

SILAS Y. CAÑADA, COMPLAINANT, VS. JUDGE ILDEFONSO B. SUERTE, RESPONDENT.

A.M. No. RTJ-04-1875 (formerly OCA II No. 03-1916-RTJ). November 09, 2005

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

In a verified letter-complaint dated November 8, 2003, Silas Y. Cañada administratively charged respondent Judge Ildefonso B. Suerte of the Regional Trial Court (RTC), Branch 60, Barili, Cebu, of arbitrary detention punished under Article 124 of the Revised Penal Code and the provisions of Republic Act No. 3019 entitled "Anti-Graft and Corrupt Practices Act" as well as the Canons of Judicial Ethics for having issued an order citing complainant in direct contempt of court and for having ordered his arrest and subsequent detention without affording him the opportunity to post bail. In a sworn affidavit attached to his letter-complaint, complainant alleges:

That on the strength of an illegal contempt order dated August 5, 2003 and issued by Judge Ildefonso B. Suerte of Branch 60, Regional Trial Court, sitting at Barili, Cebu, I was arrested on that same date by elements of the Badian PNP and Alcantara PNP, represented by SPO3 Rufino Tabañag, SPO3 Rolando Caballero, SPO3 Felipe Dinolan, Marcelino Cenarlo, and PO2 Vincent Aguanta.

That despite efforts of my counsels to have me released, Judge Suerte refused to give me my freedom until and unless I withdraw an affidavit that I executed on May 2, 2003 before Prosecutor Jesus P. Feliciano, upon which was based a petition I filed on July 25, 2003 before the Court of Appeals for 'Certiorari and Prohibition With a Prayer for a Temporary Restraining Order' docketed as CA-G.R. No. 78210. This petition sought the prohibition of Judge Suerte from hearing and trying Crim. Cases No. CEB-BRL 900, 906, and 907 pending before said Judge Suerte;

That because of my illegal detention, my counsels filed a petition for Habeas Corpus before the Court of Appeals and it was only when Judge Suerte received the wire from the Court of Appeals that a Writ of Habeas Corpus had been issued in my favor on August 19, 2003 that he released me, but by that time, I had already spent a total of fourteen (14) days at the Barili Municipal Jail;

That this Affidavit is being executed to support a charge of ARBITRARY DETENTION against Judge Ildefonso B. Suerte, SPO3 Rufino Tabañag, SPO3 Rolando Caballero, SPO3 Felipe Dinolan, SPO3 Marcelino Cenarlo, and PO2 Vincent Aguanta, whose addresses are in the letter complaint which covers this Affidavit.[1]

In his Comment dated February 2, 2004, respondent alleged:

The accused, Silas Y. Cañada and now the petitioner in the present complaint OCA IPI No. 03-1916-RTJ, before his arrest was one of the most wanted DRUG PUSHER and ILLEGAL POSSESSOR of short and long firearms, was LEGALLY ARRESTED and LAWFULLY DETAINED. The instant issue was already resolved and decided by CA, Former Twelve Division on October 29, 2003.

No illegal arrest and no arbitrary detention.

I am enclosing herewith certified Xerox copy in nine pages of the decision of the CA, marked as ANNEX 'A'.^[2]

In his report dated June 18, 2004, Court Administrator Presbitero J. Velasco, Jr. made the following findings, to wit:

The warrant of arrest was issued on the basis of the direct contempt order issued by the respondent against the complainant. As a result, complainant was detained for fourteen (14) days and only the writ of habeas corpus issued by the Court of Appeals saved her (sic) from further detention. Within her (sic) 14-day stay in jail, she (sic) was not able to post bond for temporary liberty apparently because the warrant of arrest issued by respondent judge indicated that she (sic) is not entitled to such a privilege. The words 'NO BAIL RECOMMENDED' were written on the face of the warrant of arrest. This is a clear case of gross ignorance of the procedural rule. Section 2, Rule 71 of the 1997 Rules of Civil Procedure is the governing authority on the matter. Its pertinent provision reads as follows, to wit:

SECTION 1. Direct contempt punished summarily.

x x x

SECTION 2. Remedy therefrom – The person adjudged in direct contempt by any court may not appeal therefrom, but may avail himself of the remedies of certiorari or prohibition. The execution of judgment shall be suspended pending resolution of such petition, provided such person files a bond fixed by the court which rendered the judgment and conditioned that he will abide by and perform the judgment should the petition be decided against him.

Clearly, the rule allows the person subject of a direct contempt judgment to file a bond to be fixed by the court as a remedy for the imposition of the judgment. In making it appear that complainant is not entitled to post a bond, respondent has gone beyond his authority as provided under the above-cited procedural rule. What is involved here is a fundamental procedural rule and well-known judicial norm. If the law is so elementary, not to know it or to act if one does not know it, constitutes gross ignorance of the law. (*Luz vs. Yanesa*, March 9, 1999).^[3]

Accordingly, Court Administrator Velasco recommended that respondent judge be fined in the amount of P10,000.00 for gross ignorance of the law and procedure and that he be sternly warned that repetition of the same or similar act shall be dealt with more severely.^[4]

In a Resolution dated September 20, 2004, we required the parties to manifest if they are willing to submit the case for resolution based on the pleadings filed.^[5]

In his Manifestation dated October 15, 2004, complainant indicated his willingness to submit the case for resolution based on the pleadings on record.^[6]

Despite due notice, respondent judge failed to comply with our directive. Hence, the Court concludes that he had waived his right to a full-blown investigation and that he is willing to submit the case for resolution based on the pleadings filed.

