

EVELIO PEÑA, JEROLD PEÑA, AUGUSTO BARBOSA AND ALVIN PILAPIL, COMPLAINANTS, VS. JUDGE ORLANDO A. MARTIZANO, MCTC, SAN JOSE-PRESENTACION, CAMARINES SUR, RESPONDENT.

A.M. No. MTJ-02-1451. May 30, 2003

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7377b39f856e/>

PANGANIBAN, J.:

When the facts stated in the complaint plainly described an election offense, the respondent should have known that he had no jurisdiction to conduct a preliminary investigation thereon. For having ignored the clear rule that only the Commission on Elections (Comelec) had the exclusive power to preliminarily investigate and to prosecute election offenses, he has opened himself to administrative sanction. His liability is compounded by his subsequent actions showing plain violations of the Rules on Criminal Procedure and elementary due process.

The Case and the Facts

This administrative case arises from a Complaint^[1] filed with the Office of the Court Administrator (OCA) on August 24, 2001 by Evelio Peña, Jerold Peña, Augusto Barbosa and Alvin Pilapil. In the Complaint, Judge Orlando A. Martizano of the Municipal Circuit Trial Court (MCTC) of San Jose-Presentacion, Camarines Sur, was charged with grave abuse of authority, political harassment, evident partiality, ignorance of the law and election offenses.

The material averments in the Complaint are summarized by the OCA as follows:

"Complainants aver that on May 5, 2001, a Saturday, they were criminally charged in respondent's court in the [I]nformation which in part reads:

`x x x the accused did then and there, willfully, unlawfully and feloniously falsify the Official Ballots for the May 11, 1998 Local and National Elections for the Municipal[ity] of San Jose, Camarines Sur, by switching the official ballots cast in favor of the complainant with faked and simulated ballots that later nullified the valid ballots cast in favor of the complainant x x x.'

"Respondent Judge went to the MCTC, San Jose, Camarines Sur purposely to receive, admit and act on [a] [C]omplaint entitled 'People vs. Evelio Peña, et. al.,' and docketed the same as Criminal Case No. 1645. The [C]omplaint was erroneously designated as 'Falsification of Public Documents' allegedly in violation of Article 172 in relation to Article 171 of the Revised Penal Code, although nothing in said penal provisions appear to have been violated.

"Respondent should not have taken cognizance of the case as the body of the [C]omplaint shows that the same is election related. Under the Comelec Rules of Procedure, it is the Commission on Election that has the exclusive authority to prosecute offenses found to be election-related. [Complainants] called the attention of respondent Judge by filing a Motion for Inhibition and refer[ed] the case to the Provincial Prosecutor's Office, but the motion was not acted upon. Respondent Judge, in patent abuse of authority, admitted the [C]omplaint and issued the

warrants of arrest despite knowledge that under the offense charged, no probable cause exists.

"Respondent is ignorant of the law because he assumed jurisdiction over the case which is election-related. As a rule, it is the allegations contained in the body of the [C]omplaint that controls not the designation of the offense.

x x x x x x x x

"x x x [R]espondent should also be held liable for election offenses for issuing the warrant of arrest. As candidates, their reputation was besmirched and they were forced to refrain for a period from campaigning. This action by respondent judge who is a public officer is either direct or indirect intervention in an election campaign, or involves directly or indirectly partisan political activity."[2]

In his Comment[3] dated October 9, 2001, respondent avers that there was nothing irregular about working on a Saturday. He explains that aside from his regular appointment as presiding judge of Tigaon-Sangay, he was also the designated judge of four other municipal trial court (MTC) branches in Camarines Sur; namely, those in Lagonoy, Goa, Caramoan and San Jose-Presentacion. He swears that his presence at the San Jose-Presentacion sala was not prearranged by him and Mayor Gil P. Pacamarra, the complainant in Criminal Case No. 1645. He attests that he was indeed scheduled to work in that branch on that particular Saturday when the charge against complainants was filed.

Respondent claims that he did not commit any grave abuse of authority when he conducted the preliminary investigation in Criminal Case No. 1645. He maintains that he was competent to do so, because the facts alleged in the Complaint pointed to falsification. According to him, the "switching (of ballots) with fake and simulated (ones)" constituted the offense of "falsification" as defined in Article 171 of the Revised Penal Code. He reasons that "[t]he fact that the objects switched were official ballots did not make the act of switching no longer punishable by the Revised Penal Code."

Moreover, he castigates complainants for belatedly raising the issue that the case was election-related and should have been filed with the provincial prosecutor's office for preliminary investigation. According to him, he had already concluded his investigation on May 9, 2001, while they raised the matter only on May 11, 2001.

Respondent likewise asserts that the warrants of arrest against complainants were regularly issued. Mayor Pacamarra filed on May 11, 2001 an Urgent Motion for the Issuance of Warrants of Arrest, because he and his family were receiving death threats. After due deliberation, respondent granted the Motion and issued the corresponding arrest warrants.

