

JULIANA P. AREVALO, SOUVEN P. AREVALO AND OSCAR P. AREVALO, JR. COMPLAINANTS, VS. HON. ELI C. POSUGAC, PRESIDING JUDGE, MUNICIPAL TRIAL COURT, SIRUMA, CAMARINES SUR, RESPONDENT.

A.M. No. MTJ-19-1928 [Formerly OCA I.P.I. No. 17-2910-MTJ]. August 19, 2019

Ponente: A. REYES, JR., J.

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A. REYES, JR., J.:

This resolves the administrative complaint filed by Juliana P. Arevalo (Juliana) and her sons, Souven P. Arevalo (Souven) and Oscar P. Arevalo, Jr. (Oscar, Jr.) (complainants) against Presiding Judge Eli C. Posugac (respondent judge) of the Municipal Trial Court (MTC), Siruma, Camarines Sur, for acts that allegedly constitute grave misconduct, gross ignorance of the law and acts resulting in the complainants' arbitrary arrest, in relation to Criminal Case (Crim. Case) Nos. S-11-1863 and S-11-1864 for Grave Threats.

The Antecedents

The complainants claimed to be the lawful possessors of an agricultural land identified as Lot 56-GSS-306-D (subject land) and situated in Pinamandayanan, Sitio Guruyan, San Ramon, Siruma, Camarines Norte, which was mortgaged to them in 2006 by the heirs of Juan Serrano, the land's registered owners under Original Certificate of Title (OCT) No. 387.[1]

On August 26 and 31, 2011, two complaints for Grave Threats docketed as Crim. Case No. S-11-1863 and Crim. Case No. S-11-1864, respectively, were instituted with the MTC of Siruma, Camarines Sur against the complainants[2] by Junelda A. Lombos (Junelda), who likewise claimed ownership over the subject land. She alleged in her complaints:

Crim. Case No. S-11-1863

The undersigned private complainant under oath accuses (husband and wife) Oscar Arevalo, Juliana P. Arevalo and their sons Darwin "Dawak" P. Arevalo, Ricardo "Buloy" P. Arevalo, Oscar P. Arevalo, Jr., Soyong P. Arevalo and Felix P. Arevalo, (two unidentified persons), Filipinos, all of legal ages and one alleged minor, all residents of Brgy. San Ramon, Siruma, Camarines Sur for the crime of GRAVE THREATS committed as follows:

That on or about 5:00 in the afternoon of March 1, 2010, at Brgy. San Ramon, Municipality of Siruma, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused, while [Junelda] and her relatives were preparing for the burial of her late mother Ester M. Zantua-Agravante in her own property located at Lot 50, Pinamandayanan, San Ramon, Siruma, Camarines Sur, Sps. Oscar Arevalo and Juliana P. Arevalo and their sons block[ed] the barangay road using cut trees, after more or less fifty (50) meters away from the barangay road seven (7) armed men holding sharp jungle bolos were stationed side by side of the road, while in the presence and within the hearing distance of several persons, did then and there [willfully], unlawfully and feloniously [threaten] the undersigned complainant, by then and there, directing to

the undersigned complainant the following threatening remark to wit: KUNG GARADANAN! GARADANAN!" PASALAMAT KA TA DAKUL KAMO!! TA KUNG DAI... GADAN KANA!.." (If it is killing, then it is killing. You are lucky because there are many of you. If not, you are already dead)" and other words of similar import, thereby casting fear, dishonor, discredit and contempt[t] upon the person of the undersigned.

ACTS CONTRARY TO LAW.[3] (Emphasis in the original)

Crim. Case No. S-11-1864

The undersigned private complainant under oath accuses (husband and wife) Oscar Arevalo, Juliana P. Arevalo, both of legal ages, Filipinos, both residents of Brgy. San Ramon, Siruma, Camarines Sur for the crime of GRAVE THREATS committed as follows:

That on or about 10:00 in the morning of April 28, 2010, at Brgy. San Ramon, Municipality of Siruma, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused, while complainant [was] in the barangay hearing in Brgy. San Ramon, Siruma, [Camarines] Sur, Sps. Oscar Arevalo and Juliana P. Arevalo while in the presence and within the hearing distance of several persons, did then and there [willfully], unlawfully and feloniously [threaten] the undersigned complainant, by then and there directing to the undersigned complainant the following threatening remark to wit: "DAI KA PWEDING MAGBUGTAK NING TAO MO SA PINAMANDAYAN! ITAO MO SAKUYA ANG POSSESSION NG PINAMANDAYANAN!! SUBUKAN MONG DAI ITAO!!! TA MAKUKUA MO ANG HINAHANAP MO!! "Magpirit Ka Sa Pinamandayanan!! Ta Dai Ka Na Makakauli Ning Buhay!!" (DO NOT PUT YOUR OWN PEOPLE IN PINANDAMAYAN! YOU GIVE ME THE POSSESSION OF PINAMANDAYAN! TRY NOT TO! THEN YOU WILL GET WHAT YOU ARE LOOKING FOR! If you force yourself in Pinandayan!! Then you are not going home alive!!!) and other words of similar import, thereby casting fear, dishonor, discredit and contempt[t] upon the person of the undersigned.

