

DARIO MANALASTAS, COMPLAINANT, VS. JUDGE RODRIGO R. FLORES, MUNICIPAL TRIAL COURT, BRANCH 2, SAN FERNANDO, PAMPANGA, RESPONDENT.

A.M. No. MTJ-04-1523 (formerly A.M. OCA IPI No. 99-780-MTJ). February 06, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is an administrative complaint against Judge Rodrigo R. Flores,[1] Municipal Trial Court (now Municipal Trial Court in Cities), Branch 2, City of San Fernando, Pampanga, for dishonesty, gross incompetence, gross ignorance of the law, patent immorality and gross inefficiency.

The pertinent facts, as culled from the records, are as follows:

As an aftermath of the May 1997 barangay elections in San Jose, San Fernando, Pampanga, Alberto Guinto, as protestant, filed an election contest[2] against Dario Manalastas, as protestee, with the MTC of San Fernando, Pampanga, then presided by the respondent judge. As the election case required the revision of a number of ballot boxes, the respondent appointed a revision committee, which thereafter submitted its report to the court.[3] The respondent then issued an Order dated November 9, 1998, declaring the case submitted for decision[4] despite the protestee's objections and demands for a hearing.

Before the decision on the case could be promulgated, a signed copy thereof was leaked out to the winning party. Upon learning of the aforesaid incident, the respondent immediately imputed the blame on his court interpreter, Mrs. Candelaria M. Mangulabnan. Thus, on August 30, 1999, he issued an Order stating, inter alia, that the decision dated May 5, 1999 was stolen from his office and therefore "unofficial," "a mere scrap of paper, hence, had no force and effect." In the same Order, the respondent set the case for promulgation of judgment on September 6, 1999.[5]

Meanwhile, protestee Dario Manalastas, now the complainant, filed a Letter-complaint dated September 6, 1999 against the respondent, accusing the latter of high-handed irregularities committed in the proceedings of Barangay Election Protest No. 97-04. The complainant averred that it was wrong for respondent to consider the election protest submitted for decision without conducting a hearing thereon, and despite vehement objection from his camp. Furthermore, after furnishing him a copy of the Decision dated May 5, 1999 the respondent issued an order, ex parte, declaring it null and void and directing that another decision be promulgated on September 6, 1999. Complainant further imputed the following acts to the respondent:

- The respondent dismissed Criminal Cases Nos. 99-1855, 99-1856 and 99-1857 for rape in exchange for P160,000 which he demanded from the relatives of the accused, after which he deliberately failed to transmit the records to the provincial prosecutor for review;2) The respondent granted several motions for reduction of bail on the condition that part of the reduced bail be given to him; the respondent likewise dismissed cases after preliminary investigation on the condition that the bond posted by the accused be given to him;3) In Criminal Case No. 99-2248, the respondent judge reduced the bail bond from P127,000 to P30,000, but only P25,000 was

deposited with the court as the difference was kept by the respondent;4) In criminal cases raffled to the respondent judge's sala, he undertook to procure the surety bonds for the accused for a fee or commission;5) In one case involving violation of Rep. Act No. 6425, the respondent ordered the detained accused transferred from the municipal jail to a rehabilitation center, in the process enabling the latter to escape before the case reached the Regional Trial Court;6) Most rulings, resolutions and decisions of the respondent were prepared by his clerk of court; he likewise allowed other judges to interfere in cases pending before him, and even signed decisions prepared by other judges; and,7) The respondent flaunted different women, introducing them as his paramours, and induced other lawyers to tag along by providing them with women.

- The respondent granted several motions for reduction of bail on the condition that part of the reduced bail be given to him; the respondent likewise dismissed cases after preliminary investigation on the condition that the bond posted by the accused be given to him;
- In Criminal Case No. 99-2248, the respondent judge reduced the bail bond from P127,000 to P30,000, but only P25,000 was deposited with the court as the difference was kept by the respondent;
- In criminal cases raffled to the respondent judge's sala, he undertook to procure the surety bonds for the accused for a fee or commission;
- In one case involving violation of Rep. Act No. 6425, the respondent ordered the detained accused transferred from the municipal jail to a rehabilitation center, in the process enabling the latter to escape before the case reached the Regional Trial Court;
- Most rulings, resolutions and decisions of the respondent were prepared by his clerk of court; he likewise allowed other judges to interfere in cases pending before him, and even signed decisions prepared by other judges; and,
- The respondent flaunted different women, introducing them as his paramours, and induced other lawyers to tag along by providing them with women.[6]

The case was docketed as A.M. OCA IPI No. 99-780-MTJ. In compliance with the directive of Court Administrator Alfredo L. Benipayo,[7] the respondent judge submitted his comment on the administrative complaint, vehemently denying all the charges against him. He asserted that the charges were unsubstantiated and mere hearsay. He demanded an immediate hearing to prove his innocence and reserved his right to file counter-charges against his accuser.[8]

