

MAYOR MACARIO T. HUMOL, COMPLAINANT, VS. JUDGE HILARION P. CLAPIS, JR., REGIONAL TRIAL COURT, BRANCH 3, 11th JUDICIAL REGION, NABUNTURAN, COMPOSTELA VALLEY PROVINCE, RESPONDENT.

A.M. No. RTJ-11-2285 (Formerly OCA I.P.I. No. 10-3472-RTJ). July 27, 2011

Ponente: MENDOZA, J.

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MENDOZA, J.:

This administrative case stemmed from a Complaint dated June 29, 2010 filed by Mayor Macario T. Humol (Mayor Humol) of the Municipality of Nabunturan, Compostela Valley Province, charging respondent Judge Hilarion P. Clapis, Jr. (Judge Clapis) of the Regional Trial Court, Branch 3, 11th Judicial Region, Nabunturan, Compostela Valley Province, with Gross Ignorance of the Law, Grave Abuse of Discretion and violations of the Code of Judicial Conduct and the Lawyer's Oath.[1]

The Facts

Mayor Humol alleges that he has received reports[2] that the orders and decisions rendered by Judge Clapis are unjust and biased.[3] In support of this accusation, he cites several instances where respondent judge purportedly made "biased, baseless and unjust orders and decisions with disregard of law, legal principles and Rules of Court." [4]

Criminal Case No. FC-1162

People of the Philippines v. Johnny Jusayan, Sr. alias Dodong
(for Multiple Murder)

Mayor Humol alleges that Judge Clapis displayed gross ignorance of the law when he granted bail to the accused without hearing.[5] Judge Clapis counters that a hearing was in fact conducted on December 18, 2008, during which the court issued an order allowing the accused to post a bond in the amount of P250,000.00.[6] He further adds that the matter has become irrelevant though because the private complainant, together with the surviving children of the victim, appeared in court and manifested that they were no longer interested in pursuing the case against the accused.[7] The bond posted by the accused was then released in favor of the private complainant.[8]

In reply, Mayor Humol insists that the hearing held on December 18, 2008 was not the hearing required under the law and jurisprudence. He cites Section 7, Rule 114 of the Rules of Court which provides that "No person charged with a capital offense, or an offense punishable by reclusion perpetua or life imprisonment, shall be admitted to bail when evidence of guilt is strong, regardless of the stage of the criminal prosecution." He stresses that the order of Judge Clapis granting bail to the accused should have contained a summary of evidence for the prosecution, with a conclusion by the court on whether or not the evidence of guilt is strong.[9] It is evident in respondent's questioned order that only the motion filed by the accused and the argument of the counsel for the accused were considered in granting bail, contrary to the requirement that the court hear the evidence for the

prosecution.[10]

It is the adamant opinion of Mayor Humol that the dismissal of the case against the accused by reason of the desistance of the private complainant in the said case should not serve to exculpate Judge Clapis for his capricious and whimsical act of granting bail to the accused in a capital offense case without the proper hearing.[11]

Criminal Case No. 6041

People of the Philippines v. Rosalino Gonzales, et al.
(for Murder)

Judge Clapis initially denied the application for bail of the accused. Three months later, the accused moved for reconsideration alleging that there was no conspiracy between him and his co-accused. Judge Clapis granted the motion and allowed the accused to post bail. Mayor Humol asserts that Judge Clapis showed gross ignorance of the law, pointing out that it was unnecessary for the prosecution to show the existence of conspiracy between the two accused because they were being prosecuted separately as principals.[12]

Mayor Humol questions the order of Judge Clapis granting bail to the accused despite the success of the prosecution in proving that the guilt of both accused is strong because they pulled the trigger of their respective guns, causing the death of the victim. As such, he should not have considered the motion for reconsideration filed by the accused. On August 24, 2009, the prosecution filed a motion for reconsideration for the order granting bail. The motion remained unresolved until the execution of the affidavit of desistance by private complainants.[13]

