ATTY. NESCITO C. HILARIO AND MA. MERIEM A. URSUA, COMPLAINANTS, VS. HON. JULIAN C. OCAMPO III, IN HIS CAPACITY AS THE EXECUTIVE JUDGE OF THE MUNICIPAL TRIAL COURT (MTC) OF NAGA ...

A.M. No. MTJ-00-1305. December 03, 2001

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Noncompliance with the procedure prescribed by the Supreme Court for the raffling of cases is an administrative offense. Failure to abide by these rules diminishes respect for the rule of law.

The Case

In an Administrative Complaint dated August 14, 1998,[1] Atty. Nescito C. Hilario and Ma. Meriem A. Ursua charged Judge Julian C. Ocampo III, Municipal Trial Court (MTC) of Naga City (Branch I), with five offenses: grave abuse of authority, dishonesty, gross ignorance of the law, bias or partiality, and knowingly rendering an unjust order in connection with the actuations of the judge relative to Criminal Case Nos. 78500-78512, all of which had been pending before his sala.

The Facts

The factual antecedents of the case are summarized by the Office of the Court Administrator (OCA) in its June 26, 2000 Memorandum[2] as follows:

> "1) A SWORN COMPLAINT with attachments dated August 14, 1998 [filed] by complainants Atty. Nescito C. Hilario and Ma. Meriem A. Ursua charg[es] respondent Judge Julian C. Ocampo III, MTC, Branch I, Naga City with grave abuse of authority, bias and partiality relative to Criminal Case Nos. 78500-78512 entitled `People of the Philippines vs. Meriem A. Ursua' for Violation of Batas Pambansa Bilang 22 (Bouncing Checks Act).
>
> "Complainant Ursua is the accused in the aforementioned criminal case while complainant Atty. Hilario served as her counsel therein. According to complainants, the City Prosecutor of Naga City filed 13 separate Informations for Violation of B.P. Bilang 22 against complainant Ursua in the Office of the Clerk of Court, MTC where respondent Judge sits as Executive Judge. Complainant Ursua posted cash bail bonds in those 13 criminal cases. On August 19, 1997, respondent Judge allegedly raffled the said Informations, all of which landed on his sala, even without any Motion for Consolidation.
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> "Complainants allege that upon the advice of respondent Judge, they filed a Motion to Conduct Preliminary Investigation and/or Reinvestigation which was denied by the latter in his Order dated September 22, 1997. They narrate that they were not able to immediately file the necessary Motion to Lift/Withdraw Cash Bail since the Order of respondent Judge dated September 22, 1997 stated that a warrant of arrest had already been issued against complainant Ursua. Upon verification with the records of the case, however, complainants found that no warrant of arrest was issued. Thus, complainants filed a Motion to Withdraw Cash Bail. During the

hearing of the said Motion, respondent Judge confirmed in open court that no warrant of arrest was issued against complainant Ursua. Complainants further allege that respondent Judge initially granted their Motion To Withdraw Cash Bail but later recalled the grant and denied the same. Respondent Judge then arraigned complainant Ursua despite the vigorous objection of the complainants. Complainants claim that respondent Judge incurred administrative liability by committing the following acts:
`i] Grave abuse of authority, bias and special interest tantamount to dishonesty penalized and sanctioned under Section 3(2) of Rule 140 of the Rules of Court - for arrogating upon himself, as the Executive Judge of the Municipal Trial Court of Naga City, the act of handling and hearing the cases against complainant Ursua by assigning to his sala Criminal Cases 78500 to 78512 without any motion for the consolidation of said cases;

`ii] DISHONESTY, penalized and sanctioned under Section 3(2) of Rule 140 of the Rules of Court and IGNORANCE OF THE LAW AND PROCEDURE punishable under Section 3(9) of Rule 140 of the Rules of Court - for distorting the truth and the records of Criminal Cases 78500 to 78512 pending before his sala at Branch No. 1 by stating in his Order of September 22, 1997 that: `In these cases, the City Prosecutor found the existence of a probable cause and on the basis thereof, the Court issued a Warrant of Arrest and the accused immediately posted bail to save her the embarrassment of being apprehended,' whereas in truth and in fact, NO WARRANT OF ARREST WAS EVER ISSUED BY HIM AGAINST COMPLAINANT URSUA.

