

REPUBLIC OF THE PHILIPPINES (CAPIZ AGRICULTURAL AND FISHERY SCHOOL), COMPLAINANT, VS. HON. LEON ROXAS, JR., RESPONDENT.*Adm. Case No. 187-J. November 29, 1972*

Ponente: RUIZ CASTRO, J.

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In 1969, during the incumbency of the Honorable Leon Roxas, Jr. (hereinafter referred to as the respondent) as presiding judge of the Circuit Criminal Court of the 11th Judicial District,[1] with official station at Roxas City, Provincial Fiscal Vicente Abalajon of Capiz filed with the respondent's court an information, dated January 7, 1969, charging Romeo A. Arceño with malversation of public funds. The information recites:

"That on or about, and during the period from September 18, 1962, to September 30, 1967, in the municipality of Pontevedra, Province of Capiz, Philippines, and within the jurisdiction of this Honorable Court, the said accused, being then employed as the disbursing and collecting officer of the Capiz Agricultural and Fishery School, a public or government institution of learning, and, as such, accountable for the funds so collected and received by him, by reason of his said position, in the way of funds, fees, proceeds and other incomes of the said school, did then and there, with abuse of confidence, wilfully, fraudulently, and unlawfully appropriate, take or misappropriate, or consent, or through abandonment or negligence permit other persons to take, or was otherwise guilty of misappropriation or malversation of such public funds of the Capiz Agricultural and Fishery School in the amount of Six Thousand Six Hundred Nineteen Pesos and Thirty Four Centavos (P6,619.34), Philippine Currency, which he failed to account for after repeated demands, to the prejudice and damage of the said school and the National Government."

The filing of the aforequoted information stemmed from an audit made on September 29, 1967 by the regional supervising auditor of the General Auditing Office for the Western Visayas, Ronaldo D. Brodit, of the cash finances of the Capiz Agricultural and Fishery School (hereinafter referred to as the complainant school). Brodit found Arceño's accountability short in the amount of P5,265.24 in collections and in the amount of P1,354.10 in cash advances, making a total shortage of P6,619.34. On January 9, 1968 Brodit sent Arceño a letter of demand, informing him of the shortage in his collections and cash advances, asking him "to produce the missing fund," and requesting him to submit a written explanation. On January 11, 1968 Arceño replied to Brodit's letter of demand.

In his reply, Arceño stated that the amount of P6,619.34 represented various disbursements — for the benefit of the complainant school — supported by cash invoices, chits, receipts, vouchers and other evidence of expenditures. Brodit, however, subsequently wrote Arceño another letter, dated February 6, 1968, which disallowed the use of the proffered documents to explain the shortage.

At the protracted trial of Criminal Case CCC-XI-39-Capiz, both the prosecution and the defense adduced testimonial and documentary evidence. In sum, the prosecution sought to establish that Arceño, an accountable officer of the complainant school, received funds from various persons or sources without issuing the corresponding official receipts therefor, and disbursed said funds as well as the school's cash advances in violation

of established auditing rules and regulations and the statutory provisions governing the expenditure of public funds. For its part, the defense endeavored to show the falsity of the charge that Arceño took or misappropriated the amount stated in the information, by presenting evidence to demonstrate that Arceño, in fact, disbursed the amounts allegedly misappropriated exclusively and entirely for the benefit of the school. The defense introduced in evidence cash invoices, receipts, chits, vouchers, and other proof of expenditures issued by the officials and employees of the school who received and disbursed the amounts involved for the school.

