

ANTONIO GAMAS AND FLORENCIO SOBRIO, COMPLAINANTS, VS. JUDGE ORLANDO A. OCO, IN HIS CAPACITY AS PRESIDING JUDGE OF MUNICIPAL TRIAL COURT, POLOMOLOK, SOUTH COTABATO AND PNP SPO4 W...

A.M. No. MTJ-99-1231. March 17, 2004

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a complaint for grave misconduct and gross ignorance of the law filed by complainants Antonio Gamas and Florencio Sobrio (“complainants”) against Judge Orlando A. Oco (“respondent judge”), former [1] Presiding Judge of the Municipal Trial Court, Polomolok, South Cotabato (“MTC Polomolok”) and SPO4 Willie Adulacion (“respondent Adulacion”), a “police prosecutor” in the MTC Polomolok.

The Facts

In their Complaint (“Complaint”) and supporting affidavits, complainants allege that they are the accused in a case for theft [2] which, at the time material to this case, was pending in the sala of respondent judge. As respondent judge had issued warrants for their arrest, complainants on 3 October 1996 went to the MTC Polomolok to post bail. Complainants allege that respondent Adulacion enticed them to plead guilty to the charge, apply for probation, and thus avoid imprisonment.

Respondent Adulacion, who had allegedly prepared a draft decision embodying his suggestion, conferred with respondent judge, and handed the draft decision to respondent judge. After reading the document, respondent judge signed it, told complainants “O, plead guilty man kamo” (“O, you’re pleading guilty”), and handed the document to a clerk. Respondent judge told the clerk to read the contents of the decision to complainants and to instruct them on what to do. The clerk read the contents of the document to complainants and asked them to sign it. Complainants signed the document upon respondent Adulacion’s assurance that once the police apprehend the rest of the accused,[3] the police will revive the case and respondent Adulacion will present complainants as “star witnesses.” Complainants later found out that what they signed was an Order [4] (“3 October 1996 Order”) finding them guilty of theft and sentencing them each to imprisonment for six (6) months and one (1) day.

Finding the proceedings highly irregular, complainants sought the assistance of a lawyer. Upon motion of complainants’ counsel, respondent judge vacated the 3 October 1996 Order, ostensibly on the ground that complainants had entered improvident guilty pleas. Respondent judge scheduled complainants’ re-arraignment on 2 February 1997.

In the present complaint, complainants contend that respondent judge is administratively liable for rendering judgment against them without the benefit of an arraignment and in violation of their right to be represented by counsel.[5]

In his Answer (“Answer”), respondent judge denied complainants’ allegations regarding the alleged procedural irregularities in the issuance of the 3 October 1996 Order. According to respondent judge, the following transpired in his sala on 3 October 1996:

- On [the] session day [of October 3, 1996,] prosecutor Willie Adulacion with two men who turned out to be complainants, Antonio Gamas and Florencio Sobrio approached me. It was Adulacion who talked. He stated that these two have long pending warrants of arrest and they cannot afford to file P10,000.00 bail. They were charged of theft of corn worth P4,500.00. x x x They were caught with two others who are their relatives hauling 3 or 4 tricycle loads of corn cabs [sic]. Adulacion said that Gamas and Sobrio asked him to propose to the judge that Sobrio and Gamas would plead guilty, but be meted the most minimum penalty, allowed probation and after which they be released [on] their own recognizance because they cannot file their bailbonds.

- Their predicament at that moment if I cannot attend to them immediately was that Mr. Adulacion [would] have to lock them in jail because they surrendered. Gamas and Sobrio were lucky that instant because there was a lull in my proceedings so they were able to see me.

- As soon as Adulacion ha[d] articulated his piece of talk, in the hearing distance of Gamas and Sobrio because we were face to face[,] I asked them if what Adulacion said was true and they replied yes.

- That instant I knew that Sobrio and Gamas wanted things done instantly so they will not be locked in jail so I ordered for the records from my staff. I read thoroughly while the three waited across the table, seated.