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`iii] BIAS AND PARTIALITY punishable under Section 3(12) of Rule 140 of the Rules of Court - It appears that Atty. Fred Cledera, the Private Prosecutor in the said cases, is the Dean of the college of law of the University of Nueva Caceres (UNC) which is presently the employer of the respondent Judge, who is a faculty member in the said college. The charge is based on the act of respondent in initially granting complainant Ursua's Motion to Withdraw Cash Bail and thereafter flip-flopping by recalling the same after respondent Judge realized, albeit quite belatedly after hearing complainant Hilario's arguments, that he could not effect the immediate arrest of complainant Ursua while she was inside the courtroom during the hearing of August 12, 1998, and then making a second ruling denying said motion;

`iv] KNOWINGLY RENDERING AN UNJUST ORDER, GROSS IGNORANCE OF THE LAW OR PROCEDURE, and BIAS AND PARTIALITY punishable under Section 3, sub-sections 7, 9 and 12 of Rule 140 of the Rules of Court - for outrightly denying the motion of the complainants requesting to file a Motion for Reconsideration on the denial of the Motion to Withdraw Cash Bail inspite of the fact that complainant Ursua still has a period of fifteen (15) days from receipt of the written Order of denial within which to file the said Motion for Reconsideration.

`v] For arraigning complainant Ursua immediately after the denial of the complainants' request to file a Motion for Reconsideration in spite of the repeated and vehement objections by complainant Hilario, thus making the Petition for Certiorari and Mandamus under Special Civil Case No. RTC-98-4014 pending before the RTC of Naga, Branch 20 entitled Ma. Meriem T. Ursua vs. Hon. Julian C. Ocampo III, et al., and the intended Motion for Reconsideration moot and academic because of the forced arraignment of complainant Ursua which was wil[l]fully and intentionally done by the respondent Judge for obvious reasons.'

"Furthermore, complainants claim that respondent Judge had already been penalized by the Supreme Court in an administrative case filed against him in Administrative Matter MTJ-93-853, March 14, 1995 entitled `Domingo Ballantes vs. Judge Julian Ocampo III' where the latter was fined in the amount of P5,000.00 and warned that a repetition of the same or similar infraction will merit a stiffer penalty.

"2) A COMMENT dated March 24, 1999 by respondent Judge denying all material allegations in the Complaint. According to him, the complaint is devoid of merit and should be dismissed. Respondent Judge offers the following explanations to the charges level[l]ed against him:

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`GRAVE ABUSE OF AUTHORITY, BIAS AND SPECIAL INTEREST TANTAMOUNT TO DISHONESTY: Formerly, all cases were raffled individually regardless of whether several cases involved the same parties and subject matter. This procedure resulted to the filing of motions for consolidation which caused delay in the proceedings. When the herein respondent was appointed as Executive Judge he thought it prudent to adopt a different procedure in the raffle of cases involving the same accused and private complainant by assigning all cases to the Branch that drew the lowest docket number. This explains why in the raffle conducted on August 19, 1997, all of the 13 cases against Meriem Ursua went to Branch 1 since in the drawing of lots the respondent picked out the lowest docket number among the 13 cases.

`DISHONESTY AND IGNORANCE OF THE LAW AND PROCEDURE: The reason why no warrant of arrest was issued by the Court is that as early as August 14, 5 days before the raffle of cases on August 19, the accused made a cash deposit covering the entire amount of the bonds in the thirteen (13) cases with the Clerk of Court, then Mrs. Lilia S. Buena, who did not inform the Executive Judge about the early filing of a cash bond. The accused having posted in advance the required bail bond, there was no need for the court to determine probable cause for the issuance of a warrant of arrest since the accused had voluntarily submitted herself to the jurisdiction of the Court.