Criminal Case No. 6266

People of the Philippines v. Calapan
(for Murder)

In the criminal case for murder filed against spouses Francisco and Teresita Calapan, Mayor Humol alleges that Judge Clapis showed wanton abuse of discretion for failing to issue a Warrant of Arrest against Teresita Calapan, in spite of the finding of probable cause and motion for issuance of the said warrant by the prosecution.[14]

Judge Clapis, for his part, claims that he issued the Warrant of Arrest against the accused Teresita Calapan on July 26, 2010. However, the accused remains at large.[15]

Mayor Humol underscores that fact that the warrant of arrest was issued more than a year after the information was filed against the accused on November 17, 2008, in blatant violation of Section 6, Rule 112 of the Rules of Court which requires that the warrant be issued within ten days from the filing of the information.[16]

Special Civil Case No. 898

Tabas, Jr. et al. v. Humol, et al.
(for Injunction with Application for Writ of Preliminary Injunction and
Temporary Restraining Order)

On May 20, 2008, the Sangguniang Bayan of Nabunturan enacted Municipal Ordinance No. 2008-10, "An Ordinance Authorizing the Bond Flotation of the Municipality of Nabunturan, ComVal in the Amount of P90 Million to Finance the Planning, Design, Construction and the Development of the Proposed Nabunturan Public Market Project." Two members of the Sangguniang Bayan opposed the said enactment and filed Special Civil Case No. 898 for Injunction with Application for Writ of Preliminary Injunction and Temporary Restraining Order before the trial court, presided over by Judge Clapis.[17] The latter issued an order dated November 4, 2009 granting the preliminary injunction and enjoining the implementation of the ordinance.[18] Mayor Humol believes that Judge Clapis committed grave abuse of discretion in entertaining the case despite the trial court's

lack of jurisdiction over it. He argues that the propriety of the passage of the ordinance involves a political question which is beyond the ambit of the court.[19]

Moreover, the injunction was issued on the basis of a highly irregular research conducted by the court and testimonies of resource persons invited by the court, without the parties presenting or offering their respective evidence. Instead of allowing the counsels of the parties to examine and cross-examine the resource persons, Judge Clapis alone propounded the questions.[20] As part of Judge Clapis' research study, he cited an article from the internet written by a party in the case. After this was pointed out by his (Mayor Humol's) counsel, Judge Clapis inhibited himself from the case, citing his good relationship with one of the parties as the reason. Mayor Humol, however, asserts that the belated inhibition made by Judge Clapis delayed the construction and development of the Nabunturan Public Market, to the detriment of the municipality and its inhabitants.[21] Mayor Humol believes these acts of Judge Clapis as violations of the Code of Judicial Conduct, specifically Canon 1, Rules 1.01 and 1.02, Canon 2, Rules 2.01 and 2.03 and Canon 3, Rule 3.05.[22]

Finally, Mayor Humol states that Judge Clapis erred in granting the application for preliminary injunction notwithstanding the fact that the required bond was not posted and that there was no main action upon which the provisional remedy of preliminary injunction can be anchored.[23]

In his defense, Judge Clapis avers that the resource persons were amici curiae, persons who are experts in the field, invited by the court to shed light on the issues raised. Considering that he was not an authority on the matter of bond flotation, he sought the assistance of resource persons, which was allowed under the rules.[24]

As regards the issuance of the preliminary injunction, Judge Clapis argues that if Mayor Humol believed that he erred in granting the injunction, then the proper remedy was to file a motion for reconsideration, which the latter did. To Judge Clapis' mind, the filing of the administrative complaint against him is premature because Mayor Humol should have waited for the resolution of his motion for reconsideration.[25]

Lastly, Judge Clapis points out that his inhibition from the case on December 7, 2009 was not belated because the motion for inhibition was filed on November 24, 2009.[26]

In his Reply, Mayor Humol stresses that the statements of the resource persons invited by Judge Clapis should not have been the sole basis of the order granting the issuance of the writ of preliminary injunction. The rules require that the parties to the case must present and formally offer their evidence to the court before the court can render a decision. Mayor Humol is also of the view that Judge Clapis should not have waited for the motion for inhibition before inhibiting himself from the case[27] considering his relationship with one of the parties in the case.

