

JOSE B. TIONGCO, COMPLAINANT, VS. THE HONORABLE FLORENTINO P. PEDRONIO, JUDGE, REGIONAL TRIAL COURT, BRANCH 28, ILOILO CITY, RESPONDENT.

A.M. No. RTJ-03-1763 (Formerly OCA I.P.I. No. 02-1393-RTJ). April 24, 2003

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Jose B. Tiongco (complainant), by a sworn complaint[1] dated December 5, 2001 which was received at the Office of the Court Administrator (OCA) on January 2, 2002, administratively charged Judge Florentino P. Pedronio (respondent) of the Regional Trial Court, Branch 28, Iloilo City with “Grave Abuse of Discretion, Gross Incompetence and Inefficiency Amounting to Ignorance of the Law, and Conduct Unbecoming of a Judge” in connection with four criminal cases of which complainant was the defense counsel.

Complainant gives the specifics of his charges as follows:

- 1) Respondent failed to decide the case of *People v. Baylon*,[2] for Frustrated Homicide, within the reglementary three-month period, it having been submitted for decision on June 14, 1999 but, as of the filing of the complaint (on January 2, 2002), no decision thereon had been promulgated.[3]
- 2) Respondent erroneously applied the Indeterminate Sentence Law[4] in the case of *People v. Mahilum*[5] where the detainee-accused was found guilty of attempted homicide and was sentenced to Two (2) Years, Four (4) Months and One (1) Day to Four (4) Years and Four (4) Months of imprisonment, thus showing his ignorance of the law, and thereby prolonging the accused’s imprisonment.[6]
- 3) Respondent, in an Order[7] dated February 28, 2000, refused to inhibit himself from rendering judgment in the case of *People v. Sagutier*[8] despite complainant’s motion for the purpose, which refusal violates Supreme Court Administrative Circular 5-98[9] dated February 18, 1998 underwhich the judge before whom the case was heard and submitted for decision, Judge Rene Honrado, the former presiding judge of Branch 28, was to render the decision.[10]

In the same vein, complainant faults respondent judge for rendering a decision in the case of *People v. Mahilum*. [11]

- 4) Respondent lacks mastery and command of the English language such that in the case of *People v. Villegas*,[12] he refused to argue with complainant in open court and repeatedly ordered him to put his arguments in writing.[13]

In his Comment,[14] respondent explains that the delay in deciding the case of *People v. Baylon* was not attributable to him for although it was submitted for decision on June 14, 1999, he assumed office as Presiding Judge of Branch 28 only on January 3, 2000; and as early as February 7, 2000, he had filed the decision of the case with the clerk of court, setting the promulgation thereof on February 29, 2000[15] but on account of this Court’s Decision in *Re: Cases Left Undecided by Judge Sergio D. Mabunay, RTC Branch 24, Manila*, [16] he

directed the parties on February 7, 2002 to manifest their choice of judge who should decide the case, thereby resulting in the delay of the promulgation.[17]

As for the penalty he imposed on the accused in *People v. Mahilum*, respondent gives the following comment, quoted verbatim:

Pars. 3, 4 and 6, is likewise based on Circular No. 5-95 and the Indeterminate Sentence Law, Tiongco accusing undersigned again of ignorance of the same circular and the same law. Tiongco accuses undersigned of ignorance of the Indeterminate Sentence Law when the undersigned sentenced his client Ramil Mahilum to a penalty of imprisonment of two (2) years, four (4) months and one (1) day of prision coreccional in its minimum period to four (4) years and two (2) months as maximum. The penalty the undersigned imposed carries a minimum and a maximum period - instead of a single fixed penalty - which consist the essence of the Indeterminate Sentence Law. The period between the two being indeterminate in the sense that the prisoner may be exempted from serving said indeterminate period in whole or in part. (AQUINO, the Revised Penal Code, Vol. 1, 1976 Edition). With all his avowed legal omniscience, Tiongco shows that he has only a nodding acquaintance with the law which he sadly failed to recognize even in the dimly-lit recesses of his fast failing mind.