ACTS CONTRARY TO LAW.[4] (Emphasis in the original)

The respondent judge forthwith issued on August 31, 2011 a Warrant of Arrest[5] in each case and set the bail for the release of each accused per case at P12,000.00. On September 23, 2011, at around 6 o'clock in the evening, Juliana and Souven were arrested at their residence by the Philippine National Police of Siruma, Camarines Sur. They were surprised upon arrest, as they were then unaware of any criminal case that was filed against them.[6]

Oscar, Jr., then still a high school student, was also shocked when he learned from neighbors upon his return home from school that day about the arrest of his mother and older brother. On September 26, 2011, when he came to visit Juliana and Souven on his way to school, he was also arrested and brought to a prison cell. Saddened and shocked by their detention, the complainants insisted that Junelda's charges against them were false.[7]

The complainants were released from detention on September 27, 2011, after their motion to reduce bail to P3,000.00 was granted. They left the subject land even when their family depended on farming and the produce of the property. They allegedly wanted to prevent further case fabrications from Junelda, a wife of a lawyer in Metro Manila and whose representative, Leonila B. Royo, immediately gained possession of the disputed property.[8]

Eventually, on November 11, 2011, the respondent judge issued an Order[9] that dismissed the consolidated criminal cases due to a lapse that affected the court's jurisdiction. He then forwarded the cases to the Provincial Prosecutor's Office for preliminary investigation, as it explained:

After reviewing the records of the above-entitled cases, the Court discovered, albeit belatedly, that the imposable penalties of the offenses charged exceed four (4) years, two (2) months, and one (1) day, which in effect necessitates the requisite preliminary investigation under the Rules, which was not complied with; hence, this Court does not have jurisdiction over said cases.

To rectify the said procedural lapse, the above-entitled cases are hereby ordered dismissed. Let the records of the above-entitled cases be forwarded to the Provincial Prosecutor's Office for the conduct of the required preliminary investigation.

Let the respective bail posted by the accused be immediately released to them.

SO ORDERED.[10]

The Provincial Prosecutor's Office also later dismissed both cases.[11] It explained that "[t] here [was] no sufficient ground to engender a well- founded belief that the crimes as charged were committed, and that the complainants [were] probably guilty thereof." [12] The private complainant failed to sufficiently identify the person who uttered the complained threatening remarks. Her accounts of factual incidents were also found by the prosecutor to be marred with material inconsistencies.

The Administrative Complaint

On the basis of the foregoing circumstances, the complainants initiated this administrative case against the respondent judge. The acts complained of allegedly violated their personal liberty, as they were arbitrarily detained from September 23, 2011 to September 27, 2011. Their arrest likewise resulted in severe emotional suffering and permanent, grave social disgrace and shame, especially to Oscar, Jr., who likewise lost his trust in the law enforcement and judicial systems. Complainants invoked the respondent judge's duties as embodied in the Code of Judicial Conduct and the rules on judicial ethics, particularly those that pertained to competence, diligence, integrity and independence.[13]

The complainants pointed out that specifically for Crim. Case No. S-11-1863, the charge was Grave Threats without condition, which should have been covered by the Rules on Summary Procedure where no warrant of arrest is sanctioned. For Crim. Case No. S-11-1864, the charge was Grave Threats with condition, but the purpose was not attained, as covered by par. 1, Article 282 of the Revised Penal Code. Since the imposable penalty for the charge was prison correccional, a preliminary investigation was necessary in the case.[14]

In its 1[st] Indorsement[15] dated May 18, 2017, the Office of the Court Administrator (OCA) referred the letter-complaint, docketed as OCA I.P.I. No. 17-2910-MTJ, to the respondent judge for comment. In compliance therewith, the respondent judge filed a Consolidated Comment[16] by which he admitted errors in his previous Orders, but raised the following as defenses:

x x x x

2. Anent Crim. Case No. S-11-1863 and Crim. Case No. S-11-1864 where both complaints alleged that respondent "unlawfully, arbitrarily, wrongfully and maliciously issued a warrant of arrest" against the complainants in Admin. Case No. 17-2910-MTJ, the said act was an honest oversight on the part of the Respondent devoid of any malice, bad faith or mal-intent;
3. The Respondent does not even know the complainants, there is no reason for him whatever to harbor any ill-will against them. Why would he intentionally have them arrested?
4. However, this honest mistake was realized by the respondent and was in fact corrected in his Order dated 11 November 2011 x x x; this act of rectifying a realized error negates the allegation of bad faith in the complaints;
5. The Respondent made an erroneous interpretation of the applicable procedural rules by not forwarding the cases to the Office of the Provincial Prosecutor for preliminary investigation as required by Sec. 1, Rule 112 when the applicable penalty is prison correccional.