Mayor Humol also brushes aside Judge Clapis' contention that the complaint is premature by arguing that the existence of remedies available to correct the issuance of the preliminary injunction by Judge Clapis is immaterial because the administrative case against the latter is anchored on his alleged abuse of discretion and his violation of the Rules of Court, the Code of Judicial Conduct and the Lawyer's Oath.[28]

Meanwhile, the Office of the Court Administrator (OCA) notes that Judge Clapis is the subject of the following pending administrative cases:

(1)

OCA IPI No. 06-2518-RTJ (OCA v. Judge Hilarion P. Clapis, Jr. for Gross Misconduct);

(2)

A.M. No. RTJ-10-2257 (Criselda C. Gacad v. Judge Hilarion P. Clapis, Jr. for Grave Misconduct, Corrupt Practices, Gross Ignorance of the Law, Grave Abuse of Discretion and Violation of the Code of Judicial

Conduct);

(3)

A.M. No. RTJ-09-2169 (Raul A. Resma v. Judge Hilarion P. Clapis, Jr. for Willful Failure to Pay Just Debt) and

(4)

A.M. No. RTJ-09-2213 (Gafar M. Hadji Maute v. Judge Hilarion P. Clapis, Jr. for Bribery and Falsification)[29]

On March 15, 2011, the OCA found the complaint to be partly meritorious. It remarked that the alleged errors attributed to Judge Clapis in granting bail and preliminary injunction in Criminal Case No. 6041 and Special Civil Case No. 898, respectively, cannot be reviewed by the court in an administrative proceeding because such acts pertain to the exercise of his adjudicative functions.[30] It was of the view, however, that he can be held liable for gross ignorance of the law for failing to observe the basic rules in granting bail in relation to Criminal Case No. FC-1162 and for delaying the issuance of the warrant of arrest in Criminal Case No. 6266.[31] Hence, the OCA recommended that the administrative case be re-docketed as a regular administrative matter and that Judge Clapis be fined in the amount of P30,000.00, with a stern warning that a repetition of the same would be dealt with more severely.[32]

The Court's Ruling

The Court agrees with the findings and evaluation of the OCA.

Criminal Case No. FC-1162

In Criminal Case No. FC-1162, it is evident in the Order of Judge Clapis dated December 18, 2008 that he granted bail to the accused solely on the basis of the arguments of counsel for the accused:

The Court, after considering the Omnibus Motion to Bail and/or to be State Witness and the arguments of Atty. Ruben D. Altamera, counsel for the accused, hereby grants the accused bail in the amount of Two Hundred Fifty Thousand (P250,000.00) Pesos, Philippine Currency for his provisional liberty, provided that it will be in cash.[33]

Nothing in the questioned Order reveals the participation of the prosecution in the hearing for bail or the presentation of prosecution evidence. This is contrary to the requirements laid down in the case of Basco v. Rapatalo,[34] where the Court outlined the duties of a trial judge in the event that an application for bail is filed:

- (1) Notify the prosecutor of the hearing of the application for bail Or require him to submit his recommendation;
- (2) Conduct a hearing of the application for bail regardless of whether or not the prosecution refuses to present evidence to show that the guilt of the accused is strong for the purpose of enabling the court to exercise its sound discretion;
- (3) Decide whether the evidence of guilt of the accused is strong based on the summary of evidence of the prosecution;
- (4) If the guilt of the accused is not strong, discharge the accused upon the approval of the bailbond. Otherwise, petition should be denied.[35]