In par. 6, Tiongco laments of undersigned's having his accused-client Ramil Mahilum served a penalty of five (5) months in excess of the two (2) years, four (4) months which his Honor, Judge Jose B. Tiongco insists should have been the penalty imposed on his client - instead of the penalty imposed by the undersigned embodied in the dispositive portion of the decision in the case. Despite his omniscience, Tiongco misses, confuses and mistakes the real from the illusory - betraying his being lost to a world devoid of color, a world where everything is gray, exposing him as one whose thoughts are not only dusky but murky - even in his most lucid interval.[18] (Underlining in the original)

The branch clerk of court of RTC, Branch 28, Iloilo City, who was directed to report on the status of *People v. Baylon* and *People v. Sagutier*, submitted its report to the Office of the Court Administrator (OCA) which is echoed in its Report and Recommendation[19] on the present case as follows:

Judge Pedronio already prepared and signed his decision in Criminal Case No. 48880 [*People v. Baylon*]. The decision was dated 27 January 2000. The promulgation was re-set a number of times, as follows:

29 February 2000

—

reset to 13 March 2000 because counsel for the accused was not properly notified;

13 March 2000

—

reset to 3 April 2000, Judge Pedronio was sick on leave;

3 April 2000

—

reset to 15 May 2000 for failure of counsel for the accused to appear;

15 May 2000

—

no promulgation done, no resetting;

24 Sept. 2001

—

promulgation calendared for 30 October 2001;

30 Oct. 2001

—

reset to 10 December 2001, as Judge Pedronio was sick on leave;

10 Dec. 2001

—

Reset to 7 January 2002, since public prosecutor was on sick leave and counsel for the accused failed to appear;

On 7 January 2002, Judge Pedronio issued an order withholding the promulgation on the decision in Criminal Case No. 48880 citing the Court's ruling in the Mabunay case. x x x

With regards to Criminal Case No. 44965, [People v. Sagutier], OIC Clerk of Court Cordero informed this Office that Judge Pedronio had already prepared his DRAFT decision on the case. The case was previously submitted for decision by Judge Rene Honrado and this was before the assumption of Judge Pedronio as presiding judge of RTC, Branch 28, Iloilo City. However, he issued a court order dated 6 March 2002 suspending the promulgation of the decision in the case citing again the Mabunay case. The records of Criminal Case No. 44965 were returned to Branch 29 presided over by Judge Honrado on 27 June 2002 upon the endorsement/directive of Executive Judge Tito Gustilo.[20]

By the Report dated July 30, 2002, the OCA gives the following EVALUATION of the case:

Under Section 6, Rules 120 of the New Rules of Criminal Procedure judgment in criminal cases is promulgated by reading the same in the presence of the accused and any judge of the court in which it was rendered. To be valid and binding, any judgment or decision should be both penned and promulgated by the judge during his incumbency. When the full records of the case are available, a judge can pen the decision of the case submitted to him even if he did not hear the case in its entirety.

Records show that Criminal Cases Nos. 48880 [entitled People v. Baylon] and 44965 [entitled People v. Sagutier] were both submitted to Judge Rene Honrado for decision on 26 June 1999 and 14 January 2000, respectively, even before the respondent judge assumed office in RTC, Branch 28, Iloilo City. It is a well settled rule however that a judge who did not hear a case may write the decision therein based on the available records. Thus, when the respondent judge assumed office in RTC, Branch 28, Iloilo City, he was obligated to decide Criminal Cases Nos. 48880 and 44965 despite the fact that the cases were submitted for decision to the previous judge.

Complainant filed a motion to inhibit respondent judge from deciding Criminal Case No. 44965 but the latter in his court order dated 28 February 2000 denied the motion and submitted the case for his decision. According to the OIC Branch Clerk of Court, a DRAFT decision on the case had been prepared by the respondent judge. It was due for promulgation but was withheld by the respondent invoking the Court's pronouncement in the Mabunay case (292 SCRA 694). Nonetheless, further court action on the case was overridden by the return of its records to RTC, Branch 29, Iloilo City, presided over by Judge Rene Honrado, the judge before whom it was previously submitted for decision, in compliance with the endorsement of Executive Judge Tito Gustilo.

