

LOLITA QUE LIM, COMPLAINANT, VS. JUDGE ROGER A. DOMAGAS, RESPONDENT.

A.M. No. RTJ-92-899. October 15, 1993

Ponente: FELICIANO, J.

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FELICIANO, J.:

This is an administrative complaint filed by Lolita Que Lim against Regional Trial Court Judge Roger A. Domagas, for gross ignorance of the law, inefficiency and incompetence, in respect of Special Proceeding No. 527, entitled "In the Matter of the Petition for Habeas Corpus of Daniel Christopher G. Lim, Kristine Marie G. Lim and Katrine Anne G. Lim." The present controversy arose from the following facts:

A petition for the issuance of a writ of habeas corpus was filed by Maria Adelinda Goze Lim, with Daniel Que Lim and herein complainant Lolita Que Lim as respondents, in Branch 2 of the Regional Trial Court of Tuguegarao, Cagayan. Respondent Judge Roger A. Domagas, while acting as pairing judge of said court, heard the case.

On 19 February 1992, respondent Judge Domagas issued an order requiring Lolita Que Lim and Daniel Que Lim to appear before the court, to produce and bring before the court the three (3) minor children subject of the proceedings and to explain the cause of their restraint over the said minors.[1] This order, however, was not served on Daniel Que Lim and Lolita Que Lim because they were not home at the time of service.

On 21 February 1992, another order similar in tenor to the 19 February 1992 order was issued by respondent Judge Domagas; this order was served on Lim Hua, the husband of Lolita Que Lim.[2]

Apparently, the said order was not complied with by Daniel Que Lim and Lolita Que Lim because on 5 March 1992, a Motion to Declare Respondents in Contempt was filed by Maria Adelinda Goze Lim.

Acting on the Motion to Declare Respondents in Contempt, respondent Judge Domagas summarily issued the following order on 27 April 1992:

"Considering the Sheriff's report and return, the non-appearance of respondent Daniel Que Lim and non-production by him of the three (3) minor children, Daniel Christopher, Kristine Marie and Katrine Anne, all surnamed Lim, without any justification and considering further the order of the court dated March 26, 1992, whereby parties agreed to bring to court the said minors, the Court hereby penalizes Daniel Que Lim and Lolita Que Lim for contempt and hereby sentences them to prison until they produce before this court said three (3) minor children, said imprisonment not to exceed six (6) months.

Upon manifestation of Atty. Donato, let a hold departure order be issued against Daniel Que Lim and the said three (3) minor children and also against Lolita Que Lim.

Let a copy of this Order be furnished the Commission on Immigration and Deportation, Manila for its information and guidance and the NBI for the arrest of herein respondents."[3]

Subsequently, a Motion to Lift Warrant of Arrest and Motion for Reconsideration dated 29 April 1992 was filed

by herein complainant Lolita Que Lim manifesting that she had never promised to bring the three (3) minor children to court. Complainant also averred that her co-respondent in the Habeas Corpus proceedings, Daniel Que Lim, was not properly served with summons. Lastly, complainant pointed out that because there was no notice and hearing on the Motion for Contempt, respondent Judge could not order her and Daniel Que Lim's arrest.[4]

Judge Teodoro L. Hernando, the regular presiding judge, upon finding that there was no basis for holding complainant and Daniel Que Lim guilty of contempt, issued an order dated 8 May 1992, lifting the warrants of arrest but maintaining the hold departure order.[5]

Before this Court, complainant reiterates the averments contained in her Motion to Lift Warrants of Arrest and Motion for Reconsideration in her complaint and adds that respondent Judge acted maliciously, whimsically and with gross ignorance of the law when he issued the questioned order of 27 April 1992.

For his part, respondent Judge Domagas, in his comment, maintains that he issued the questioned order pursuant to a 26 March 1992 order whereby complainant and Daniel Que Lim agreed to bring the minors before the court. Moreover, he felt that the petition for Habeas Corpus was urgent and he believed that the accused party "would be brought to custody pending the proceedings pursuant to the last paragraph of section 3, Rule 71 of the Rules of Court." Lastly, respondent Judge claims that since the 27 April 1992 order was never implemented, no actual damage was caused and therefore, the complaint should be dismissed.

