

BELINDA LUISTRO MAÑOZCA, COMPLAINANT, VS. JUDGE ROGER A. DOMAGAS, RESPONDENT.

OCA I.P.I. No. 95-62-RTJ. September 29, 1995

Ponente: PADILLA, J.

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PADILLA, J.:

Belinda Luistro Mañozca in a sworn letter-complaint dated 25 April 1995 charged respondent Judge Roger A. Domagas with gross ignorance of the law resulting in a manifestly unjust judgment.

The complaint stemmed from the following facts:

1. Criminal Case No. V-8201 entitled "People v. Elmer de Jesus Mañozca", a case for bigamy initiated by herein complainant against her husband, was raffled to respondent judge then presiding over Branch 46, RTC of Urdaneta, Pangasinan.
2. After the prosecution had rested its case, a Demurrer to Evidence was filed by the defense in said case. It was granted by Judge Domagas based on the ruling in *U.S. v. Enriquez* (32 Phil 302).

Complainant contends before this Court that respondent judge's reliance on the abovesited case amounts to gross ignorance of the law since the facts of the two (2) cases are different.

In *U.S. v. Enriquez*, true enough, the accused was acquitted of the charge of contracting an illegal marriage based on a finding that the accused therein had a reasonable and well-founded belief that his first wife was dead when he contracted his second marriage, since he had no knowledge of her whereabouts for many years, and his persistent and diligent efforts to locate her had proved futile.

Complainant argues that said *Enriquez* case could not be validly applied to the charge for bigamy against her husband since good faith was negated by the fact that he contracted the second marriage only thirteen (13) days after he had filed a petition for annulment of his first marriage to herein complainant.

Complainant further argues that respondent judge erroneously relied on a notarized document denominated "Separation of Property with Renunciation of Rights" jointly executed by herself and her husband wherein they freed themselves of all their marital obligations to each other, in ruling that her husband had no fraudulent intent to contract the bigamous marriage. Such finding of lack of fraudulent intent became the basis for the grant of the demurrer to evidence which amounted to an acquittal of the accused-husband.

When required to comment on the complaint, Judge Domagas stated that *U.S. v. Enriquez* was cited by him merely by way of analogy, to show lack of criminal intent of the accused who had relied on the notarized document jointly executed by the spouses, which made him believe they were each free to choose his or her life partner.

While this case was being evaluated by the Office of the Court Administrator for appropriate action, respondent Judge Roger A. Domagas passed away on 30 July 1995.

Following our ruling in *Hermosa v. Paraiso* (62 SCRA 361), we will resolve this case notwithstanding the death of respondent Judge.

The Court notes, firstly, that respondent judge had been fined twice also for gross ignorance of the law. In *Lim v. Domagas* (227 SCRA 258), the Court ordered him to pay a P10,000.00 fine for disregarding the provisions of Sec 3(b) Rule 71 of the Rules of Court requiring notice and hearing of charges of indirect contempt. In *Tucay v. Domagas* (A.M. No. RTJ-95-1286, 2 March 1995), respondent judge was fined P20,000.00 for granting bail to the accused without the required hearing. In both cases, the Court warned him that the commission of the same or similar acts in the future will be dealt with more severely.

In the present case, the grant of the questioned demurrer to evidence again exhibited ignorance of the law.

The cited document executed by the parties cannot be the basis of a finding of good faith on the part of the accused, since, as respondent judge himself stated in his order granting the demurrer to evidence, "the x x x agreement is contrary to law." Further, the accused's fraudulent intent was manifest considering that he filed a petition to annul his first marriage on 17 January 1992, executed the document entitled "Separation of Property with Renunciation of Rights" on 18 January 1992 and contracted the bigamous marriage on 30 January 1992 without the first marriage being as yet annulled.

The foregoing circumstances clearly preclude any finding of good faith on the part of the accused in the bigamy charge, and do not justify the grant of the demurrer to evidence.

ACCORDINGLY, the amount of P5,000.00 is hereby ordered forfeited and deducted from the retirement benefits to which respondent judge may be entitled, for gross ignorance of the law in rendering the aforementioned order.

SO ORDERED.

Davide, Jr., Bellosillo, Kapunan, and Hermosisima, Jr., JJ., concur.

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