`BIAS AND PARTIALITY: The Court did not initially grant the `Motion to Withdraw Cash Bail' and later denied it, as alleged by the complainant. The truth is that at the very outset, the Court had resolved to deny the Motion since it was entirely devoid of merit. The accused should have been grateful to the Court for denying the Motion because if it granted the same, the Court would have ordered her arrest and caused her great embarrassment. It is not correct to say that the respondent is the employee of Atty. Fred P. Cledera. Both are employees of the University of Nueva Caceres, the former being a Law instructor and the latter the Dean of the College of Law of the said university

`KNOWINGLY RENDERING AN UNJUST ORDER GROSS IGNORANCE OF THE LAW OR PROCEDURE: It was well within the discretion of the Court to outrightly deny the Motion for Reconsideration of the Order denying the Motion to Withdraw Cash Bail which Atty. Hilario intended to file since there was no cogent reason to reconsider the ruling. To allow the accused to file a Motion for reconsideration within fifteen (15) days will only further delay the proceedings.

`RESPONDENT HAD BEEN ADMINISTRATIVELY SANCTIONED: The initial resolution of the Supreme Court imposing a fine on the respondent was reconsidered and set aside when the Court found out that the complainant had misled the Court in believing that the respondent had defied the Order of the Regional Trial Court."[3]

Report and Recommendation of the OCA

The OCA found merit in some of the allegations contained in the Administrative Complaint, particularly with respect to (1) respondent's unauthorized procedure for raffling cases and (2) the false statements he made in open court to the effect that he had issued a warrant of arrest when he had actually not done so. Deemed insufficient to constitute any administrative liability were the other charges against him. The OCA explained its findings in this manner:

"EVALUATION:

"A. Complainants' contention that respondent Judge incurred administrative liability when all criminal cases against complainant Ursua landed on respondent Judge's sala even without any motion for consolidation is meritorious. Paragraph 1 of SC Circular No. 7 provides that:
`I. RAFFLING OF CASES

`All cases filed with the Court in stations or groupings where there are two or more branches shall be assigned or distributed to the different branches by raffle. No case may be assigned to any branch without being raffled.

> The raffle of cases should be regularly conducted at the hour and on the day or days to be fixed by the Executive Judge. Only the maximum number of cases, according to their dates of filing, as can be equally distributed to all branches in the particular station or grouping shall be included in the raffle. Cases in excess of the number sufficient for equal distribution shall be included in the next scheduled raffle subject to the exceptions provided in paragraph II and IV hereof.'

"Clearly, respondent erred in not raffling the individual cases. Respondent's purpose in assigning all thirteen (13) criminal cases to one sala may be laudable but until the procedure prescribed by this Court has been changed, he is well advised to strictly adhere thereto. As what happened in this case, respondent, by adopting his own rule, was suspected of having a personal interest in the said cases, which would not have happened if he only followed the prescribed procedure.

"B. On the other hand, the charge that respondent judge erred in initially granting the Motion to Withdraw Cash Bail and subsequently recalling the grant and denying the same cannot prosper. According to complainants, said flip-flopping was committed by respondent Judge because the latter was biased in favor of the private complainant in the said case whose counsel, Atty. Fred Cledera, is the employer of respondent Judge since Atty. Cledera serves as Dean of the College of Law of the University of Nueva Caceres (UNC) where respondent Judge also teaches. A reading of the transcript of stenographic notes (TSN) taken on the hearing of the Motion to Withdraw Cash Bail on August 12, 1998 reveals that complainants' contentions are not entirely accurate. Contrary to complainants' claim, their Motion to Withdraw Cash Bail was resolved only once by the respondent (p. 18, Annex D, Complaint) resulting in its denial. There was no final order of respondent Judge granting the same, then denying it as complainants would have us believe. Thus, complainants claim that respondent Judge was biased and partial in favor of private complainant is unmeritorious. Mere suspicion that a Judge was partial to a party is not enough -- there should be adequate evidence to prove the charge (Abad vs. Belen, 240 SCRA 733). In this case, mere insinuation by complainants that respondent Judge was partial to private complainant because respondent Judge was employed by the counsel of private complainant is insufficient if not totally baseless. Besides, we subscribe to respondent Judge's view that as a law instructor at the UNC, he was not employed by Atty. Cledera who is the Dean of the College of Law therein. Rather, they are both employed as law instructor and Dean of the College of Law, respectively.

