

EMILIANO VELUZ, COMPLAINANT VS. JUDGE RAUL V. BABARAN, RESPONDENT.*A.M. No. MTJ-93-759. September 05, 1997*

Ponente: HERMOSISIMA, JR., J.

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This is an administrative complaint, filed by Emiliano Veluz Against Judge Raul V. Babaran, former Presiding Judge of the Municipal Trial Court of Diffun, Quirino, which seeks the judge's dismissal from the service and his disbarment, upon the allegation that respondent judge acted with grave abuse of authority and/or ignorance of the law when he cited complainant for direct contempt of court through an order, dated November 21, 1992,[1] resulting in complainant's arrest and incarceration.

Complainant Emiliano Veluz claimed ownership of an agricultural land, situated at La Paz, Saguday, Quirino, on the strength of TCT No. 6101 in his name. In August, 1992, he had the property fenced allegedly to keep it from trespassers. As a consequence of the fencing, one Cristeta Pastor and others instituted on September 12, 1992 an action for forcible entry and detainer against Veluz, docketed as Civil Case No. 307, before the Municipal Trial Court of Diffun, Quirino, then presided over by respondent, claiming ownership of the land in question, per TCT No. T-3920, which indicates that the land is situated in Luttuad, Quirino. At the hearing held on November 17, 1992, complainant challenged the jurisdiction of the court contending that the said land is within the territorial limits of Saguday, Quirino, an adjacent town. To resolve the issue of territorial jurisdiction, respondent ordered the relocation and ocular inspection of the land with the technical assistance of the Provincial Environment and Natural Resources Office (PENRO), Bureau of Lands and Register of Deeds. Ocular inspection was set on November 21, 1992. Complainant's counsel, Atty. Quirico Pilotin, when signifying that he could not attend, was directed to send a representative.

At about 10:00 o'clock A.M. of November 21, 1992, respondent judge and Atty. Ernesto Salun-at, counsel for Cristeta Pastor, arrived in the land, and soon after, met Emiliano Veluz.. Respondent asked complainant whether his lawyer sent a representative. The latter, not caring to answer, turned around instead, took a long bolo, and rushed towards respondent and Atty. Salun-at. Respondent and Atty. Salun-at both cautioned complainant to stop approaching them and to drop his weapon. Complainant, however, went on, retorting that he was not afraid of them. Realizing at this point the firm resolve of the complainant to fight it out, respondent judge ran away for safety. Atty. Salun-at and his driver followed suit. And while the three(3) of them were fleeing, complainant continued to hurl threatening remarks at them. When they were finally out of the property in question, SPO3 Jovino Navalta and some court employees arrived. SPO3 Navalta wanted to arrest complainant but respondent dissuaded him from doing so because complainant was armed and he had companions who could harm him. They all turned back and left without any relocation and ocular inspection effected. On the same day, respondent issued an order citing complainant for contempt acts disrespectful towards the court and for disrupting its proceedings. On November 23, 1992, seven (7) policemen went inside the disputed land and arrested complainant by authority of a warrant for his arrest issued by respondent. Complainant was put in jail and remained thereat until December

3, 1992.

Complainant charged that respondent committed grave abuse of authority, prompted by vengeance if not gross ignorance of the law, when he issued his November 21, 1992 order, holding him liable for contempt of court and directing his incarceration until further orders from the court. Complainant argued that even assuming that he committed disrespectful conduct that would merit his conviction for direct contempt, respondent judge had no power to order his indefinite incarceration because he could only fine complainant with ten (10) pesos or order him imprisoned for one (1) day or both in his sound discretion.

Complainant also charged respondent judge with partiality in not similarly citing Atty. Salun-at for contempt notwithstanding the fact that the latter had a handgun tucked at his waist displaying it in full view of the judge and that Atty. Salun-at shouted threatening words at complainant in the respondent judge's presence.

In his Comment,[2] respondent justified his disputed order, stressing that "the acts and behavior displayed by herein complainant during the aborted ocular inspection/survey and the spectacle of a judge fleeing a scared cat from the bolo-wielding complainant, in the presence of others, so violated the authority of the court, rendering it so helpless, utterly embarrassed and degraded." [3] Respondent claimed that said acts and behavior, contemptible as they are, deserve to be summarily punished by the court if only to uphold the court's authority and majesty. Respondent did not order complainant's immediate release for fear that complainant might continue to obstruct court proceedings.

Respondent describes a figment of complainant's imagination the allegation that Atty. Ernesto Salun-at had a gun tucked in his waist, the fact being that Atty. Salun-at did not have a gun.

By its resolution, dated July 12, 1993,[4] this court referred this case to Executive Judge Gregorio A. Buenavista of the Regional Trial Court of Cabarroguis, Quirino for investigation, report and recommendation. This case was eventually assigned to Judge Wilfredo P. Ambrosio of the Regional Trial Court, Branch 32, Cabarroguis, Quezon, who took over the case from Judge Carlos T. Aggabao, the latter, having retired of March 31, 1995.