Respondent relates that on May 30, 2001, complainants filed a Motion to Quash on the ground that he had no authority to conduct the preliminary investigation in Criminal Case No. 1645, because the offense charged therein was an election offense. He then ordered the prosecution to file its comment, but it failed to do so. Thereafter, he issued an Order dismissing the case.

Finally, he claims that all the proceedings relative to Criminal Case No. 1645, from the time of its filing until its dismissal, were in accordance with the Rules of Court. He stresses that had he desisted from giving due course to the case, he would have been reneging on his duties.

Report and Recommendation of the OCA

In its May 22, 2002 Report,[4] the OCA found respondent guilty of ignorance of the law when he gave due course to Criminal Case No. 1645. It opined that "[w]hile official ballots are considered public documents, falsification of the same is not punishable under the penal code. Falsification of any election form or document, official ballots

or any other document used in the election is an election offense punishable under the Omnibus Election Code which only the C[omelec], through its authorized legal officer, [has] the power to conduct preliminary investigation and prosecute." [5] The OCA also noted that respondent had not been deputized by the Comelec, which was authorized to deputize other officials of the government to prosecute election offenses.

The OCA likewise found that respondent erred in issuing the warrants of arrest against complainants without first resolving the Urgent Manifestation with Plea for Inhibition as well as the Supplemental Argument filed by their counsel. These pleadings questioned his authority to give due course to the criminal case. The OCA observed that, without first waiting for the comment of the Office of the Provincial Prosecutor, respondent had proceeded to issue the arrest warrants and subsequently suspended the proceedings.

The OCA also noted that "if respondent was of the honest belief that the offense charged in [Criminal Case No. 1645] was not election-related, he should have first resolved the pending incident and proceeded with the preliminary investigation pursuant to Section 3 of Rule 112 of the Rules of Court, by giving [complainants] the opportunity to submit counter-affidavits and other controverting evidence. x x x. By suspending the proceedings after the warrants of arrest were issued, respondent had denied [complainants] their right to due process. Wittingly or unwittingly, he allowed himself to be an instrument to harass the political opponents of the complainant[s]." [6]

The OCA recommended that respondent be fined P10,000 with a warning that a repetition of the same or a similar offense be dealt with more severely.

This Court's Ruling

We agree with the findings of the OCA, but modify the penalty in accordance with Rule 140 of the Rules of Court.

Respondent's Administrative Liability

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.[7] 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 with the statutes and procedural laws.[8] Anything less would constitute gross ignorance of the law.[9]

In the present case, respondent exceeded his authority when he persisted in giving due course to Criminal Case No. 1645 despite the objection of complainants. Elementary is the rule that the real nature of a criminal charge cannot be determined from the title of the complaint; the designation of the offense charged; or the particular law or part thereof allegedly violated, which are mere conclusions of law. What is controlling is the description of the crime or the actual recital of facts in the complaint or information.[10]

In this case, a perusal of the body of the Complaint reveals that the charge was "switching of official ballots with simulated ballots." The facts in the Complaint clearly describe an election-related incident. Thus, respondent should have known that the crime charged was an election offense. However, instead of reviewing the matter in accordance with election laws, he treated it as an ordinary act of falsification of a public document and, thereafter, conducted a preliminary investigation. Clearly, he ignored the rule that the Comelec, through its authorized legal officers, has the exclusive power to conduct preliminary investigations of all election offenses and to prosecute them.[11]

Moreover, contrary to the claims of respondent, his actions were not in accordance with the Rules on Criminal Procedure. Assuming that he had the authority to conduct the preliminary investigation, then he should have given complainants the opportunity to submit their counter-affidavits and any evidence to support their defense.[12] Instead, he deprived them of this right. Further, he avers that he finished his investigation on May 9, 2001. However, there was no mention of his transmittal of the records of the case to the provincial prosecutor for appropriate review.

Respondent blames complainants for belatedly raising the issue that the Comelec has the exclusive authority to conduct the necessary preliminary investigation. We reject this flimsy excuse. As a judge, he is mandated in every case to diligently endeavor to ascertain the facts and the applicable law.[13] He cannot hide his negligence or incompetence by shifting the blame to complainants.

Likewise, respondent erred in hastily issuing the warrants of arrest against complainants. Within the reglementary period, the latter raised the issue of whether he had jurisdiction to conduct the preliminary investigation. Respondent, however, granted the warrants for their arrest without first resolving the pending issue. Moreover, we find it irregular that even without determining the veracity of their claim, he ordered their arrest on the same day the Motion therefor was filed. He simply relied on the information relayed to him by Mayor Pacamarra without conducting the necessary examination required by Sections 4[14] and 6[15] of Rule 112 of the Rules of Court.