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"C. Complainants' insistence that respondent Judge erred when he outrightly denied complainants' request to file a Motion for Reconsideration on respondent Judge's denial of their Motion to Withdraw Cash Bail is likewise devoid of merit. This is because we find the subject to be judicial in nature. Thus, the remedy is not an administrative charge against respondent Judge (Galen Realty Co., Inc. vs. Arranz, 235 SCRA 470) but one in a proper judicial forum (Atty. Felixberto Boquirin vs. Judge Emperatriz del Rosario-Cruz, et. al., A.M. No. MTJ 94-894, January 26, 1994). A party litigant abuses the processes of the court if he resorts to an Administrative proceeding for disciplining Judges prescribed by law, notwithstanding that the determination of the correctness of the orders of the Judge upon which the viability of his recourse depends, has not yet been made. The established doctrine and policy is that disciplinary proceedings against Judges are not complementary or suppletory of, nor a substitute for the judicial remedies, whether ordinary or extraordinary. It is only after the available judicial remedies have been exhausted or when the appellate tribunal have spoken with finality that the door to an inquiry to his administrative liability maybe said to have opened or closed (Flores vs. Abesamis, 245 SCRA 302).

"As for complainants' contention that respondent Judge should not have immediately arraigned complainant Ursua there being a Petition for Certiorari or Mandamus pending before the RTC as filed by complainants must likewise be dismissed. Public policy dictates that delay in the prosecution of criminal cases must be avoided. Complainants

admit that their sole purpose in filing the Motion to Withdraw Cash Bail was for respondent Judge to determine probable cause for the issuance of warrant of arrest. Courts are however, called upon to exercise great restraint in granting any reinvestigation with the consequent delay involved, since the weighing and evaluation of such evidence is best left to the court's judgment not to that of the prosecution (People vs. LaCaste, 34 SCRA 767). To ferret out the truth, trial is preferred to a reinvestigation (Abugotal vs. Tiro, 66 SCRA 196). Rather than delay the trial of private respondents by waiting for the conduct and outcome of a reinvestigation, it is best that respondent Judge set the case for immediate trial (supra). Public interest requires that criminal acts be immediately investigated and prosecuted, hence as a general rule, injunction will not be granted to restrain a criminal prosecution (Romero vs. Chief of Staff, AFP, 170 SCRA 408).

"Nor can the mere pendency of a Petition for Certiorari and Mandamus with the RTC prevent respondent Judge from conducting the arraignment of complainant Ursua. Absent a temporary restraining order (TRO) or an injunction issued by competent authority, respondent Judge is not precluded from arraigning complainant Ursua. Thus, no liability can be attributed to respondent Judge.

"D. Finally, complainants' claim that respondent Judge erred when he issued his Order dated September 22, 1997 wherein it was stated that the court had issued a warrant of arrest against complainant Ursua, when in truth and in fact no warrant of arrest was issued, deserves merit. This was admitted by the respondent Judge himself, who attributed his mistake to complainant Ursua who posted a cash bond in advance to the Clerk of Court who did not inform respondent that no warrant of arrest has yet been issued against the accused. While this maybe true, it would not completely exonerate respondent Judge from liability. Rule 3.09, Canon 3 of the Code of Judicial Conduct provides that:

> `Rule 3.09 - A judge should organize and supervise the court personnel to ensure prompt and efficient dispatch of business and require at all times the observance of high standards of public service and fidelity.'