Judge Clapis displayed gross ignorance of the law in his failure to hear and consider the evidence of the prosecution against the accused in the hearing for bail. Judges are reminded that they have a duty to maintain professional competence at all times in order to preserve the faith of the public in the courts.[36] Any error

committed in the performance of their judicial functions which is attributable to their unfamiliarity with the laws and established jurisprudence only serves to erode the confidence of the community in the ability of the courts to dispense justice. The Court reiterates its statement in *Mutlan v. Adiong*[37] that "A judge owes the public and the court the duty to be proficient in the law and is expected to keep abreast of laws and prevailing jurisprudence. Ignorance of the law by a judge can easily be the mainspring of injustice." [38]

Gross ignorance of the law is considered a serious charge[39] which warrants the imposition of any of the following sanctions:

1. 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;
2. Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
3. A fine of more than P20,000.00 but not exceeding P40,000.00.[40]

Criminal Case No. 6266

As regards Criminal Case No. 6266, the OCA is correct in finding Judge Clapis guilty of delay in the issuance of the warrant of arrest against the accused. His non-observance of the recognized rules of procedure cannot be denied. The information against the accused Teresita Calapan was filed on November 17, 2008. Judge Clapis ordered her arrest only on July 26, 2010, exceedingly beyond the period required by Section 6, Rule 112 of the Revised Rules of Criminal Procedure, which states that:

Section 6. When warrant of arrest may issue. — (a) By the Regional Trial Court. — Within ten (.10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused has already been arrested pursuant to a warrant issued by the judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to section 7 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint of information. (Emphases supplied)

The case of *Office of the Court Administrator v. Lerma*[41] is instructive on this issue. The Court in said case, found a trial judge liable for undue delay in rendering an order because he allowed 48 days to lapse, from the time the case was assigned to him, before issuing an order dismissing the case against the accused for lack of probable cause. For this, the Court imposed upon him a fine of P21,000.00.

Judge Clapis' flagrant disregard of the rules of criminal procedure governing the issuance of warrants of arrest cannot go unpunished. The Rules of Court[42] classifies undue delay in rendering an order as a less serious charge punishable by:

1. Suspension from office without salary and other benefits for not less than one (1) or more than three (3) months; or
2. A fine of more than P10,000.00 but not exceeding P20,000.00.[43]

Criminal Case No. 6041 and Special Civil Case No. 898

The Court also agrees with the OCA that the issues raised by Mayor Humol regarding the alleged errors committed by Judge Clapis in these cases are contentious issues which are judicial in nature, unlike in the two prior cases where his errors are blatant and undeniable. The propriety of granting bail to the accused in Criminal Case No. 6041 and issuing the writ of preliminary injunction and enjoining the implementation of Municipal Ordinance No. 2008-10 in Special Civil Case No. 898, cannot be questioned in an administrative case. These are judicial issues that will require an evaluation of the evidence presented during the trial and should be threshed out through the appropriate judicial remedy and not through this administrative action.

Time and again, this Court has ruled that the filing of an administrative complaint against a judge is not an alternative to other judicial remedies or complementary or supplementary to such actions.^[44] It is not a means by which the correctness of a decision by the trial court can be challenged.^[45] The law provides sufficient judicial remedies against error or irregularities committed by a judge. Ordinary remedies include a motion for reconsideration or an appeal, while extraordinary remedies can be the special civil actions of certiorari, prohibition or mandamus, a motion for inhibition, or a petition for change of venue, if applicable.^[46]

The proper recourse by the aggrieved parties in Criminal Case No. 6041 and Special Civil Case No. 898 should have been to file a motion for reconsideration or an appeal. All available judicial remedies must be exhausted before resorting to other avenues to prosecute the judge for his actions, whether in a civil, criminal or administrative case.^[47]

WHEREFORE, respondent Judge Hilarion P. Clapis, Jr., is found GUILTY of Gross Ignorance of the Law and Undue Delay in Rendering an Order. Accordingly, the Court imposes upon him a total FINE of P30,000.00 with a STERN WARNING that a repetition of the same or similar act would be dealt with more severely.