On September 30, 1970 the respondent promulgated a decision acquitting Arceño of the charge of malversation upon reasonable doubt.[2]

Subsequently, on November 24, 1970, the complainant school filed with this Court the present administrative complaint charging the respondent with serious misconduct and inefficiency in "knowingly rendering an unjust judgment" in violation of Article 204[3] of the Revised Penal Code, as amended, committed as follows:

"That on or about the 30th day of September, 1970, in the city of Roxas, Philippines, the said respondent judge, taking advantage, and with grave abuse, of his public position as the presiding judge of the said Circuit Criminal Court, did then and there, knowingly, wilfully and feloniously render and promulgate an unjust judgment or decision dated September 29, 1970, in Criminal Case No. CC-XI-39-Capiz entitled the People of the Philippines, plaintiff, versus Romeo A. Arceño, accused, for malversation of public funds or property, which was submitted, after due trial, to the respondent judge for decision since September 5, 1970, x x x."

On January 21, 1971, the respondent filed his answer, denying the charge imputed to him and discussing at great length his inquiry into the facts of the criminal case, his appreciation of the totality of the evidence presented by the parties, and his study of the law applicable in arriving at a just decision. After receipt of the complainant school's comment on the answer of the respondent, this Court, by a resolution dated March 26, 1971, referred and assigned this administrative case to the Honorable Ramon Fernandez of the Court of Appeals for investigation, report and recommendation. On April 27, 1972, Justice Fernandez tendered his report, which in part states that, in his considered opinion, "the respondent judge is guilty of gross ignorance and inefficiency in acquitting Romeo A. Arceño of the charge of malversation of public funds," and makes the recommendation that "the respondent judge be suspended for such period as the Honorable Supreme Court may deem proper and that he be admonished to be more careful in the appreciation of the evidence and application of the pertinent rules and laws in cases tried and decided by him."

The recusal against the respondent of serious misconduct and inefficiency in "knowingly rendering an unjust judgment" invites more than an abbreviated discussion of whether or not (1) the respondent rendered an unjust judgment, and (2) the respondent knowingly rendered the unjust judgment. Upon these requisites for the applicability of Article 204 of the Revised Penal Code hinges the resolution of the present administrative case.

I. A judgment rendered manifestly against the law or patently contrary to the evidence adduced constitutes an unjust judgment. Verily, there arises the need to determine whether the judgment rendered by the respondent manifestly contravenes the law involved or patently and grossly disregards the evidence presented.

The complainant school states that the respondent "knowingly rendered a manifestly unjust judgment in complete and gross disregard of par. 2, Sec. 23, Art. VI, and Sec. 2, Art. XI of our Constitution; Sees. 614, 601, 627, 647 and 600 of the Revised Administrative Code, as amended; R.A. No. 992; Arts. 217 and 220 of the Revised Penal Code, as amended; [and] the rules and regulations of the General Auditing Office." The complainant school thus takes the position that the respondent, notwithstanding his knowledge—by judicial notice or personally—of the provisions of the Constitution, Republic Act 992,[4] the accounting laws, and the auditing rules and regulations relevant to the expenditure of funds not covered by any annual budgetary appropriation approved by law or

ordinance or not programmed for expenses, or relative to the proper accounting and control of funds, and "in reprehensible pretensions of blindness or incomprehension of the multitude of documentary, self-evident and indisputable" evidence "proving" that Arceño committed malversation of public funds, wrongfully rendered judgment acquitting the said accused.

The respondent concedes that Arceño's actuations offended Republic Act 992 and other auditing rules and regulations. In his decision dated September 29, 1970, the respondent succinctly stated:

"All that the government prosecutor tried to show was this — the whole of what the accused did in disbursing the funds covered by the vales, chits, cash invoices, etc., etc., was not in accordance with auditing rules and regulations. There is no doubt about this. The accused practically brushed aside and ignored all guidelines enunciated by the General Auditing Office regarding disbursement of government funds."

The respondent, however, emphasizes that nothing in the relevant provisions of Republic Act 992 "suggests even remotely that void or illegal disbursements are per se malversation," and that in determining the guilt or innocence of Arceño, Article 217[5] of the Revised Penal Code alone applies, not Republic Act 992, for the issue in the criminal case was whether or not the said Arceño committed malversation as defined and penalized by the Revised Penal Code.