We agree with the findings of the OCA that respondent is guilty of gross ignorance of the law and procedure.

At the outset, it must be emphasized that the October 29, 2003 Decision of the Court of Appeals in CA-G.R. SP No. 78506 which was cited by respondent in his Comment to the instant complaint did not tackle the issue of whether or not complainant's arrest and detention were lawful. In fact, the CA, in said case ruled:

An incident of this case that was raised but is outside our jurisdiction to consider under the present petition, is the illegal confinement of the petitioner [referring to herein complainant]. He was confined for fourteen (14) days, or four (4) days in excess of what the Rules of Court allow. Similarly, counsel for petitioner was fined

P3,000, or P1,000 in excess of what the Rules allow. The appropriate redress lies outside the present petition and is for the petitioner and his counsel to avail of under other existing laws and provisions of the Rules, and may take the form, among others, of an administrative complaint directly filed with the Honorable Supreme Court.[7]

Hence, it is wrong for respondent to claim that the CA, in its Decision in CA-G.R. SP No. 78506, has already resolved the issue of the legality of complainant's arrest and detention based on the order issued by the respondent on August 5, 2003.

Coming to the main issue in the present case, granting that there is a valid ground for respondent judge to cite complainant in direct contempt of court, he should have known that under Section 1, Rule 71 of the Rules of Court if the penalty of imprisonment is imposed upon the contemnor by a Regional Trial Court or a court of equivalent or higher rank, the same should not exceed ten days. Section 1, Rule 71 of the Rules of Court clearly provides:

Section 1. Direct contempt, punished summarily. – A person guilty of misbehavior in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, including disrespect toward the court, offensive personalities toward others, or refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when lawfully required to do so, may be summarily adjudged in contempt by such court and punished by a fine not exceeding two thousand pesos or imprisonment not exceeding ten (10) days, or both, if it be a Regional Trial Court or a court of equivalent or higher rank, or by a fine not exceeding two hundred pesos or imprisonment not exceeding one (1) day, or both, if it be a lower court.

In the instant case, the order of respondent judge directing the arrest of complainant did not specify the period within which the latter should be imprisoned. Worse, it is not disputed that complainant was detained for 14 days, 4 days beyond what the above-cited Rule allows. Were it not for the writ of habeas corpus issued by the Court of Appeals, complainant would not have been released from detention.

We also note that respondent judge had likewise cited complainant's counsel in direct contempt for having attached complainant's affidavit in a motion for inhibition filed with the trial court. She was assessed a fine of P3,000.00. Again, this is erroneous because it is clear under Section 1, Rule 71 of the Rules of Court that a penalty of fine imposed by a Regional Trial Court or a court of equivalent or higher rank should not exceed P2,000.00.

As to respondent's denial of complainant's right to post bail, we agree with the Office of the Court Administrator that under Section 2 of the same Rule, the execution of a judgment finding a person in direct contempt of court may be suspended if such person avails of the remedies of certiorari or prohibition, provided he files a bond fixed by the court which rendered the judgment and conditioned that he will abide by and perform the judgment should the petition be decided against him. In the present case, respondent effectively prevented complainant from resorting to his right to post a bond as provided for under the above-cited provision of the Rules of Court by indicating in the arrest warrant he issued that complainant is not entitled to bail. In doing so, respondent unduly deprived the latter of his prized and fundamental right to liberty, a right which is protected and guaranteed by our Constitution.

On the liability of judges in administrative cases filed against them, we held in *Dantes vs. Caguioa*[8] that:

Not every error bespeaks ignorance of the law, for if committed in good faith, it does not warrant administrative sanctions. To hold otherwise would be nothing short of harassment and would make his position doubly unbearable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in judgment.

Good faith, however, in situations of fallible discretion inheres only within the parameters of tolerable judgment and does not apply where the issues are so simple and the applicable legal principles evident and basic as to be beyond possible margins of error.

Thus, where the law violated is so elementary, like Rule 71 which provides the scope of a judge's authority to punish for contempt and the procedure to be followed, for a judge not to know it or to act as if he does not know it constitutes gross ignorance.

In the present case, respondent's patent and gross violations of the provisions of Rule 71 of the Rules of Court, particularly Sections 1 and 2 thereof, cannot be denied nor justified. Respondent judge is guilty of gross ignorance of the law and procedure.

Canon 22 of the Canons of Judicial Ethics prescribes that:

The judge should be studiously careful himself to avoid even the slightest infraction of the law, lest it be a demoralizing example to others.

