

JACINTO MAPPALA, COMPLAINANT, VS. JUDGE CRISPULO A. NUNEZ, REGIONAL TRIAL COURT, BRANCH 22, CABAGAN, ISABELA, RESPONDENT.

A.M. No. RTJ-94-1208. January 26, 1995

Ponente: QUIASON, J.

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QUIASON, J.:

This is an administrative complaint filed by Jacinto Mappala against Judge Crispulo A. Nunez, the presiding judge of the Regional Trial Court, Branch 22, Cabagan, Isabela for gross inefficiency, serious misconduct and violation of the Code of Judicial Ethics.

I

In 1989, the Provincial Prosecutor of Isabela filed: (1) an information against Alejandro Angoluan for illegal possession of a firearm in violation of P.D. No. 1866 (Criminal Case No. 22-954); (2) an information against Angoluan and five other co-accused for frustrated murder (Criminal Case No. 22-955); and (3) an information against Alejandro and Honorato Angoluan for violation of the Omnibus Election Code (Criminal Case No. 22-965). The complaining witness in Criminal Case No. 22-955 was Jacinto Mappala, the complainant against respondent in this administrative case. All the actions were consolidated and assigned to the Regional Trial Court, Branch 22, Cabagan, Isabela, presided by respondent.

On December 20, 1993, respondent rendered a consolidated decision in the aforementioned cases, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing facts and considerations, in Criminal Case No. 955, this Court finds that the accused ALEJANDRO ANGOLUAN is GUILTY beyond reasonable doubt of the crime of Frustrated Homicide. The prescribed penalty is six (6) years and one (1) day to twelve (12) years of prision mayor. Applying the Indeterminate Sentence Law, the minimum should be taken from the penalty one (1) degree lower which is prision correccional. He is therefore sentenced to suffer imprisonment from TWO (2) YEARS and FOUR (4) MONTHS of Prision Correccional as Minimum, to SIX (6) YEARS and ONE (1) DAY of Prision Mayor as maximum and to pay the complainant Jacinto Mappala the sum of P18,514.00 representing hospitalization and medical expenses; and to pay the costs. The accused Honorato Angoluan, Bienvenido Angoluan, Jr., Zaldy Angoluan, Teodoro Zipagan, Jr., and Ramon Soriano are hereby ACQUITTED FOR INSUFFICIENCY OF EVIDENCE.

"In Criminal Case No. 954, this Court finds the accused ALEJANDRO ANGOLUAN "GUILTY" beyond reasonable doubt of the crime of Illegal Possession of Firearms in Violation of P.D. No. 1866.

"Presidential Decree No. 1866 is a special law. The penalty imposed is governed by the Indeterminate Sentence Law, Section 1 of which provides:

'Section 1 xxx. If the offense is punished by other law, the Court shall sentence the accused to an indeterminate

sentence, the maximum of which shall not exceed the maximum fixed by law and the minimum shall not be less than the minimum term prescribed by the same.'

"The prescribed penalty for Illegal Possession of Firearms under P.D. 1866 is Reclusion Temporal to Reclusion Perpetua. The Court hereby sentences him to an imprisonment from TWELVE (12) YEARS and ONE (1) DAY to SEVENTEEN (17) YEARS, FOUR (4) MONTHS and ONE (1) DAY. The firearm, Exhibit 'H', is forfeited to the Government.

"And in Criminal Case No. 965, for Violation of the Omnibus Election Code against Alejandro Angoluan and Honorato Angoluan, this Court finds both accused 'NOT GUILTY' of the crime and therefore are ACQUITTED" (Rollo, pp. 45-46).

The said decision is now on appeal before the Court of Appeals.

In his letter-complaint dated March 28, 1994, complainant alleged that while the trial of the three cases was terminated in December 1992 and the last pleading in the case, the prosecution's memorandum, was submitted on May 27, 1993, respondent rendered his decision only on December 20, 1993 (Rollo, p. 14).

Complainant charged respondent with: (1) gross inefficiency for rendering the decision beyond the reglementary period of ninety days or seven months after the cases were submitted for decision; (2) serious misconduct for acquitting Alejandro Angoluan of violation of the Omnibus Election Code in Criminal Case No. 22-965; and (3) violation of the Code of Judicial Ethics for giving credence to the alibi of the accused Rizaldy Angoluan in Criminal Case No. 22-955 in the absence of any corroborating testimony of any witness (Rollo, pp. 10-11). Complainant likewise accused respondent of accepting bribes in connection with cases pending before him (Rollo, p. 11).