"A judge may not put the blame on his clerk of court for his remisses [sic] (Belen vs. Soriano, 240 SCRA 298). It is the obligation of the judge to diligently discharge administrative responsibilities and maintain professional competence in court management (Heirs of the Late Nasser D. Yasin vs. Felix, 250 SCRA 545).

"RECOMMENDATION: Respectfully submitted for the consideration of the Honorable Court are our recommendations:

"1. that this case be RE-DOCKETED as a regular administrative matter;

"2. that respondent Judge Julian C. Ocampo II, MTCC, Branch I, Naga City be FINED in the amount of Five Thousand (P5,000.00) Pesos with a STERN WARNING that the commission of the same or similar acts in the future will be dealt with more severely."[4]

In a Resolution dated August 2, 2000,[5] the Court required the parties to manifest whether they were submitting the case for resolution on the basis of the pleadings and records duly received by the Court. Both agreed. Respondent filed his Manifestation on September 12, 2000,[6] while complainants submitted their Manifestation on November 8, 2000.[7]

The Court's Ruling

We agree with the OCA and adopt its recommendation.

Respondent's Administrative Liability

As correctly found by the OCA, respondent ignored the procedure for the raffling of cases mandated by Supreme Court Circular No. 7 of 1974, which we reproduce hereunder:

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> "I. RAFFLING OF CASES
>
> "All cases filed with the Court in stations or groupings where there are two or more branches shall be assigned or distributed to the different branches by raffle. No case may be assigned to any branch without being raffled. The raffle of cases should be regularly conducted at the hour and on the day or days to be fixed by the Executive Judge. Only the maximum number of cases, according to their dates of filing, as can be equally distributed to all branches in the particular station or grouping shall be included in the raffle. x x x"

Respondent contends that he devised his own style of conducting a raffle, which he did by assigning related cases to the branch having the lowest docket number. Despite his claim that such policy is "more prudent," we find it untenable. Whether it would be more practical and efficient under the circumstances is not for him to determine, inasmuch as the pertinent rules or circulars already provide the appropriate procedure to be followed. All he has to do, as all executive judges must, is to follow them faithfully since they have been adopted to ensure the smooth and orderly administration of justice. If he disagrees with the rules, he should propose amendments. But he cannot disobey them in the meantime.

It must be emphasized that rules of procedure have been formulated and promulgated by this Court to ensure the speedy and efficient administration of justice. Failure to abide by these rules undermines the wisdom behind them and diminishes respect for the rule of law. Indeed, judges are expected to keep abreast and be conversant with Supreme Court rules and circulars that affect the conduct of cases before them.[8] More important, they should ensure strict compliance therewith at all times in their respective jurisdictions. Judges should therefore administer their office with due regard to the integrity of the system of law itself, remembering that they are not depositories of arbitrary power, but judges under the sanction of law.[9]

The false or erroneous statement of respondent in his September 22, 1997 Order -- to the effect that a warrant of arrest had been issued even when there was actually none -- is uncontroverted. Unacceptable is his explanation that there was no more need for him to issue a warrant of arrest because Complainant Ursua had already submitted herself to the court's jurisdiction by filing the required bail bonds in advance. Such explanation runs counter to the fundamental concept of bail vis-à-vis the issuance of an arrest warrant.

Bail is defined as the "security given for the release of a person in custody of the law."[10] By its definition, bail requires that a person must first be arrested or deprived of liberty before it can be availed of. Thus, although the posting thereof is tantamount to submission to the jurisdiction of the court,[11] it presupposes that the accused is under detention or in the custody of law.[12] Indeed, it would be absurd and incongruous to grant bail to one who is free.[13] In this case, respondent deemed it appropriate for the accused to file the corresponding bail bonds, even when the latter had not yet been arrested or placed under custody.

Be that as it may, no evidence was ever presented to show that respondent had demanded or insisted on the advance posting of the bail bonds. In fact, it was the accused who voluntarily paid them in advance, only to question their propriety later. Nonetheless, it cannot be denied that he made a false statement by making it appear in his Order that a warrant of arrest had been issued. Hence, he is administratively liable for the false statement per se, not for irregularities in connection with either the non-issuance of an arrest warrant or the advance posting of bail bonds - irregularities that were alleged, but not substantiated.