A thoroughgoing scrutiny of the decision rendered by the respondent readily reveals that he took pains to carefully examine the facts of the case and to analyze judiciously the law directly involved — Article 217 of the Revised Penal Code — before he yielded to the conclusion that Arceño should be absolved of the crime charged. In his 32-page decision, the respondent lengthily expounds, with crystal clarity, the considerations that led him to believe and therefore the find that Arceño's acts fall outside the ambit of Article 217.

Logical reflection on the applicability of Article 217 and on the findings of fact set forth in the decision leads us to agree with the basic considerations taken into account by the respondent.

The respondent considered that Arceño, despite his non-compliance with the applicable administrative rules and regulations relating to the disbursement or expenditure of public funds, properly accounted for the alleged shortage in his accounts mainly through chits, vales, private receipts, cash invoices and other proofs of expenditure offered in evidence. This mass of documentary evidence reflected the various expenses incurred by the recipients of the amounts disbursed, redounding to the benefit of the complainant school.

The respondent also considered that Arceño obtained no personal benefit whatsoever from the disbursements involved. On the other hand, the respondent took important note that Arceño spent the amounts for the benefit of the complainant, as established by the evidence presented. The respondent, in his decision stated:

"Nothing in the evidence of the prosecution even slightly tended to suggest that Romeo Arceño converted public funds or property for his own use and benefit nor did he allow another the use or benefit of the public funds or property under his care and custody. On the contrary, the numerous receipts, cash invoices, chits and vouchers show the disbursements made by the accused for the benefit of the Capiz Agricultural and Fishery School, and consequently of the government. The listed exhibits of the defense amply and sufficiently prove that public funds entrusted to him were properly spent to the advantage of the government institution with the approval of school officials then."

The respondent added that the employees of the complainant school, in their respective declarations, confirmed the receipts, chits and other evidence of expenditures, and declared that they used the amounts they received from Arceño to buy feed for the fish in the school pond, the chickens and the pigs, fertilizer, spare parts, gasoline and diesel oil for the school pick-up vehicle and tractor; to cover travel requirements of school officials, representation expenses in relation to visiting bureau officials, expenses for the construction of a cottage within the school

premises, the maintenance of the school poultry and piggery and the school sugar cane plantation; to pay for school construction materials and hired labor; and to meet requisite expenses for other activities requiring the participation of the school, like town fiestas and athletic meets.

In this connection, this Court notes, on the basis of the record of the case at bar, the utter lack of repudiation, on the part of the complainant school, of the genuineness and authenticity of the records of expenditures offered, in evidence by Arceño in the proceedings before the respondent to sustain his contention that he made the disbursements for the benefit of the school. Also, the record shows that Arceño, in his letter of reply dated January 11, 1968 to Brodit's letter of demand of January 9, 1968, already made explicit and particular references to the various chits, vales, private receipts, cash invoices and other proofs of expenditures which he later presented in evidence in court. Of telling significance is the fact that no evidence was adduced that Arceño forged the numerous proofs of expenditures and also feigned the signatures of the school officials and employees appearing thereon.

Furthermore, this Court notes the absence in the record of the case at bar of anything to indicate or suggest that the complainant school, in the proceedings before the respondent, presented or attempted to present proof to show that its employees who received various amounts from Arceño spent the same for purposes other than those already mentioned, or, more importantly, for purposes which exclusively redounded to Arceño's or their personal benefit. Even in its memorandum filed with this Court, the complainant school fails to mention, albeit in passing, any evidence to contradict or to rebut the testimony of its employees. These considerations definitely establish serious doubt as to the validity of the complainant's accusation that Arceño "pocketed and appropriated the amount for his own personal use and benefit."

Placed in their proper perspective, the foregoing observations sufficiently answer the argument of the complainant school that the respondent failed to apply the presumption established by the last paragraph of Article 217, to wit:

"The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be prima facie evidence that he has put such missing funds or property to personal uses."

