampo of the Regional Trial Court of Isulan, Sultan Kudarat, Branch 19, for investigation, report and recommendation.

The Court, in its resolution of 13 August 2001, resolved to return the case to OCA for a re-evaluation on the effect of the death of respondent judge on the projected investigation and the propriety of a partial release of his retirement benefits.

The OCA, in its memorandum dated 12 November 2001, reiterated its earlier recommendation that the matter be referred to Executive Judge Malcampo for investigation, report and recommendation.

In *Hermosa vs. Paraiso*,<sup>[1]</sup> the respondent, a branch clerk of court of the then Court of First Instance of Masbate, was charged with irregularities while in office. The matter was referred to an Investigating Judge considering that there were persons mentioned in the complaint who had to be questioned. The Investigating Judge, in his report of 18 August 1973, recommended that the respondent be exonerated of the charges for lack of sufficient evidence. On 01 August 1974, while the case was pending before the Court, the respondent died. The Court, nevertheless, resolved the case so that the respondent's heirs might not be deprived of any retirement benefits due to them and ordered the dismissal of the case for lack of substantial evidence.

In *Mañozca vs. Judge Domagas*,<sup>[2]</sup> the respondent judge, who was charged with gross ignorance of the law for having erroneously granted a demurrer to evidence, died while the case was being evaluated by the OCA for appropriate action. The Court, on the basis of what appeared on record, no factual matter being in serious dispute that would require a formal investigation, resolved to impose a fine of P5,000.00 on the respondent judge, stressing that he had been previously sanctioned by the Court for gross ignorance of the law.<sup>[3]</sup>

In *Apiag vs. Judge Cantero*,<sup>[4]</sup> the respondent judge was charged with gross misconduct for allegedly having committed bigamy and falsification of public documents. The case was referred to the Executive Judge of the Regional Trial Court of Toledo City for investigation, report and recommendation. An investigation was imperative considering that factual issues, including the circumstances of the respondent's first marriage to the complainant, were inextricably involved. Upon receipt of the report of the Investigating Judge, who recommended that the respondent judge be suspended for one (1) year without pay, the Court referred the matter to OCA for evaluation, report and recommendation. The OCA, in its memorandum, recommended that the respondent judge be dismissed from the service. The respondent judge died while the case was still being deliberated upon by the Court. The Court there held -

"However, we also cannot just gloss over the fact that he was remiss in attending to the needs of his children of his first marriage - children whose filiation he did not deny. He neglected them and refused to support them until they came up with this administrative charge. For such conduct, this Court would have imposed a penalty. But in view of his death prior to the promulgation of this Decision, dismissal of the case is now in order."<sup>[5]</sup>

It might also be noteworthy that in A.M. No. 97-9-283-RTC (Report on the Judicial Audit Conducted in Regional Trial Court, Branch 1, Bangued Abra)[6] and A.M. No. 98-3-119-RTC (Judicial Audit Report, Regional Trial Court, Branches 21, 35 & 36 and Municipal Trial Court in Cities, Branches 1 & 2, Santiago City; Regional Trial Court, Branch 17, Ilagan, Isabela; Regional Trial Court, Branch 31, Cabarroguis, Quirino and Municipal Trial Court, Cauayan & Echague, Isabela)[7], the Court deemed it inappropriate to impose any sanction following the death of the respondents during the pendency of their cases. In A.M. No. 97-9-283-RTC, it was shown that Judge Francisco Villacorta failed to decide cases pending before his court as so reflected by the judicial audit and confirmed by the OCA. Respondent Villacorta died before he could submit any explanation. The Court did not see it fit to still impose any disciplinary action on the respondent judge. In A.M. No. 98-3-119-RTC, Judge Efren Lamorena of RTC, Santiago City, Branch 36, was directed to explain the delay on the resolution of cases pending before his sala. Judge Lamorena was able to submit his comment but, soon after, he suffered a stroke which caused his death. The OCA in its memorandum to the Court did not recommend any administrative sanction on Judge Lamorena for "humanitarian reasons." The Court there agreed.

In the instant case, respondent judge died while the case would have still been due for investigation considering that factual issues would yet to be threshed out. Indeed, the memorandum of the OCA, dated 25 June 2001, suggested the referral of the matter to the Executive Judge for investigation, report and recommendation. There was yet no investigation conducted, let alone a finding thereon by either the OCA or the investigating judge, on the charges against respondent judge. To allow an investigation to proceed against him who could no longer be in any position to defend himself would be a denial of his right to be heard, our most basic understanding of due process. The case against the late judge should now be dismissed and the administrative matter against him deemed closed and terminated.

Anent the request for the partial release of respondent judge's retirement benefits filed by his daughter, the Court, in a resolution, dated 27 June 2001, of its Second Division in Administrative Matter No. 10483-RET (Re: Application for Compulsory Retirement under R.A. 910, as amended, of Hon. Aurelio D. Rendon, Judge, MTC, Sultan Kudarat) resolved to release the retirement benefits of respondent judge but withheld the amount of P20,000.00 pending the outcome of Administrative Matters OCA IPI No. 98-580-MTJ and OCA IPI No. 00-883-MTJ. Since OCA IPI No. 00-883-MTJ has yet to be resolved the P20,000.00 retained amount should still be considered withheld.

Insofar as respondent sheriff Cabug is concerned, the investigation against him should proceed.

WHEREFORE, the instant administrative complaint against Judge Aurelio Rendon of the Municipal Trial Court of Isulan, Sultan Kudarat, is **DISMISSED**. The case, however, against Sheriff Edwin Cabug is referred to Executive Judge German M. Malcampo, Regional Trial Court, Branch 19, Isulan, Sultan Kudarat, for investigation, report and recommendation within sixty (60) days from receipt of the records of the case.

### **SO ORDERED.**

Melo, (Chairman), Panganiban, Sandoval-Gutierrez, and Carpio, JJ., concur.

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**[1] 62 SCRA 361.**

**[2] 248 SCRA 625.**

[3] In *Lim vs. Domagas*, 227 SCRA 258, the Court ordered respondent judge to pay a fine of P10,000.00 for disregarding the provision of Section 3(b), Rule 71, of the Rules of Court; in *Tucay vs. Domagas* (A.M. No. RTJ-95-1286, 02 March 1995), respondent judge was fined P20,000.00 for granting bail to the accused without the required hearing.

**[4] 268 SCRA 47.**

[5] At pp. 63-64.

**[6] 332 SCRA 273****[7] 343 SCRA 427**

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