With regards to Criminal Case No. 48880, respondent judge already had penned his decision in the case dated 27 January 2000. Its promulgation was initially scheduled on 29 February 2000 but respondent further reset the

promulgation for a number of times either due to the absence of the respondent himself, the public prosecutor or the counsel for the accused. Subsequently, respondent judge in his court order dated 7 February 2002 held in abeyance the promulgation of decision in Criminal Case No. 48880, citing the Mabunay case. He informed the parties that if they so desire and upon their request, he could be required to decide the case.

This Office finds a misapplication by the respondent judge of the Mabunay ruling in the case at bar. The Court's ruling refers to cases left behind by a judge and inherited by another judge who takes over the branch. The latter then assumes full responsibility over these inherited cases. He may decide them as they are his cases unless the parties move that the cases be decided by the judge who substantially heard the evidence and before whom the case was submitted for decision.

The respondent judge should have conducted an inventory of cases submitted for decision when he assumed office at RTC-Branch 28, Iloilo City. Thereafter, he should have decided the cases unless otherwise requested by the parties concerned.

Respondent had already penned his own decision in Criminal Case No. 48880. Evidently, he erred when he delayed the promulgation of his decision thereon citing the Mabunay ruling, as it was no longer appropriate under the circumstances. It is worthy to note that the misapplication of the respondent judge of the Mabunay ruling severely delayed the promulgation of the case. Aggravating the matter is the fact that the accused in Criminal Case No. 48880 is a detention prisoner.

On the charge that Judge Pedronio erred in the imposition of penalty under the Indeterminate Sentence Law, this Office has no authority to pass upon the issue, the same being judicial in nature. Complainant has other remedies in law that can rectify the alleged error. Settled is the rule that a judge may not be held administratively accountable for every erroneous order or decision he renders except if moved by malice, fraud, dishonesty, corruption or bad faith. No such malice was proved in the instant case.[21] (Emphasis and underscoring supplied; italics in the original)

The OCA accordingly recommends that respondent be ordered to promulgate the decision in *People v. Baylon* and that he be reprimanded for the delay in its promulgation and the improper application of the Mabunay ruling thereon.[22]

During the pendency of the present complaint or on January 12, 2003, respondent died.[23] Following *OCA v. Saguyod*,[24] as respondent has already been given the opportunity to answer the complaint and substantiate his defenses, this Court shall decide the complaint on the merits.

The OCA finds that the delay in deciding *People v. Baylon* involving a detention prisoner was due to a misapplication of the Mabunay ruling. It is gathered, however, that it was only on February 7, 2002, or more than two years after respondent assumed office as presiding judge of Branch 28 that he, erroneously relying on the Mabunay case, directed the parties to manifest their choice of judge to decide the case. It was thus only with respect to the delay subsequent to February 7, 2002 which is attributable to the misapplication of the Mabunay ruling. The delay subsequent to respondent's assumption of office on January 3, 2000 as presiding judge of Branch 28 up to February 6, 2002 or for more than two years was due to the repeated rescheduling of the promulgation, as indicated in the status report of the clerk of court, which was not beyond respondent's control.

Under Rule 140 of the Rules of Court, the penalty for undue delay in rendering a decision, a less serious charge, is suspension from office without salary and other benefits for one (1) to two (2) months and twenty-nine (29) days or a fine of not less than P10,000.00 but not more than P19,999.00.[25]

The OCA's recommended penalty of reprimand is thus not proper.

Absent any finding of malice or bad faith on the part of respondent, however, the minimum penalty of fine in the

amount of P10,000.00 is hereby imposed.

As to the charge of gross ignorance of the law in applying the Indeterminate Sentence Law, the issue is not, as the OCA finds, judicial in nature, for what is at issue is respondent's lack of familiarity with the Indeterminate Sentence Law which is properly the subject of an administrative proceeding.