The investigating judge made the following conclusions and recommendations:

After examining and evaluating the evidence presented before us, we honestly believe that the complaint should be dismissed for want of basis and merit. The claim of complainant that respondent was not a fair judge because he did not cite Atty. Salun-at for contempt is utterly absurd. The act of Atty. Salun-at in having a handgun tucked on his waist and shouting (at him- Veluz) had nothing to do with the aborted relocation and ocular inspection of the land subject of the forcible entry case in respondent's court. But had complainant only heeded Atty. Salun-at's plea for him to stop approaching with a long bolo and calmed (sic) down, the probability was that the relocation or even only the ocular inspection could have continued. It is to be emphasized that aborted ocular inspection when so ordered is a part of court proceedings in a given instance. To the mind of respondent the disruption was attributable to complainant Veluz and to he charged him for direct contempt.

In citing him for direct contempt of court, complainant claims that respondent acted with grave abuse of authority if not gross ignorance of the law. This we find to be untenable. We believe respondent acted in good faith and with the dictate of his conscience in stating that what he did is well within the ambit and spirit of the law in Sec. 1, Rule 71 of the Revised Rules of Court. Thus respondent averred 'that the acts of complainant in that aborted ocular inspection and relocation survey are contemptible deserving to be summarily punished by the courts if only to uphold their authority and majesty.'

WHEREFORE, in the light of the foregoing, we found no valid ground for disbarment of respondent and hereby respectfully recommended the case be dismissed." [5]

On January 27, 1997, the court referred this case to the OCA for evaluation report and recommendation. Acting through Senior Deputy Court Administrator Reynaldo L. Suarez, the Office of the Court Administrator found no compelling reason to disturb the findings and recommendation of Judge Wilfredo P. Ambrosio, and accordingly, concurred with Judge Ambrosio's recommendation that the instant administrative complaint be dismissed for lack of merit.

The present charges against respondent stemmed from his order of November 21, 1992 which reads:

“ORDER

For displaying contemptuous and disrespectful behavior during the scheduled relocation survey, defendant Emiliano Veluz is hereby cited for direct contempt of court. The Chief of Police of the Philippine National Police of Diffun, Quirino is hereby directed to cause the arrest and detention of defendant Emiliano Veluz and to keep him behind bars until further orders from the court.”[6]

Complainant's acts of rushing towards respondent and Atty. Salun-at with a long bolo evidently aimed at preventing the latter's entry to the disputed land for the scheduled ocular inspection/relocation survey coupled with complainant's threatening remarks hurled at them as they were fleeing, undoubtedly constitute direct contempt of court deserving to be summarily punished. Respondent was, therefore, justified in holding complainant liable for direct contempt of court pursuant to 'section 1, Rule 71 of the Revised Rules of Court. However, when respondent ordered complainant's indefinite incarceration, he cannot be said to have acted in accordance with law. Section 1, Rule 71 of the Revised Rules of Court clearly provides that conviction for direct contempt in an inferior court carries with it a punishment of imprisonment not exceeding one (1) day or a fine not exceeding ten (10) pesos,[7] or both. Hence, the complaint herein is not exactly without basis. But, as found by the investigating judge, concurred in by the Office of the Court Administrator, respondent had acted in good faith, honestly believing that what he did was well within the ambit and spirit of the applicable law. Worth noting is the respondent's explanation that the overriding consideration in the stay of complainant's release from prison was to prevent him from further obstructing the court's proceedings as well as form risking the life and limb of respondent himself and those of his court staff while in the process of conducting the ocular inspection/relocation survey.

Respondent's good faith, notwithstanding, we cannot close our eyes to the fact that respondent committed a blunder for which he should at least be admonished for having failed to exercise that degree of care required of any judge in the correct and prompt administration of justice.[8] He ought to be reminded that it is highly imperative that a judge should be conversant with basic legal principles.[9] However, as disclosed by the record, respondent had already resigned from the bench, his resignation having been accepted by the President on December 7, 1993. Hence, the instant complaint for disciplinary action has already become moot and academic.

As regards the complaint for disbarment, we hold that the acts complained of do not constitute a valid ground thereof.

WHEREFORE, the instant administrative complaint for disbarment is DISMISSED for lack of merit. The administrative complaint for gross ignorance of the law is likewise DISMISSED for having been rendered moot and academic.

Let a copy of this resolution be attached to the respondent's record on file.

SO ORDERED.

[1] Annex “D”, Rollo, p. 80.

[2] Rollo, pp. 46-66.

[3] Id., p. 58.

[4] Rollo, p. 43.

[5] Recommendation of the Investigating Judge, pp. 6-7.

[6] See Note 1.

[7] Under the 1997 Rules of Civil Procedure, the amount of the fine that may be imposed as punishment for direct contempt in a lower court is not to exceed Two Hundred Pesos.

[8] Rolloque vs. Court of Appeals, 233 SCRA 534 [1995].

[9] Munoz vs. Ariño, 241 SCRA 478, 485 [1995].

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