On the other hand, we cannot sustain the charges of bias and partiality, knowingly rendering an unjust order, and gross ignorance of the law relative to respondent's denial of the Motion to Lift/Withdraw Bail Bond.

A review of the transcript of stenographic notes taken during the arraignment of Ursua and the hearing of her Motion to Withdraw Cash Bond on August 12, 1998,[14] belies her allegation that respondent had initially granted the Motion to Withdraw but denied it later by reason of partiality.[15] Contrary to the claim of

complainants that respondent flip-flopped, the latter issued a definite and categorical ruling denying the said Motion. Thus, it cannot be said that his actuations during the hearing favored the opposing counsel, who happened to be the dean of the law school where he was teaching.

Mere suspicion that a judge is partial to one of the parties is not enough to show that the former favors the latter.[16] Certainly, bare allegations of a complainant cannot overturn the presumption that a judge acted regularly and with impartiality.[17]

Whether respondent erred in the exercise of his judicial discretion by denying the Motion of Ursua and proceeding with her arraignment is a matter that cannot be taken up in an administrative proceeding. A party's remedy, if prejudiced by the orders of a judge given in the course of a trial, lies with the proper reviewing court, not with the Office of the Court Administrator by means of an administrative compliant.[18] It is axiomatic that, where some other judicial means is available, an administrative complaint is not the appropriate remedy for every act of a judge deemed aberrant or irregular.[19] Precisely, to address the foregoing issues relative to the denial of the Motions, a Petition for Certiorari has already been filed by complainants and is now pending before the RTC of Naga, Branch 20.

In any case, it bears noting that the administrative liability for ignorance of the law and/or knowingly rendering an unjust judgment does not necessarily arise from the mere fact that a judge issued an order that may be adjudged to be erroneous.[20] A judge may not be held administratively accountable for every erroneous order; it is only when a judge acts fraudulently or with gross ignorance that administrative sanctions are called for.[21]

WHEREFORE, respondent judge is FINED in the amount of P5,000 for not complying with the prescribed procedure for the raffling of cases and for falsely stating in his Order that an arrest warrant was already issued. The other charges are hereby DISMISSED for lack of merit.

SO ORDERED.

Melo, (Chairman), Vitug, Sandoval-Gutierrez, and Carpio, JJ., concur.

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[1] Rollo, p. 1.

[2] Id., pp. 59-65.

[3] Id., at pp. 59-62; signed by then Court Administrator Alfredo L. Benipayo and Danilo L. Mendoza, officer-in-charge, Legal Office, OCA.

[4] Id., at pp. 62-65.

[5] Ibid., p. 66.

[6] Id., p. 70.

[7] Id., p. 73.

[8] Bayog v. Natino, 258 SCRA 378, July 5, 1996.

[9] Conducto v. Monzon, 291 SCRA 619, July 2, 1998.

[10] Rule 114, Section 1, Rules of Court.

[11] Cojuangco Jr. v. Sandiganbayan, 300 SCRA 367, December 21, 1998.

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[12] Guillen v. Nicolas, 299 SCRA 623, December 4, 1998.

[13] Adapon v. Domagtoy, 265 SCRA 824, December 27, 1996.

[14] Rollo, pp. 17-51.

[15] TSN, August 12, 1998, at pp.16-18.

[16] Gonzales v. Bersamin, 254 SCRA 652, March 13, 1996.

[17] Zamudio v. Peñas Jr., 286 SCRA 367, February 24, 1998.

[18] Dionisio v. Escano, 302 SCRA 411, February 1, 1999.

[19] Santos v. Orlino, 296 SCRA 101, September 25, 1998.

[20] Guerrero v. Villamor, 296 SCRA 88, September 25, 1998.

[21] Re: Suspension of Clerk of Court Rogelio R. Joboco, RTC Br. 16, Naval, Biliran, 294 SCRA 119, August 12, 1998.

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