We reiterate that judges are duty-bound to be faithful to the law and to maintain professional competence at all times. Their role in the administration of justice requires a continuous study of the law and jurisprudence, lest public confidence in the judiciary be eroded by incompetence and irresponsible conduct.[16]

Gross ignorance of the law constitutes a serious charge under Section 8 of Rule 140 of the Rules of Court. A finding of guilt results in any of the following: (a) dismissal from service, forfeiture of all or part of one's benefits, and disqualification from reinstatement or appointment to any public office including government-owned or controlled corporations; (b) suspension from office without salary and other benefits for more than three but not exceeding six months; or (c) a fine of more than P20,000 but not exceeding P40,000.

WHEREFORE, Judge Orlando A. Martizano is found guilty of gross ignorance of the law. He is ORDERED to pay a FINE of P25,000, with a warning that a repetition of the same or a similar act shall be dealt with more severely.

SO ORDERED.

Puno, (Chairman), and Carpio-Morales, JJ., concur.

Sandoval-Gutierrez, and Corona, on leave.

[1] Rollo, pp. 1-2.

[2] OCA Report, pp. 1-3; rollo, pp. 64-66.

[3] Rollo, pp. 31-42.

[4] Signed by Deputy Court Administrator Jose P. Perez and recommended for approval by Court Administrator Presbitero J. Velasco Jr.

[5] OCA Report, p. 7; rollo, p. 70.

[6] Id., pp. 8-9 & 71-72.

[7] Rule 1.01 of Canon 1 of the Code of Judicial Conduct.

[8] *Tabao v. Barataman*, AM No. MTJ-01-1384, April 11, 2002.

[9] *Creer v. Fabillar*, 337 SCRA 632, August 14, 2000; *Pacris v. Pagalilauan*, 337 SCRA 638, August 14, 2000.

[10] *People v. Barrientos*, 285 SCRA 221, January 28, 1998; *People v. Diaz*, 320 SCRA 168, December 8, 1999; *People v. Taño*, 331 SCRA 449, May 5, 2000; *People v. Banihit*, 339 SCRA 86, August 25, 2000.

[11] §265 of the Omnibus Election Code.

[12] §3 of Rule 112 of the Rules of Court.

[13] Rule 3.02 of the Code of Judicial Conduct.

[14] "SEC. 4. Resolution of investigating prosecutor and its review. — If the investigating prosecutor finds cause to hold the respondent for trial, he shall prepare the resolution and information. He shall certify under oath in the information that he, or as shown by the record, an authorized officer, has personally examined the complainant and his witnesses; that there is reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof; that the accused was informed of the complaint and of the evidence submitted against him; and that he was given an opportunity to submit controverting evidence. Otherwise, he shall recommend dismissal of the complaint.

"Within five (5) days from his resolution, he shall forward the record of the case to the provincial or city prosecutor or chief state prosecutor, or to the Ombudsman or his deputy in cases of offenses cognizable by the Sandiganbayan in the exercise of its original jurisdiction. They shall act on the resolution within ten (10) days from their receipt thereof and shall immediately inform the parties of such action.

"No complaint or information may be filed or dismissed by an investigating prosecutor without the prior authority or approval of the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy.

"Where the investigating prosecutor recommends the dismissal of the complaint but his recommendation is disapproved by the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy on the ground that a probable cause exists, the latter may, by himself, file the information against the respondent, or direct another assistant prosecutor or state prosecutor to do so without conducting another preliminary investigation.

"If upon petition by a proper party under such Rules as the Department of Justice may prescribe or *motu proprio*, the Secretary of Justice reverses or modifies the resolution of the provincial or city prosecutor or chief state prosecutor, he shall direct the prosecutor concerned either to file the corresponding information without conducting another preliminary investigation, or to dismiss or move for dismissal of the complaint or information with notice to the parties. The same Rule shall apply in preliminary investigations conducted by the officers of the Office of the Ombudsman."

[15] "SEC. 6. When warrant of arrest may issue. —

x x x x x x x x

"(b) By the Municipal Trial Court. — When required pursuant to the second paragraph of section 1 of this Rule, the preliminary investigation of cases falling under the original jurisdiction of the Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court, or Municipal Circuit Trial Court may be conducted by either the judge or the prosecutor. When conducted by the prosecutor, the procedure for the issuance of a warrant of arrest by the judge shall be governed by paragraph (a) of this section. When the investigation is

conducted by the judge himself, he shall follow the procedure provided in section 3 of this Rule. If his findings and recommendations are affirmed by the provincial or city prosecutor, or by the Ombudsman or his deputy, and the corresponding information is filed, he shall issue a warrant of arrest. However, without waiting for the conclusion of the investigation, the judge may issue a warrant of arrest if he finds after an examination in writing and under oath of the complainant and his witnesses in the form of searching questions and answers, that a probable cause exists and that there is a necessity of placing the respondent under immediate custody in order not to frustrate the ends of justice."

[16] *Belga v. Buban*, 331 SCRA 531, May 9, 2000.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.