In a Letter[9] dated November 15, 1999, the complainant requested the withdrawal of his complaint against the respondent judge, as the filing of the complaint was "a product of misappreciation and miscomprehension of facts for which no fault could be ascribed or attributed to anyone, including the respondent judge." [10]

In a Resolution dated August 22, 2001, we resolved to refer the case as recommended to Executive Judge Pedro M. Sunga, Jr., Regional Trial Court (RTC), Pampanga, for investigation, report and recommendation.[11] On July 11, 2001, Judge Adelaida A. Medina succeeded Judge Sunga, Jr. as the new Executive Judge of the RTC of Pampanga.[12] Thus, in a Resolution dated December 3, 2001, we referred the case to the new executive judge.[13]

Upon receipt of the case, Judge Medina scheduled a hearing on February 19, 2002. Neither party appeared on the said date. Instead, the complainant filed a Manifestation dated February 12, 2002, reiterating his disinterest in prosecuting the instant case and prayed for its dismissal. Attached thereto was an Affidavit of Desistance, stating

that whatever errors respondent judge committed in Barangay Election Protest No. 97-04 were errors of judgment that could not be taken against him. The complainant also declared that the evidence he intended to present in support of his charges had been lost, and despite diligent efforts could not be located.

The complainant appeared in the hearing of March 12, 2002 and affirmed the validity and voluntariness of his affidavit of desistance. Executive Judge Medina thereafter submitted her Report dated May 14, 2003, with the following recommendation:

Respondent judge is guilty of corrupt act[s] and gross misconduct constituting violations of the Code of Judicial Conduct. Under Rule 140 of the Rules of Court, as amended by A.M. No. 01-8-10-SC dated September 11, 2001, both are serious charges punishable by the penalty of dismissal from the service with forfeiture of benefits, suspension, or fine. However, respondent judge had earlier been dismissed and his benefits forfeited in connection with another administrative case. Thus, the remaining penalty that may be imposed upon respondent judge is a fine of more than Php20,000 but not exceeding Php40,000.

Considering that this is the third of a series of administrative charges lodged against respondent judge, all of which involving (sic) corruption in office, the undersigned deems it proper to recommend the imposition upon him of a fine in the maximum amount of Php40,000. What emerges from the cases filed against respondent judge is a pattern of corruption so serious as to tarnish the image of the entire judiciary. To this the court must not turn a blind eye, as it serves only to erode the public's faith and trust in the judiciary.[14]

We agree with the investigating judge that the respondent is administratively liable.

The withdrawal of the complaint or the execution of an affidavit of desistance does not automatically result in the dismissal of an administrative case. To condition an administrative action upon the will of the complainant, who for one reason or another, condones a detestable act, would be to strip this Court of its power to supervise and discipline erring members of the judiciary.[15] The withdrawal of complaints cannot divest the Court of its jurisdiction nor deprive it of its power to determine the veracity of the charges made and to discipline, such as the results of its investigation may warrant, an erring respondent. The Court's interest in the affairs of the judiciary is a paramount concern that must not know bounds.[16]

With respect to the irregularities of Barangay Election Protest No. 97-04, we quote with approval the following findings and observations of the investigating judge:

As regards the allegation of inefficiency relative to the proceedings in Election Protest Case No. 97-04, a related case was filed before RTC Branch 47, entitled "Dario Manalastas vs. Hon. Rodrigo R. Flores, et al.", and docketed as Civil Case No. 11929. The case is one for prohibition and mandamus, with a prayer for the issuance of a writ of preliminary injunction and temporary restraining order. It is also alleged therein that the procedure followed by respondent judge in the election protest case was highly irregular.

...

Indeed, as alleged by the complainant, respondent judge considered the election protest case submitted for decision upon his receipt of the report of the revision committee, over the objections of counsel for protestee. Attached hereto as Annexes "C" & "D" are copies of the order and manifestation of objection.[17]

In issuing the order considering the case submitted for decision based on a mere report, the respondent judge was clearly guilty of violating due process, tantamount to gross ignorance of the law. Revision is merely the first stage, and not the alpha and omega, of an election contest.[18] The respondent judge should have known that the function of the revisors is very limited. In *Defensor-Santiago v. Ramos*, [19] we elucidated, thus:

... [R]evisors do not have any judicial discretion; their duties are merely clerical in nature (*Hontiveros v. Altavas*, 24 Phil. 632 [1913]). In fact, their opinion or decision on the more crucial or critical matter of what ballots are to be contested or not does not even bind the Tribunal (*Yalung v. Atienza*, 52 Phil. 781 [1929];