SO ORDERED.

Carpio,[*] Leonardo-De Castro[**], Peralta, (Acting Chairperson), and Abad, JJ., concur.

[*] Designated as additional member of the Third Division per Special Order No. 1042 dated July 6, 2011.

[**] Designated as additional member in lieu of Associate Justice Presbitero J. Velasco, Jr., who recused himself from the case due to close relations with one of the parties, per Raffle dated July 20, 2011.

[1] Rollo, pp. 2-10.

[2] Mayor Humol filed this complaint for and in behalf of the residents of Nabuturan from whom he has received reports.

[3] Rollo, p. 3.

[4] Id.

[5] Id.

[6] Id. at 123.

[7] Id.

[8] Id. at 124.

[9] Id. at 135.

[10] Id.

[11] Id.

[12] Id. at 4.

[13] Id. at 136.

[14] Id. at 4.

[15] Id. at 125.

[16] Id. at 136.

[17] Id. at 4-5.

[18] Id. at 6.

[19] Id. at 5.

[20] Id. at 5-6.

[21] Id. at 7.

Canon 1: A judge should uphold the integrity and independence of the judiciary.

Rule 1.01 — A judge should be the embodiment of competence, integrity, and independence.

Rule 1.02 - A judge should administer justice impartially and without delay.

xxx

Canon 2: A judge should avoid impropriety and the appearance of impropriety in all activities.

Rule 2.01 - A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.

xxx

Rule 2.03 - A judge shall not allow family, social or other relationships to influence judicial conduct or judgment. The prestige of judicial office shall not be used or lent to advance the private interests of others, nor convey or permit others to convey the impression that they are in a special position to influence the judge.

xxx

Canon 3: A judge should perform official duties honestly, and with impartiality and diligence adjudicative responsibilities.

xxx

Rule 3.05 - A judge shall dispose of the court's business promptly and decide cases within the required periods.

[23] Rollo, p. 8.

[24] Id. at 126.

[25] Id. at 126.

[26] Id.

[27] Id. at 137.

[28] Id.

[29] Id. at 303-304.

[30] Id. at 306.

[31] Id. at 305.

[32] Id. at 307.

[33] Id. at 151.

[34] 336 Phil. 214(1997).

[35] Id. at 237.

[36] Villanueva v. Buaya, A.M. No. RT.T-08-2131, November 22, 2010, citing Gozun v. Liangco, 393 Phil. 669,681(2000).

[37] 433 Phil. 26 (2002).

[38] Mutilan v. Adiong, 433 Phil. 26, 32 (2002), citing Oporto Jr., v. Monserate, 408 Phil. 561 (2001) and Espino, etal. v. Hon. Ismael Salubre , 405 Phil. 331 (2001).

[39] Rules of Court (as amended by A.M. No. 01-8-10-SC effective October 1, 2001), Rule 140, Sec. 8.

[40] Rules of Court (as amended by A.M. No. 01-8-10-SC effective October 1, 2001), Rule 140, Sec. 11.

[41] A.M. No. RTJ-07-2076, October 12, 2010.

[42] Rules of Court (as amended by A.M. No. 01-8-10-SC effective October 1, 2001), Rule 140, Sec. 9.

[43] Rules of Court (as amended by A.M. No. 01-8-10-SC effective October 1, 2001), Rule 140, Sec. 11(B).

[44] Salcedo v. Bollozos, A.M. No. RTJ-10-2236, July 5, 2010, 623 SCRA 27, 42, citing Bello v. Diaz, 459 Phil. 214, 221-222(2003).

[45] Orocio v. Roxas, A.M. Nos. 07-115-CA-J and CA-08-46-J, August 19, 2008, 562 SCRA 347, 353.

[46] Flores v. Abesamis, 341 Phil. 299 (1997).

[47] Id.

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