6. "It is elementary that not every error or mistake that a judge commits to the performance of his duties renders him liable, unless he is shown to have acted in bad faith or with deliberate intent to do an injustice. Good faith and absence of malice, corrupt motives or improper considerations are sufficient defenses in which a judge charged with ignorance of the law can find refuge" *Guillermo vs. Judge Reyes, Jr.* (240 SCRA 154).

7. "It bears reiterating that to constitute gross ignorance of the law, it is not enough that the subject's decision, order or actuation of the judge in the performance of his official duties is contrary to existing law and jurisprudence but, most importantly, he must be moved by bad faith, fraud, dishonesty or corruption" *Heirs of Nasser D. Yasin vs. Felix* (250 SCRA 545).

8. The realization of the procedural error honestly committed by the Respondent and the rectification thereof belies the bad faith, malice or corrupt intentions of the Respondent.

x x x [17]

The complainants filed their Reply[18] and pointed out that the respondent judge's actions negated his claims of good faith, honesty and lack of ill intent. He should be declared liable for his wrongful issuance of the two warrants of arrest since he was negligent and reckless in his application of basic rules of procedure. Complainants were unlawfully deprived of their liberty without due process, and their basic right under Section 1, Article III of the 1987 Constitution was breached. The respondent judge's transgression of established rules indicated gross ignorance of the law.

In its Report[19] dated July 16, 2018, the OCA found the administrative complaint meritorious and presented the following recommendations:

1. the instant administrative complaint be RE-DOCKETED as a regular administrative matter; and
2. [the respondent judge] be found GUILTY of Gross Ignorance of the Law, and, accordingly, be FINED in the amount of Twenty-One Thousand Pesos (P21,000.00), with a WARNING that a repetition of the same or any similar act shall be dealt with more severely.[20] (Emphasis in the original)

The Court's Ruling

The Court agrees with the OCA's finding that respondent judge is administratively liable for gross ignorance of the law. The rules of procedure that the magistrate breached were elementary. The effects of his errors on the complainants were serious, especially as the rules that were disregarded were safeguards for the constitutional rights of the complainants to due process, speedy disposition of cases and protection of liberty.

In *Department of Justice v. Judge Mislang*,[21] the Court held:

Gross ignorance of the law is the disregard of basic rules and settled jurisprudence. A judge may also be administratively liable if shown to have been motivated by bad faith, fraud, dishonesty or corruption in ignoring, contradicting or failing to apply settled law and jurisprudence. Though not every judicial error bespeaks ignorance of the law and that, if committed in good faith, does not warrant administrative sanction, the same applies only in cases within the parameters of tolerable misjudgment. x x x Where the law is straightforward and the facts so evident, failure to know it or to act as if one does not know it constitutes gross ignorance of the law. A judge is presumed to have acted with regularity and good faith in the performance of judicial functions. But a blatant disregard of the clear and unmistakable provisions of a statute, as well as Supreme Court circulars enjoining their strict compliance, upends this presumption and subjects the magistrate to corresponding administrative sanctions.

For liability to attach for ignorance of the law, the assailed order, decision or actuation of the judge in the performance of official duties must not only be found erroneous but, most importantly, it must also be established that he was moved by bad faith, dishonesty, hatred, or some other like motive. Judges are expected

to exhibit more than just cursory acquaintance with statutes and procedural laws. They must know the laws and apply them properly in all good faith. Judicial competence requires no less. Thus, unfamiliarity with the rules is a sign of incompetence. Basic rules must be at the palm of his hand. When a judge displays utter lack of familiarity with the rules, he betrays the confidence of the public in the courts. Ignorance of the law is the mainspring of injustice. Judges owe it to the public to be knowledgeable, hence, they are expected to have more than just a modicum of acquaintance with the statutes and procedural rules; they must know them by heart. When the inefficiency springs from a failure to recognize such a basis and elemental rule, a law or a principle in the discharge of his functions, a judge is either too incompetent and undeserving of the position and the prestigious title he holds or he is too vicious that the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority. x x x[22] (Emphasis supplied)

In the present administrative case, the respondent judge committed two errors that covered distinct and basic rules on summary procedure and preliminary investigations. Specifically, the Revised Rules on Summary Procedure is explicit on the instruction against the issuance of warrants of arrest in cases covered by it, as it states:

Sec. 16. Arrest of accused. - The court shall not order the arrest of the accused except for failure to appear whenever required. Release of the person arrested shall either be on bail or on recognizance by a responsible citizen acceptable to the court.