This presumption (which is *juris tantum*)

"...simply takes the place of affirmative proofs showing the actual conversion. It obviates the necessity of proving acts of conversion on the part of the accused, a thing almost always extremely difficult to do. Therefore, such presumption stands, making a prima facie case against the accused only until such time as he rebuts it by proofs showing the contrary." [6]

Clearly, the law establishes only a disputable presumption, not a conclusive one, and affords the accused the opportunity, by shifting the burden of proof to him, to present evidence of his non-employment of the funds or property involved to personal uses. Satisfactory evidence thus overcomes the presumption and destroys the prima facie case.

So far as appears from the record, Arceño fully explained the whys and the wherefores of the allegedly misappropriated funds, and the complainant school's employees presented proof conclusively showing that the questioned expenditures were for the benefit of the complainant school. On the other hand, in the proceedings before the respondent, the complainant school offered no positive evidence that Arceño either put the supposedly misappropriated funds to personal uses or personal ends, or permitted, through abandonment or negligence, the employees of the school to take and spend such funds for themselves. The explanation of Arceño, together with the mass of exhibits on the expenses and disbursements made, constitutes ample evidence overcoming the presumption.

Upon the foregoing disquisition, there exists no valid and reasonable ground to find and declare that the judgment rendered by the respondent in Criminal Case CCC-XI-39-Capiz is an unjust one. The observations above made disprove that the judgment of the respondent contravenes the law involved or contradicts the evidence presented.

Necessity dictates that this Court, at this juncture, mention that the respondent himself admitted that Arceño failed to comply with the rules and regulations relative to the collection and disbursement or expenditure of public funds and that Arceño's acts offended the pertinent provisions of Republic Act 992. The respondent also pointed out that, at the most, Arceño's failure to issue official receipts for and to enter in the books his collections, and his violation of the relevant rules and regulations, may subject him to the unavoidable consequences of administrative disciplinary sanctions ranging from censure to dismissal from office. However, the respondent adds, Arceño's "practices"—his violation of the applicable rules and regulations relating to the collection and

disbursement or expenditure of public funds—constitute no valid justification or basis for finding him guilty of malversation under Article 217 of the Revised Penal Code.

Prescinding from the foregoing technical discussion, the record discloses that Arceño gave a convincing explanation for his "practices." Principally, the day-to-day pressing needs of the school demanded immediately available funds. Arceño found it expedient not to adhere strictly to the established rules and regulations relating to the collection and disbursement or expenditure of public funds, so that he would have funds always readily available for the school's workaday as well as emergency expenses. Surely, Arceño entertained no intention to cause prejudice to the school by not scrupulously following the relevant auditing rules and regulations; he simply wanted to adopt a flexible system of keeping track of his collections and disbursements compatible with the nature, character and urgency of the school's daily needs.

Then, too, Arceño's "practices" apparently carried the stamp of acquiescence of the administrators of the school, for the said "practices" prevailed during the respective incumbencies of the late Esperidion Agustin and Teodoro Olmo, former principals of the school. Forsooth, numerous chits and vales offered in evidence in the proceedings before the respondent carried the signature of Olmo.

On this point, the complainant school claims that the school officials issued memorandum directives advising Arceño not to violate the prohibition against the expenditure of the school funds without compliance with the pertinent auditing rules and regulations. Yet, the record shows that during the period when these "practices" of Arceño prevailed, no one saw fit to seriously question him or his actuations.

In addition, the respondent, as set forth in his decision, found "that the alleged commission of the offense at bar was...from September 16, 1962, to September 30, 1967;" "that the Capiz Agricultural and Fishery School had an auditing examiner in the person of Mr. Luciano Medina, who had the duty to oversee the accounts of Romeo Arceño as an accountable officer;" and "that for such a long period of time the auditing examiner of the

school allowed Romeo Arceño to disburse funds without issuing official receipts and without entering in the books the collections made."

