

## GREGORIO R. ABAD, COMPLAINANT, VS. ILDEFONSO BLEZA, RESPONDENT.

*Adm. Case No. R-227-RTJ. October 13, 1986*

Ponente: GUTIERREZ, JR., J.

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### GUTIERREZ, JR., J.:

Two administrative cases were filed against Judge Ildefonso Bleza of the Regional Trial Court, Branch XIX at Bacoor, Cavite, the first when he was contemplating optional retirement due to poor health and the second, after he had filed his application. Bleza's entitlement to disability retirement benefits depends on the resolution of these cases.

On October 15, 1984, Lieutenant Colonel Gregorio Abad of the Philippine Constabulary charged Judge Bleza with rendering a decision with malice, ignorance of the law, grave abuse of discretion, and misconduct as a judge. The complaint is docketed as Adm. Case No. R-227-RTJ.

After a cockfight held at the Imus, Cavite cockpit on July 19, 1981, complainant Abad and one Potenciano Ponce had a verbal tussle which culminated in Abad's being shot in the chest by Francisco Sabater, Jr., an alleged bodyguard of Ponce. Sabater, was charged with frustrated homicide and Potenciano Ponce with attempted homicide before the Regional Trial Court where the respondent presides.

The prosecution alleged that during the aforementioned cockfight, Abad's gamecock lost to the one owned by Ponce. A remark by Ponce that complainant's cock was weak and lacked more care (mahina, kulang sa alaga) led to a heated argument between the two but they were pacified by certain local officials. Abad then went to the cockpit carinderia to take a snack. Ponce followed him shouting, "Where is the Colonel, walang Colonel Colonel sa akin, papatayin ko yan, babarilin ko yan". As Ponce was approaching and holding a gun aimed at Abad, the latter grabbed a glass and hurled it at Ponce who was hit at the head, causing him to fall down in a sitting position. While thus seated, Ponce's gun was taken by his bodyguard, Francisco Sabater, Jr. Abad was then advised by a certain Captain Diaz to go home. Outside the cockpit gate, bodyguards of Ponce approached Abad and engaged him in a fistfight. At this juncture, Francisco Sabater, Jr., upon the order of Ponce, fired six (6) shots at Abad, the last one hitting him on the chest, the slug exiting at the back of his right shoulder. Abad was rushed to the Cavite Medical Center in Cavite City where he underwent an operation. On the 4th day he was transferred to the V. Luna Hospital at Quezon City where he was again operated on to remove the slug imbedded in his back. He stayed in the hospital for 123 days.

Sabater and Ponce presented a contrary version of the incident.

Potenciano Ponce testified that on his way out of the cockpit, Abad uttered obscenities against him which he answered in kind. However, common friends like Mayor Jamir of Imus, Barangay Captain Enrique Diaz, and Cavite City Fiscal Gabriel pacified them. After cooling off, Ponce decided to go home but on his way out of the main gate of the cockpit, Abad, who was drinking beer at a carinderia, hurled invectives at him. Ponce then approached Abad to ask for an explanation. Abad hit him on the forehead with a bottle of beer causing him to fall

down unconscious. Upon regaining consciousness, he was brought to the Cavite Medical Center. Ponce denied having aimed his gun at Abad, insisting that his gun was never taken out of its holster. He also contradicted the testimony of Abad that his permit to carry his firearm outside of his residence was no longer valid on July 19, 1981, stressing that his permit expired on November 18, 1981.

Francisco Sabater, Jr. testified that he was at the cockpit that same afternoon as a bet taker or casador. He declared that at about 5:30 in that afternoon, he heard Abad utter the following words at Ponce: "Putang-ina mo, Pare pipilipitin ko ang leeg mo". Ponce reacted by approaching Abad who then took hold of a beer bottle from the table and hurled it at Ponce hitting him on the forehead. Ponce fell down. Thereupon, Francisco Sabater, Jr., took the gun of Ponce and as Abad refused to be pacified, he went outside the cockpit and fired the gun five (5) times upwards to call the attention of the authorities. When Abad approached him, holding a broken bottle of beer and tried to stab him with it, he was forced in self-defense to fire the gun at Abad who was hit on the chest.

On August 11, 1984, the respondent judge promulgated his decision, the dispositive portion of which reads as follows:

"WHEREFORE, in Criminal Case No. B 82-119, entitled People v. Potenciano Ponce y Dayacap, for Attempted Homicide, said accused is hereby ACQUITTED for insufficiency of evidence, with cost de oficio. The case bond posted in his favor is ordered reimbursed to him by the Municipal Treasurer of Bacoor, Cavite.