Respondent stresses that the penalty he imposed in *People v. Mahilum* carries minimum and maximum periods instead of a single penalty, which is the very essence of the Indeterminate Sentence Law.[26]

Respondent's imposed penalty is, however, incorrect. Under Article 51 of the Revised Penal Code, the penalty for an attempted crime is two degrees lower than that prescribed by law. As attempted homicide is punishable by prision correccional, applying the Indeterminate Sentence Law, the minimum penalty to be imposed upon the accused is anywhere within the range of One (1) Month and One (1) Day to Six (6) Months of arresto mayor, and the maximum to be taken from the medium period of prision correccional,[27] the range of which is Two (2) Years, Four (4) Months and One (1) Day to Four (4) Years and Two (2) Months.

This Court's ruling bears repeating: Although a judge may not always be subjected to disciplinary action for every erroneous order or decision he renders, that relative immunity is not a license to be negligent or abusive and arbitrary in performing his adjudicatory prerogatives.[28]

Everyone, especially a judge, is presumed to know the law. And a judge is expected to exhibit more than just a cursory acquaintance with statutes and procedural rules, and to apply them properly in all good faith. Judicial competence requires no less.[29]

For erroneously applying the Indeterminate Sentence Law, respondent is guilty of gross ignorance of the law.

As to the charge that respondent refused to inhibit himself in the case of *People v. Sagutier*, his Order of February 28, 2000 stating the reason behind the denial of complainant's Motion to Inhibit is well-taken and is, at any rate, mooted by his Order of May 23, 2000[30] to transmit the records of the case to Judge Honrado before whom the case was submitted for decision.

And as to respondent's alleged lack of mastery of the English language, the evidence on record does not suffice to support the same.

While respondent is liable for undue delay in rendering a decision and gross ignorance of the law, since he died on January 12, 2003, this Court resolved, under the facts and circumstances of the case, to consider the case closed and terminated.

WHEREFORE, the present administrative complaint is now hereby CLOSED and TERMINATED.

Let a copy of this Decision be furnished the Office of the Court Administrator, the Judicial and Bar Council, the Office of the Bar Confidant, and the Integrated Bar of the Philippines.

SO ORDERED.

Puno (Chairman), Panganiban, Sandoval-Gutierrez, and Corona, JJ., concur.

[1] Rollo at 9-16.

[2] Criminal Case No. 48880.

[3] Rollo at 9.

[4] Act 4103, as amended.

[5] Criminal Case No. 49105.

[6] Rollo at 10-12.

[7] Id. at 14.

[8] Criminal Case No. 44965.

[9] This circular was clarified in the case of *Re: Cases Left Undecided by Judge Sergio D. Mabunay*, RTC Branch 24, Manila, 292 SCRA 694, 699 (1998) which held:

Basically, a case once raffled to a branch belongs to that branch unless reraffled or otherwise transferred to another branch in accordance with established procedure. When the Presiding Judge of that branch to which a case has been raffled or assigned is transferred to another station, he leaves behind all cases he tried with the branch to which they belong. He does not take these cases with him even if he tried them and the same were submitted to him for decision. The judge who takes over his branch inherits all these cases and assumes full responsibility for them. He may decide them as they are his cases, unless any of the parties moves that his case be decided by the judge who substantially heard the evidence and before whom the case was submitted for decision.

[10] Rollo at 10, 46.

[11] Id. at 12.

[12] Criminal Case No. 51015.

[13] Rollo at 12.

[14] Id. at 35-37.

[15] Id. at 35.

[16] Vide note 9.

[17] Rollo at 36.

[18] Ibid.

[19] Id. at 89-93.

[20] Id. at 91.

[21] Id. at pp. 91-92.

[22] Id. at 93.

[23] Per records of A. M. 11063-Ret.

[24] A.M. Nos. P-96-1229-30, March 25, 2002.

[25] Section 10 (b), Amended by A. M. No. 01-8-10-SC effective October 1, 2001.

[26] Rollo at 36.

[27] Art. 64, par. 1, Revised Penal Code.

[28] *Bacar v. De Guzman, Jr.*, 271 SCRA 328, 338 (1997).

[29] *Gacayan v. Pamintuan*, 314 SCRA 682, 702-703 (1999) citing *Agcaoili v. Ramos*, 229 SCRA 705 (1994); *Cortes v. Judge Catral*, 279 SCRA 1 (1997); *Cui v. Madayag*, 245 SCRA 1 (1995).

[30] Rollo at 15.

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