After respondent's comment and complainant's reply were filed, the Court referred the matter to the Office of the Court Administrator. Deputy Court Administrator Juanito Bernad, after conducting an investigation, submitted his report to the Court dated 26 July 1993 with the recommendation that respondent Judge Domagas be fined five thousand pesos (P5,000.00) for ignorance of the law.

The Court accepts the conclusion and recommendation reached by the Office of the Court Administrator, except for the amount of the fine.

What was involved in the case before respondent Judge was indirect contempt of court under section 3(b) of Rule 71 of the Rules of Court, which requires that a written charge be filed and an opportunity given to the accused to be heard by himself or counsel, before the accused may be punished for contempt. Section 3(b) of Rule 71 provides:

"Sec. 3. Indirect contempts to be punished after charge and hearing. -- After charge in writing has been filed, and an opportunity given to the accused to be heard by himself or counsel, a person guilty of any of the following acts may be punished for contempt;

x x x x x x x x

(b) Disobedience of or resistance to a lawful writ, process, order, judgment, or command of a court; or injunction granted by a court or judge, x x x

x x x x x x x x "

In the proceeding at bar, complainant and Daniel Que Lim were punished for alleged contumacious refusal to bring the three (3) minor children before the respondent's court and on the part of Daniel Que Lim, alleged refusal to appear in court, without having been given an opportunity to rebut the charges and without having been notified by service of summons of the hearing of the Habeas Corpus case. In declaring the complainant and Daniel Que Lim guilty of indirect contempt and ordering their arrest without complying with the aforementioned rule, respondent judge acted not only without or in excess of his jurisdiction[6] but with gross ignorance of the law.[7]

Respondent Judge Domagas owes it to the public to know the law to be applied in a particular controversy. In so doing, he is called upon to exhibit more than just a cursory acquaintance with statutes and procedural rules.[8] Notwithstanding respondent Judge's opinion regarding the urgency of the case, the law and settled jurisprudence should not be sacrificed for the sake of expediency.

As a matter of public policy, in the absence of fraud, dishonesty or corruption, the acts of a judge in his judicial capacity are not subject to disciplinary action, even though such acts are erroneous.[9] However, while judges should not be disciplined for inefficiency on account merely of occasional mistakes or errors of judgment, it is imperative that they be conversant with basic legal principles like the one involved here.[10] Fortunately for respondent Judge, his order of 27 April 1992 was caught in time by the regular presiding judge and hence not actually enforced upon complainant; otherwise, a heavier penalty on respondent Judge would be called for.

ACCORDINGLY, the Court Resolved to HOLD respondent Judge Roger A. Domagas guilty of gross ignorance of the law and to REQUIRE him to pay a fine equivalent to Ten Thousand Pesos (P10,000.00), with a WARNING that repetition of the same or similar offense will be met with a more severe penalty.

Narvasa, C.J., Cruz, Bidin, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Quiason, Puno, and Vitug, JJ., concur.

Padilla and Griño-Aquino, JJ., on leave.

[1] Motion to declare respondents in contempt, Annex "F," p. 1; Rollo, p. 22.

[2] Ibid.

[3] Order dated 27 April 1992, Annex "A," Rollo, pp. 12--13.

[4] Motion to declare respondent's in contempt, Annex "H," p. 2; Rollo, p. 28.

[5] Order dated 8 May 1992, Annex "I," Rollo, pp. 30-31.

[6] *Felizmena v. Galano*, 131 SCRA 165 (1984); *Caluag v. Pecson*, 82 Phil. 8 (1948).

[7] See, generally, *Libarios v. Dabalos*, 199 SCRA 48 (1991); *Quizon v. Baltazar, Jr.*, 65 SCRA 293 (1975).

[8] *Ubongon v. Mayo*, 99 SCRA 30 (1980).

[9] *Abad v. Bleza*, 145 SCRA 1 (1986); *Revita v. Rimando*, 98 SCRA 619 (1980).

[10] *Ubongon v. Mayo*, supra; *Ajeno v. Inserto*, 71 SCRA 166 (1976).

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