Canon 31 of the same Canons also provides:

A judge's conduct should be above reproach and in the discharge of his judicial duties he should be conscientious, studious, thorough, courteous, patient, punctual, just, impartial, fearless of public clamour, and regardless of private influence should administer justice according to law and should deal with the patronage of the position as a public trust; and he should not allow outside matters or his private interests to interfere with the prompt and proper performance of his office. (emphasis ours)

In exhibiting gross ignorance of the law and procedure, respondent likewise violated the Canons of Judicial Ethics.

We do not agree with the OCA recommendation that respondent judge be meted out a penalty of fine in the amount of P10,000.00.

Section 8, Rule 140 of the Rules of Court, as amended by A.M. No. 01-8-10-SC,[9] gross ignorance of the law or procedure is classified as a serious charge. Under Section 11(A) of the same Rule, as amended, if the respondent is found guilty of a serious charge, any of the following sanctions may be imposed:

- 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.

However, in two consolidated cases docketed as Administrative Matter Nos. 04-7-373-RTC[10] and 04-7-374-RTC,[11] we found herein respondent judge guilty of gross misconduct, gross ignorance of the law and incompetence. We dismissed him from the service with forfeiture of all retirement benefits and privileges, and with prejudice to being reinstated in any branch of government service, including government-owned and controlled agencies and corporations.[12]

In the present case, respondent would have merited the penalty of dismissal due to the seriousness of his offense and because of the fact that this is his second time to be found guilty of a similar infraction. Nonetheless, per *Leonidas vs. Supnet*[13] while respondent judge has earlier been dismissed from the service, he can still be fined

for gross ignorance of the law and violation of the Canons of Judicial Ethics committed while in office. Thus, we deem it proper to impose on him the maximum fine of P40,000.00.

Finally, we note that the dispositive portion of this Court's Resolution in A.M. Nos. 04-7-373-RTC and 04-7-374-RTC, providing for respondent's dismissal from government service as well as forfeiture of his retirement benefits and privileges, did not expressly state that his accrued leave credits are exempted from being forfeited. Nonetheless, it is clear under the amended provisions of Section 11 (A), Rule 140 of the Rules of Court, as quoted above, as well as under Section 58,[14] Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service[15] that even when the penalty of dismissal from the government service is imposed, accrued leave credits shall not be forfeited.[16] Furthermore, Sections 37 and 65 of Civil Service Commission Memorandum Circular No. 41 -- Series of 1998 as amended by MC No. 14, Series of 1999 --provide:

Section 37. Payment of terminal leave.- Any official/employee of the government who retires, voluntarily resigns, or is separated from the service and who is not otherwise covered by special law, shall be entitled to the commutation of his leave credits exclusive of Saturdays, Sundays and Holidays without limitation and regardless of the period when the credits were earned.

Section 65. Effect of decision in administrative case. – An official or employee who has been penalized with dismissal from the service is likewise not barred from entitlement to his terminal leave benefits.[17]

Hence, the penalty of fine imposed on respondent shall be deducted from his accrued leave credits.

WHEREFORE, respondent, Judge Ildefonso B. Suerte, is found guilty of gross ignorance of the law and procedure and violation of the Canons of Judicial Ethics. He is ORDERED to pay a FINE in the amount of FORTY THOUSAND PESOS (P40,000.00), which shall be deducted from his accrued leave credits; and, in the event that his leave credits be found insufficient to answer for the said fine, the respondent shall pay the amount or the balance thereof, as the case may be, to the Court within ten (10) days from the date of finality of herein Resolution.

SO ORDERED.

Puno, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, and Garcia, JJ., concur.

Davide, C.J., on official leave.

Sandoval-Gutierrez, Corona, and Chico-Nazario, J., on leave.

[1] Rollo, p. 2.

[2] Id., p. 32.

[3] Id., p. 43.

[4] Id., p. 44.

[5] Id., p. 45.

[6] Id., p. 48.

[7] Annex "A" of Respondent's Comment, Rollo, pp. 39-40.

[8] A. M. No. RTJ-05-1919, June 27, 2005.

[9] The amendments took effect on October 1, 2001.

[10] Re: Report on the Judicial Audit Conducted in the RTC, Branch 60, Barili, Cebu, December 17, 2004, 447 SCRA 246.

[11] Re: Violation of Judge Ildefonso Suerte, RTC, Branch 60, Barili, Cebu, of Administrative Order No. 36-2004 dated March 3, 2004; December 17, 2004, 447 SCRA 246.

[12] Resolution dated December 17, 2004.

[13] A.M. No. MTJ-02-1433, February 21, 2003, 398 SCRA 38, 51.

[14] Sec. 58. The penalty of dismissal shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for re-employment in the government service, unless otherwise provided in the decision.

[15] CSC Memorandum Circular No. 19, Series of 1999.

[16] Amane vs. Arce, A.M. No. P-94-1080, September 2, 2003; Madredijo, et al. vs. Layao, Jr., A.M. No. RTJ-98-1424, Nov. 20, 2001.

[17] Paredes vs. Padua, A.M. No. CA-91-3-P, April 14, 2004, 427 SCRA 134, 140.

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