These circumstances amply support the allegation that the immediate superiors of Arceño, to some appreciable degree, sanctioned his "practices."

It is thus evident that the judgment rendered by the respondent does not constitute an unjust judgment.

II. Jurisprudence holds that the word "knowingly" refers to a conscious and deliberate intention on the part of the judge to do an injustice.[7] Error and ill will constitute sources of an unjust judgment. However, no liability attaches to a mere error in the interpretation or application of the law.[8] The motivating factors of ill will consist

of hatred, envy, revenge, greed or some other predisposition of a similar character. Thus, whether or not the respondent "knowingly" rendered an unjust judgment would largely depend on the complainant's evidence as to improper motivations on the part of the respondent which prompted him to render the decision of acquittal.

To begin with, the main pillar of the complainant's position that the respondent "knew" his judgment to be an unjust one consists of its argument that the said respondent, despite his knowledge of the facts of the case and of the provisions of the Constitution, Republic Act 992, the accounting laws, and the relevant auditing rules and regulations, and "inspite of the multitude of documentary, self-evident and incontrovertible evidence proving the guilt of the accused," acquitted Arceño. The complainant's argument easily resolves itself into the contention that the respondent's particular awareness of the facts of the case as established by the evidence — adequate facts, in the mind of the complainant school, to yield a conclusion of guilt on the part of Arceño — and of the pertinent laws, rules and regulations, obligated the said respondent to render a judgment of conviction; and because he rendered a judgment of acquittal, the respondent "knew" the said judgment to be an unjust one.

The respondent counters that the complainant's argument is barren of value to substantiate its charge against him that he "knowingly" rendered an unjust judgment. The respondent states that the complainant school, instead of proving that ill motivation underscored his rendition of the judgment involved herein, elects to raise an argument not only defective in logic but also irrelevant to the issue at hand. However, the respondent repeatedly contends that the complaint offers neither allegation nor proof that "malice, pecuniary consideration, or any such improper motive" prompted him to render the decision in question.

Under the circumstances, this Court deems it unnecessary to consider the inarticulate position of the complainant on the issue at bar. Whether or not improper motivation impelled the respondent to render the judgment of acquittal constitutes the all-important issue to bear in mind.

This Court notes, and worthily at that, the following significant words of Justice Fernandez in his report:

"At the hearing, the undersigned took the initiative to determine from the complainant's witnesses whether or not the respondent was prompted by malice, bad faith or pecuniary consideration in rendering the allegedly unjust decision acquitting Romeo A. Arceño of malversation."

Justice Fernandez observed that "the respondent judge was not motivated by any malice or bad faith in rendering the decision acquitting the accused of malversation." The complainant school, in its memorandum, admits that it "has no direct evidence to prove that the accused Romeo A. Arceño corrupted the respondent Judge in order to secure the great and special favor of his acquittal in Criminal Case No. CCC-XI-Capiz of the Roxas City Circuit Criminal Court for malversation of public funds." And, combing the record of the case at bar, we do not find any evidence of any fact or circumstance which could yield a reasonable inference that ill will or corrupt motives prompted the respondent to render the judgment in question. Thus, even conceding the judgment to be an unjust one, still the absence of positive, clear and convincing proof that the respondent consciously and deliberately intended to commit an injustice by rendering the judgment of acquittal, precludes this Court from finding that the said respondent "knowingly" rendered an unjust judgment.

The totality of the allegations of the complainant school — an insistence that the respondent "knew" certain facts and that despite his knowledge of these facts allegedly pointing to the guilt of the accused, nevertheless acquitted him — compels this Court to briefly but strongly apprise the said complainant school of the true duties of a judge in the disposition of a criminal case pending before him for resolution. In criminal proceedings, the duties of a judge—fundamental and important because they basically subserve the ends of justice—consist of judicious appreciation and weighing of the evidence adduced, determination of the salient facts from the competent evidence, and proper application of the pertinent law. To refrain from at all considering suspicion, surmise,

speculation and conjecture—excluding inferences naturally drawn from satisfactorily proven or undisputed facts—constitutes as well an important duty of a judge in his search for the truth. Suspicion, surmise, speculation and conjecture — all these play no role in the performance by a judge of his judicial functions; more so, when the fate of an accused lies in the proper delineation and earnest discharge by a judge of his duties.