"In Criminal Case No. B-82-57, entitled People v. Francisco Sabater, Jr. for Frustrated Homicide, said accused is hereby found guilty beyond reasonable doubt of the offense of Frustrated Homicide as defined and penalized under Art. 250 of the Revised Penal Code, with the mitigating circumstances of voluntary surrender, incomplete self-defense and without any intention to kill the victim, without any aggravating circumstances to offset the same and applying the Indeterminate Sentence Law as amended, he is sentenced to suffer imprisonment ranging from four (4) months and twenty (20) days of arresto mayor, as minimum, and to indemnify the victim the sum of P9,750.00 for medical and hospital expenses, without subsidiary imprisonment in case of insolvency and to pay the cost."

It is this decision which forms the basis of Abad's complaint. On August 23, 1985, we referred this case to Associate Justice Santiago Kapunan of the then Intermediate Appellate Court for investigation and recommendation. The investigating Justice submitted the following recommendation:

"Coming to the question of respondent's culpability of the charges thus levelled against him on the basis of the facts, the arguments and the applicable provisions of law, it appears inescapable that respondent has not committed any wrongdoing to evoke disciplinary action in acquitting Ponce of attempted homicide. The ground for acquittal was insufficiency of evidence due to inconsistencies of the testimonies of the prosecution witnesses which he specifically pointed out in the decision. In addition, respondent found that Ponce never pulled the gun tucked at his waist during the incident, although prosecution witnesses testified otherwise. In the face of conflicting evidence, it is difficult to impute dishonesty and unfairness to respondent in arriving at his conclusion as to which side told the truth. And even if he made an error in his perception of the facts as he saw them, it cannot be justly presumed that he did it in bad faith or with malicious intent. For not every error or mistake of a judge in the performance of his duties makes him liable therefor. To hold a judge administratively accountable for every erroneous ruling or decision he renders, assuming that he has erred, would be nothing short of harassment and would make his position unbearable (*Dizon v. De Borja*, G.R. Adm. Case No. 163-J, Jan. 28, 1971; *Gamo v. Cruz*, G.R. Adm. Matter No. 467-NJ, October 22, 1975; *Rodrigo v. Quijano*, G.R. Adm. Matter No. 731-MJ, Sept. 9, 1977; *Sec. of Justice v. Marcos*, G.R. Adm. Matter No. 207 J, April 22, 1977). For no one called upon to try the facts or interpret the law can be infallible in his judgment (*Paulino v. Guevarra*, G.R. Adm. Matter No. 584-CJ, March 30, 1977; *Lopez v. Corpuz*, G.R. Adm. Matter No. 425 MJ, Aug. 31, 1977).

"Indeed, assuming that Ponce really pulled out his gun and pointed it at Abad as he approached him, it would not be easy to fault respondent's reasoning that Ponce had ample opportunity to fire the gun at the victim if he had the intention to kill him. All what Ponce had to do was to press the trigger while Abad was about to hurl the bottle or glass at him.

On this point, Justice Luis B. Reyes' Revised Penal Code (p. 100, 1981 ed) has this to say:

"To constitute attempted homicide the person using a firearm must fire the same, with intent to kill, at the offended party, without however inflicting a mortal wound on the latter.'

"On the matter of the non-imposition by respondent of subsidiary imprisonment in case of insolvency, the decision did not mete out the penalty of fine on Sabater. There being none, subsidiary imprisonment could not have been imposed, pursuant to Art. 39 of the Revised Penal Code.

"Respondent, however, was in error in appreciating as a mitigating circumstance 'lack of intention to kill the victim' in fixing the penalty imposed on Sabater.

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"The kind of weapon used by Sabater which was a .38 revolver and the location of the wound of Abad would undoubtedly give the presumption that Sabater had the intent to kill and which inevitably led respondent to convict him of the crime of frustrated homicide. For in attempted/frustrated homicide the offender must have the intent to kill the victim. If there is no intent to kill on the part of the offender he is only liable for physical injuries. Therefore, the fact alone that respondent found Sabater guilty of the crime of frustrated homicide would prove that he had no doubt in his mind that Sabater had the intent to kill Abad. Respondent's appreciation as mitigating circumstance of lack of intent to kill in favor of Sabater is palpably out of place. Presumably, what respondent had in mind was to consider the mitigating circumstance of lack of intention to commit so grave a wrong as that committed under Art. 13 of the Revised Penal Code, which is different from lack of intention to kill.

"It is believed that while respondent committed an error thus described, the same was done without malice or deliberate intent to perpetrate an injustice. But in any case, there was negligence for which he should be reprimanded.