Olano v. Tibayan, 53 Phil. 168 [1929]). Thus, no undue importance may be given to the revision phase of an election contest. It can never serve as a logical or an acceptable basis for the conclusion that massive fraud or irregularities were committed during an election, or that a Protestant had won in said election. If that were so, a Protestant may contest all ballot boxes and, in the course of the revision thereof, object – for any imagined ground whatsoever, even if the same be totally unfounded and ridiculous – to all ballots credited to the Protestee; and then, at the end of the day, said Protestant may even announce to the whole world that contrary to what is reflected in the election returns, Protestee had actually lost the election.[20]

The respondent judge should have given the complainant his day in court to enable the latter to air his grounds for contesting the ballots and to submit evidence in his behalf. In failing to conduct hearings, the respondent blatantly disregarded the complainant's right to be heard. As a judge of the municipal trial court, vested with jurisdiction to hear and decide election contests involving barangay officials, he is expected to be familiar with these legal requirements. Although election contests have to be resolved quickly, judges must not sacrifice for expediency's sake the fundamental requirements of due process nor to forget that they must conscientiously endeavor each time to seek the truth, to know and aptly apply the law, and to dispose of the controversy, objectively and impartially, all to the end that justice is done to every party.[21] Having accepted the exalted position of a judge, the respondent judge is expected to exhibit more than just a cursory acquaintance with the laws and rules of procedure.[22] The litigants will have faith in the administration of justice only if they believe that the occupants of the bench cannot be accused of deficiency in their grasp of legal principles.[23]

Anent the other charges against respondent judge, Judge Medina found that Criminal Cases Nos. 99-1855 to 99-1857 and Criminal Case No. 99-2248 were dismissed after preliminary investigation. In all these cases, the respondent judge failed to transmit the resolutions and records to the provincial prosecutor upon the conclusion of the proceedings.

It was discovered during the investigation that, while the three subject cases involved rape and thus cognizable by the Regional Trial Court, the records of the cases and the results of the preliminary investigation thereof were not forwarded to the office of the provincial prosecutor for review, as required by law. The missing records were surprisingly found on February 4, 2003 and subsequently turned over to the undersigned. As claimed by complainant, the records were indeed not turned over to the provincial prosecutor for review of the findings in the preliminary investigation.

The private complainant in said cases executed an affidavit of desistance on June 26, 1999. Noticeably, the affidavit was sworn to before respondent himself. Moreover, the order dismissing the cases, along with one case for acts of lasciviousness against the same accused, were issued on the same date which was a Saturday. Accused received copies of the orders on June 27, 1999, a Sunday.[24]

Section 5, Rule 112 of the then Rules on Criminal Procedure mandated municipal trial court judges to transmit to the provincial or city prosecutor for appropriate action its resolution of the case upon concluding the preliminary investigation. Thus:

Sec. 5. Duty of investigating judge. — Within ten (10) days after the conclusion of the preliminary investigation, the investigating judge shall transmit to the provincial or city fiscal, for appropriate action, the resolution of the case, stating briefly the findings of facts and the law supporting his action, together with the entire records of the case, which shall include: (a) the warrant, if the arrest is by virtue of a warrant; (b) the affidavits and other supporting evidence of the parties; (c) the undertaking or bail of the accused; (d) the order of release of the accused and cancellation of his bail bond, if the resolution is for the dismissal of the complaint.

Should the provincial or city fiscal disagree with the findings of the investigating judge on the existence of probable cause, the fiscal's ruling shall prevail, but he must explain his action in writing furnishing the parties

with copies of his resolution, not later than thirty (30) days from receipt of the records from the judge. If the accused is detained, the fiscal shall order his release.

The respondent judge's inexorable failure to transmit the resolution and the records as mandated by the Rules renders him administratively liable.

A 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 that the respondent is probably guilty thereof, and should be held for trial.[25] It is an executive, not a judicial function. It falls under the authority of the prosecutor who is given by law the power to direct and control all criminal actions. However, since there are not enough fiscals and prosecutors to investigate the crimes committed in all the municipalities all over the country, the government was constrained to assign this function to judges of Municipal Trial Courts and Municipal Circuit Trial Courts.[26] Thus, when a municipal judge conducts preliminary investigation, he performs a non-judicial function as an exception to his usual duties. His findings, therefore, are subject to review by the provincial or city prosecutor whose findings, in turn, may be reviewed by the Secretary of Justice in appropriate cases. Hence, the investigating judge, after conducting a preliminary investigation, must perform his ministerial duty to transmit within ten (10) days the resolution of the case together with the entire records to the provincial or city prosecutor.[27] The performance of this non-judicial or executive function, however, does not place judges beyond the disciplinary power of this Court for any act or omission in relation or as an incident to their task, which is only in addition to their judicial functions.[28] Thus, the Court has imposed disciplinary sanctions on judges for their ignorance or deliberate disregard of the laws on preliminary investigation.[29]