In his comment, respondent averred that the three actions involved grave offenses that required more time in the preparation of the decision. He alleged that he had to await the memorandum of the public prosecutors who requested additional time for the submission thereof (Rollo, p. 6).

He justified the acquittal of Alejandro of violation of the Election Law in Criminal Case No. 965 on the ground that "xxx the firearm was not taken from his person within the precinct but was taken xxx more than 50 meters away from the precinct" (Rollo, p. 7).

Furthermore, he claimed that what the law considered as a crime was the "carrying of firearms within (50) or 100 meters away from the precinct. The firearm was not taken from the accused within the 50 or 100 meters distance from the precinct because in truth and in fact the said firearm was surrendered by the accused two (2) days after the elections. The mistake in the distance is merely a clerical error. But be it 50 meters or 100 meters, still the accused could not be convicted under the said provision, specifically Section 261, Subsection (p) of Article XXII of the Omnibus Election Code" (Rollo, p. 7).

Respondent claimed that the charge of violation of the Code of Judicial Ethics was utterly irresponsible and baseless, being the handiwork of a disgruntled litigant with the purpose of discrediting his reputation (Rollo, pp. 7-8).

Respondent denied having received bribes.

II

As to complainant's charge of gross inefficiency, we find that respondent rendered the decision beyond the reglementary period of ninety days, reckoned from May 27, 1993, the date when the last pleading was filed.

We are not impressed with respondent's excuse that it took time to resolve the three consolidated actions

involving grave offenses. If respondent required more time to resolve the cases, he is not without recourse. He should have asked for more time to decide the cases from this Court, giving the justification therefor.

In *Alfonso-Cortes v. Maglalang*, 227 SCRA 482 (1993), we emphasized "for the guidance of the judges manning our courts, that cases pending before their salas must be decided within the aforementioned period and that failure to observe said rule constitutes a ground for administrative sanction against the defaulting judge" (citing *Marcelino v. Cruz, Jr.*, 121 SCRA 51 [1983]).

Respondent acquitted Alejandro Angoluan of violation of Section 261(p) of the Omnibus Election Code.

Said provision reads as follows:

"Deadly weapons. – Any person who carries any deadly weapon in the polling place and within a radius of one hundred meters thereof during the days and hours fixed by law for the registration of voters in the polling place, voting, counting of votes, or preparation of the election returns. However, in cases of affray, turmoil, or disorder, any peace officer or public officer authorized by the Commission to supervise the election is entitled to carry firearms or any other weapon for the purpose of preserving and enforcing the law."

In his decision, respondent found that Alejandro shot complainant herein inside Precinct No. 2 located at the elementary school building in Santo Tomas, Isabela, during the barangay elections on March 28, 1989. Respondent also found that Alejandro was the one who surrendered the gun. To respondent, the surrender of the weapon was an implied admission that it was the one used by Alejandro in shooting complainant. In spite of all these findings, respondent acquitted Alejandro of illegally carrying a deadly weapon inside a precinct on the theory that the gun was not seized from him while he was inside the precinct. According to respondent:

"xxx With respect to the other accused Alejandro Angoluan, although there is evidence to prove that he shot the complainant Jacinto Mappala, the gun which he allegedly used was surrendered by him two (2) days after the incident and he was not apprehended in possession of the gun within 100 meters radius of the precinct. This Court believes that he should not be prosecuted (sic) in violation of Article 22, Section 261, Subsection (p) of the Omnibus Election Code" (Rollo, p. 45; Underscoring supplied).

To support a conviction under Section 261(p) of the Omnibus Election Code, it is not necessary that the deadly weapon should have been seized from the accused while he was in the precinct or within a radius of 100 meters therefrom. It is enough that the accused carried the deadly weapon "in the polling place and within a radius of one hundred meters thereof" during any of the specified days and hours. After respondent himself had found that the prosecution had established these facts, it is difficult to understand why he acquitted Alejandro of the charge of violation of Section 261(p) of the Omnibus Election Code.

The charge of serious misconduct and violation of the Code of Judicial Ethics in connection with the acquittal of Rizaldy Angoluan after sustaining his defense of alibi pertains to respondent's judicial functions in the appreciation and evaluation of evidence. There is not enough evidence to set aside said finding of fact.

For failure of complainant to substantiate his charge that respondent accepted monetary favors in resolving the cases pending before him, we dismiss the same. While the Judiciary is in the process of cleansing its ranks, we do not favor complaints based on mere hearsay.

WHEREFORE, respondent is FINED Five Thousand Pesos (P5,000.00), to be paid within thirty days from receipt hereof, with a WARNING that a repetition of the same or of acts calling for disciplinary action will be dealt with more severely.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

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