Section 1 of Rule 112 of the Revised Rules of Criminal Procedure, on the other hand, prescribes the cases where preliminary investigations are vital, to wit:

Section 1. Preliminary investigation defined; when required. - Preliminary investigation is an inquiry or proceeding to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof, and should be held for trial.

Except as provided in Section 7 of this Rule, a preliminary investigation is required to be conducted before the filing of a complaint or information for an offense where the penalty prescribed by law is at least four (4) years, two (2) months and one (1) day without regard to the fine.

The respondent judge's outright issuance of warrants of arrest against the complainants notwithstanding the applicability of the foregoing rules showed his serious lack of knowledge and understanding of basic legal rules and principles. The applicable rules had long been effective in criminal prosecutions, and the respondent judge could not have presented any acceptable excuse for his failure to know or apply them in the complainant's criminal cases. Even his defense of good faith is rendered futile by considering the nature, extent and effects of his transgressions. The Court held in *Department of Justice v. Judge Misleng*,^[23] that persistent disregard of well-known elementary rules reflects bad faith and partiality.^[24] In *Uy v. Judge Javellana*,^[25] where respondent judge therein also issued a warrant of arrest in a case covered by the rules on summary procedure, it was ruled that:

Every judge is required to observe the law. When the law is sufficiently basic, a judge owes it to his office to simply apply it; and anything less than that would be constitutive of gross ignorance of the law. In short, when the law is so elementary, not to be aware of it constitutes gross ignorance of the law.^[26]

Even the respondent judge's attempt to rectify his mistake, which incidentally was belatedly effected only after the complainants had been arrested, had posted their bail and left the disputed subject of land, fails to vindicate. Magistrates are seriously reminded to be constantly prudent and cautious in their actions, prompted by the truth that the faith of the public in our courts depends principally on the proper discharge of their vital functions. A judge's careful and proper application of basic laws and procedural rules from the onset of criminal cases is warranted, especially as in this case where the respondent judge's ruling to issue warrants of arrest affected complainants' basic constitutional rights.

Considering the circumstances of the present case, the Court deems that the penalty of fine in the amount of Forty Thousand Pesos (P40,000.00) should be imposed upon the respondent judge. This is coupled with a warning that a same or similar act shall be dealt with by the Court more severely. Under Section 8 of Rule 140 of the Rules of Court on the Discipline of Judges and Justices, as amended by A.M. No. 01-8-10-SC, gross ignorance of the law is a serious charge that carries with it the following imposable penalties:

- Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations; Provided, however, That the forfeiture of benefits shall in no case include accrued leave credits;
- Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
- A fine of more than P20,000.00 but not exceeding P40,000.00.

WHEREFORE, the Court finds Presiding Judge Eli C. Posugac, Municipal Trial Court of Siruma, Camarines Sur GUILTY of Gross Ignorance of the Law, for which he is FINED in the amount of Forty Thousand Pesos (P40,000.00), with a WARNING that a repetition of the same or any similar act shall be dealt with more severely.

SO ORDERED.

Peralta (Chairperson), Leonen, Hernando, and Inting, JJ., concur.

[1] Rollo, p 2.

[2] Among several other respondents.

[3] Rollo, p. 10; English translation is as quoted in the administrative complaint, p. 3.

[4] Id. at 11; English translation is as quoted in the administrative complaint, p. 4.

[5] Id. at 12-13.

[6] Id. at 5.

[7] Id. at 5-6.

[8] Id. at 6.

[9] Id. at 39.

[10] Id.

[11] Id. at 14-18.

[12] Id. at 15.

[13] Id. at 8.

[14] Id. at 3-4.

[15] Id. at 33.

[16] Id. at 35-38; to also cover the letter-complaint docketed as OCA I.P.I. No. 17-2911-MTJ.

[17] Id. at 35-36

[18] Id. at 59-62.

[19] Id. at 63-67.

[20] Id. at 67.

[21] 791 Phil. 219 (2016).

[22] Id. at 227-228.

[23] Supra note 21.

[24] Id. at 229.

[25] 694 Phil. 159 (2012).

[26] Id. at 181.

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