The precise charge against the respondent is "serious misconduct and inefficiency in knowingly rendering an unjust judgment" in violation of Article 204 of the Revised Penal Code. "The adjective is 'serious,' that is, important, weighty, momentous, and not trifling. The noun is 'misconduct,' that is, a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. The word 'misconduct' implies a wrongful intention and not a mere error of judgment. For serious misconduct to exist, there must be reliable evidence showing that the judicial acts complained of were corrupt or inspired by an intention to violate the law, or were in persistent disregard of well-known legal rules." [9]

Even if we grant that the decision of acquittal in question was erroneous, the respondent's error, by itself alone, does not justify a condemnation of the said judgment as unjust. "Mere errors in the appreciation of the evidence, unless so gross and patent as to produce an inference of ignorance or bad faith, or that the judge knowingly rendered an unjust decision, are irrelevant and immaterial in an administrative proceeding against him...No one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment...All that is expected of him is that he follow the rules prescribed to ensure a fair and impartial hearing, assess the different factors that emerge therefrom and bear on the issues, and on the basis of the conclusions he finds established, with only his conscience and knowledge of the law to guide him, adjudicate the case accordingly." [10]

Plainly, then, the complainant—without discounting the needless acerbity in its pleadings filed with this Court—has failed in its duty of demonstrating that the respondent indeed "knowingly" handed down a "manifestly unjust judgment" in acquitting Arceño of the crime charged. Consequently, our overview of this case is that the complainant's charge of serious misconduct and inefficiency against the respondent cannot be upheld.

ACCORDINGLY, the respondent Judge Leon Roxas, Jr., is absolved of the charge of serious misconduct and inefficiency, and the complaint against him is hereby dismissed.

Makalintal, Zaldivar, Fernando, Teehcmkee, Barredo, Antonio, and Esguerra, JJ., concur.

Concepcion, C.J., in the result.

Makasiar, J., I reserve my vote.

[1] Judge Roxas was later (on July 19, 1971) appointed District Judge of Calbayog City.

[2] Parenthetically, the Capiz Agricultural and Fishery School appealed the judgment acquitting Arceño to the Court of Appeals, contending that the said appeal involved only the civil liability of die said Arceño. However, the Solicitor General asked for the withdrawal of the appeal on the ground the the "said appeal would place the accused in double jeopardy." The appellate court, notwithstanding the opposition of the school to the withdrawal of the appeal, granted the same.

[3] ART. 204. Knowingly rendering unjust judgment.— Any judge who shall knowingly render an unjust judgment in any case submitted to him for decision, shall be punished by prision mayor and perpetual absolute disqualification.

[4] An Act to Provide for a Budget System for the National Government.

[5] ART. 217. Malversation of Public funds or property.— Presumption of malversation.— Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandon-ment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misap-propriation or malversation of such funds or property, shall suffer.

[Penalty graduated depending upon the amount involved]

In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled.

The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly author-ized officer, shall be prima facie evidence that he has put such missing funds or property to personal uses. (As amended by Republic Act 1060.)

[6] United States vs. Acebedo, 18 Phil. 428.

[7] Decision of the Supreme Court of Spain of October, 1884 and January 10, 1900.

[8] Decisions of the Supreme Court of Spain of January 13, 1914 and December 31, 1919.

[9] In Re Impeachment of Horilleno, 43 Phil. 212; Superable, Jr. vs. Escalona, 24 SCRA 549.

[10] Zabala vs. Pamaran, 39 SCRA 430, 433.

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