Judges are expected to strive for excellence in the performance of their duties. As exemplars of law and justice, they are mandated to embody competence, integrity and independence.[30] Verily, they owe it to the public to know the very laws they are supposed to apply to controversies. They are called upon to exhibit more than a cursory acquaintance of the statutes and procedural laws.[31] Anything less would constitute gross ignorance of the law.[32]

With respect to the charges of corruption, Judge Medina made the following findings:

On the other hand, Criminal Case No. 99-2248, in which respondent allegedly took part of the bail paid, is now pending before Branch 48 of the RTC, San Fernando, Pampanga. It appears on the records that the recommended bail was Php127,000. Accused moved for its reduction to Php30,000. In said motion, the figures Php30,000, the amount prayed for was superimposed with the figures Php25,000 without any explanation. This seems to affirm complainant's allegation that respondent judge pocketed the Php5,000 difference. Copies of said motion and order are hereto attached as Annexes "A" & "B," respectively.[33]

We do not agree. An accusation of bribery is easy to concoct and difficult to disprove. The complainant must present a panoply of evidence in support of such an accusation. Inasmuch as what is imputed against the respondent judge connotes a grave misconduct, the quantum of proof required should be more than substantial.[34] The allegation of bribery, the charges of dishonesty, gross incompetence, patent immorality and gross inefficiency are unsubstantiated, and shall thus be dismissed.

It must be noted, however, that this is not the first time that the respondent judge has been charged administratively. In *Atty. Ma. Elisa F. Velez v. Judge Rodrigo R. Flores*,[35] the Court en banc found him guilty of bribery and judicial indolence and ordered his dismissal from the service with forfeiture of all retirement benefits, save leave credits and vacation benefits, with prejudice to reemployment in any branch of the government or any of its agencies or instrumentalities including government-owned and controlled corporations.

Considering the foregoing, the penalty of dismissal from the service is no longer feasible in the instant case.

Pursuant to Section 11-A (3) of Rule 141 of the Revised Rules of Court, the Court finds that a fine of P40,000 is justified under the circumstances.

WHEREFORE, Judge Rodrigo R. Flores is found GUILTY of gross ignorance of the law and is hereby meted a FINE of P40,000 to be deducted from his leave credits and whatever other benefits he may be entitled to.

This decision shall take effect immediately.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, and Tinga, JJ., concur.

Azcuna, J., on official leave.

[1] Dismissed from the service per Decision of this Court in G.R. No. A.M. No. MTJ-01-1366, dated February 7, 2003.

[2] Docketed as Election Protest No. 97-04.

[3] Rollo, pp. 5-8.

[4] Report and Recommendation, Annex "C."

[5] Rollo, p. 11.

[6] Id. at 1-2.

[7] Id. at 12.

[8] Id. at 13.

[9] Id. at 14.

[10] Id.

[11] Id. at 24.

[12] Id. at 25.

[13] Id. at 26.

[14] Report and Recommendation, p. 5.

[15] Anguluan v. Taguba, 93 SCRA 179 (1979).

[16] Marcelino v. Judge Singson, Jr., 243 SCRA 685 (1995).

[17] Report and Recommendation, p. 4.

[18] Defensor-Santiago v. Ramos, 253 SCRA 559 (1996).

[19] Ibid.

[20] Id. at 577-578.

[21] Young v. De Guzman, 303 SCRA 254 (1999).

- [22] Chavez v. Escañan, 343 SCRA 170 (2000).
- [23] Mercado, et. al. v. Judge Dysangco, A.M. No. MTJ-00-1301, July 30, 2002.
- [24] Report and Recommendation, p. 3.
- [25] Section 1, Rule 112, The 2000 Revised Rules on Criminal Procedure.
- [26] Castillo v. Villaluz, 171 SCRA 39 (1989).
- [27] Balagapo, Jr. v. Duquilla, 238 SCRA 645 (1994).
- [28] Sandoval v. Manalo, 260 SCRA 611 (1996).
- [29] Ancog v. Tan, 227 SCRA 137 (1993).
- [30] Rule 1.01 of Canon 1 of the Code of Judicial Conduct.
- [31] Tabao v. Barataman, A.M. No. MTJ-01-1384, April 11, 2002.
- [32] Peña, et. al. v. Judge Martizano, A.M. No. MTJ-02-1451, May 30, 2003.
- [33] Report and Recommendation, pp. 3-4.
- [34] Cataños v. Escaño, Jr., 251 SCRA 174 (1995).
- [35] A.M. No. MTJ-01-1366, February 7, 2003.

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