"ACCORDINGLY, the undersigned recommends that respondent be reprimanded, with warning that a similar transgression in the future will be more severely dealt with."

The recommendation is well taken although the reprimand may be dispensed with considering the respondent's poor health and his impending retirement.

As a matter of public policy, in the absence of fraud, dishonesty or corruption, the acts of a judge in his judicial capacity are not subject to disciplinary action, even though such acts are erroneous (*Revita v. Rimando*, 98 SCRA 619). However, while judges should not be disciplined for inefficiency on account merely of occasional mistakes or errors of judgment, yet it is highly imperative that they should be conversant with basic legal principles (*Ubongon v. Mayo*, 99 SCRA 30) They are called upon to exhibit more than just a cursory acquaintance with statutes (*Aducayen v. Flores*, 51 SCRA 78) and to keep themselves abreast of the latest laws, rulings and jurisprudence affecting their jurisdiction (*Vasquez v. Malvar*, 85 SCRA 10).

In the case of *Ajeno v. Inserto* (71 SCRA 166, 172), this Court held that: "x x x Even in the remaining years of his stay in the judiciary, he should keep abreast with the changes in the law and with the latest decisions and precedents. Although a judge is nearing retirement, he should not relax in his study of the law and court decisions. Service in the judiciary means a continuous study and research on the law from beginning to end. x x x"

The records fail to show malice, ill-will or even bias on the part of respondent judge. His decision pointed out, one by one, the glaring inconsistencies in the prosecution's evidence which led to the exculpation of defendant Ponce. In *Pabalan v. Guevarra* (74 SCRA 53, 58), this Court held that "x x x Even on the assumption that the judicial officer has erred in the appraisal of the evidence, he cannot be held administratively or civilly liable for his judicial action. A judicial officer cannot be called to account in a civil action for acts done by him in the exercise of his judicial function, however erroneous x x x."

The second case docketed as Administrative Matter No. R-561-RTJ was filed by Crisanto P. Cruz on December 11, 1985, against Bleza for knowingly rendering a wrong judgment. This case originated from the decision in an action for damages filed by one Pacifico Ocampo against complainant Cruz.

Pacifico Ocampo alleged in the damage suit that on April 16, 1984, he filed with the Manila International Airport Authority (MIAA) an administrative complaint against a certain Ricardo F. Ortiz; that complainant Cruz persuaded him to withdraw the complaint with a threat that if he would not withdraw the same, Cruz will cause his dismissal from the Fire and Rescue Division of the MIAA; that because he did not accede to Cruz' demand, the latter filed against him an administrative case for inefficiency and serious neglect of duty, insubordination, absenteeism, and habitual tardiness; that because of that baseless complaint, he has suffered embarrassment, mental shock, anxieties, sleepless nights, and loss of appetite. In his answer, Cruz denied knowledge of the administrative case between Pacifico Ocampo and Ricardo Ortiz and averred that Ocampo's inefficiency, absenteeism, and tardiness are substantiated by company records.

After trial, the respondent judge ruled in favor of Pacifico Ocampo. He ordered complainant Cruz to pay Ocampo the sum of P150,000.00 for moral damages, P30,000.00 for exemplary damages and P5,000.00 for attorney's fees.

The administrative complaint filed by Cruz alleged that the respondent judge disregarded the defendant's incontrovertible evidence and knowingly rendered a wrong judgment against him.

In his comment, the respondent judge alleged that the decision, subject matter of this case, is pending appeal before the Intermediate Appellate Court. This allegation was not refuted by the complainant. Thus, any action we can take in this case would be premature. For only after the appellate court holds in a final judgment that a trial judge's alleged errors were committed deliberately and in bad faith may a charge of knowingly rendering an unjust decision be levelled against him. This is the pronouncement of this Court in several cases (See *Garcia v. Alconcel*, 111 SCRA 178; *Sta. Maria v. Ubay*, 87 SCRA 179; and *Gahol v. Riodique*, 64 SCRA 494). In the meantime, the presumption is that official duty was regularly performed.

WHEREFORE, IN VIEW OF THE FOREGOING, the administrative cases are hereby, DISMISSED. The recommendation dated June 6, 1984 submitted by the Court Administrator that the respondent judge be retired from office due to hypertensive heart disease and congestive heart failure with cardiomegally (enlarged left ventricle) under Permanent Total Disability, as endorsed by Dr. Antonio Valero of this Court, is hereby APPROVED.

### **SO ORDERED.**

Feria, Yap, Fernan, Narvasa, Melencio-Herrera, Alampay, Cruz, Paras, and Feliciano, JJ., concur.

Teehankee, C.J., on leave.

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