- I gathered from my readings that [the] tricycle drivers with their tricycles were apprehended in flagrante delicto carrying corn cabs [sic] right in the corn field of Dole. I asked why there were released with the tricycles inspite of this apprehension but I did not get satisfactory answer from any of the 3. x x x

- For me to instantly respond to their plea that they be allowed to plead guilty, meted the minimum sentence, allowed probation and pending probation they be released on recognizance, they will solve their very immediate problem of being locked in jail because they had surrendered to Adulacion and they had no ready bails. Knowing the course of action they wanted, I begun discoursing on their rights as accused. I told them of their right to counsel, to be given free of charge if they cannot afford to solicit services of one, to confront the witnesses and cross examine and because they had voluntarily articulated the desire to plead guilty, I estimated to them the probable penalty. I also told them that they have [a] right to apply for probation but pending action they may be required to file bailbonds but they begged that they be allowed to plead guilty but released pending probation proceedings.

- After the discourse I read from them that they would like to really plead guilty and wanted instant action so that they will not be in jail. As called for by the situation I arraigned them. I read to them in the dialect they understand the accusation and informed them [of] the nature of the evidence arrayed but they pleaded guilty, always begging that they be sentenced with the most minimum penalty, allowed probation and released immediately in their recognizance.

x x x

X X X

X X X

- [Thus], there was arraignment and that their plea of guilt was voluntary.

- I wrote the decision in long hand in their very presence then handed it to the typist who typed it; then I read silently what the typist typed and satisfied that what I wrote was correctly typed I signed [the 3 October 1996 Order], then required my court interpreter to read the whole decision in the language they know. I looked while the interpreter was reading. They looked satisfied that what the interpreter was reading corresponded with what they proposed and what we discussed. After the reading, Gamas and Sobrio signed the decision.

- It was I who wrote that decision, Mr. Adulacion cannot write that.

- So it is clear that before deciding I arraigned Gamas and Sobrio upon their demand for instant solution to their predicament. Before arraignment I counselled them of their rights and I even warned them the exact penalty I will give them. There was no lawyer in attendance but the lawyer was their problem. I heard them saying that since they were caught carrying the corn, a lawyer would not have much use, moreover they expressed they have no money to pay for a lawyer. I argued that I can give them a PAO lawyer but they insisted they plead guilty so that all will get done without jailing them that instant.[6]

Respondent judge claims that complainants assailed the validity of the 3 October 1996 Order to avoid serving their sentences as they had allegedly violated the terms of their probation by failing to report to their probation officer. Respondent judge maintains that there was no irregularity in the issuance of the 3 October 1996 Order. Respondent judge adds that he decided to set aside his ruling merely out of compassion for complainants.[7]

We referred this matter to the Executive Judge of the Regional Trial Court of Polomolok, South Cotabato (“RTC Polomolok”) for investigation, report and recommendation.

The Investigating Judge’s Findings

On 7 December 2000, Executive Judge Eddie Roxas (“Executive Judge Roxas”) of RTC Polomolok submitted his Report (“Report”), finding respondent judge liable for simple neglect of duty and recommending the imposition of P10,000 fine on the latter. The Report reads in pertinent parts:

The basic issues to be resolved in this case x x x are as follows:

- Whether or not complainants waived their right to counsel;
- Whether or not complainants were properly arraigned; and
- Whether or not the Order dated October 3, 1996 was prepared by Prosecutor Adulacion.

To resolve the first issue, it is noteworthy to state that in all criminal prosecution[s], the accused shall be entitled to be present and defend in person and by counsel at every stage of the proceedings, that is from the arraignment to the promulgation of the judgment (Sec. 1(c), Rule 115, Rules of Court). In relation to such statutory right of the accused, the Court has been given the correlative duty to inform the accused of his right to counsel as expressly provided under Section 6 of Rule 116 of the Rules of Court. The right to be assisted by counsel is deemed so important that it has become a constitutional right and it is so implemented that under our rules of procedure it is not enough for the court to apprise an accused of his right to have an attorney, but it is essential that the court should assign one de officio [counsel] for him if he so desires and he is poor, or grant him a reasonable time to procure an attorney of his own.

X X X

X X X

X X X

In the case under investigation, it is clear that the herein complainants were not assisted by counsel when they were allegedly arraigned by the Respondent Judge. Nowhere in the records of the case [was it shown] that the said complainants were indeed assisted by their own counsel of choice, or a counsel de officio from the time they were allegedly arraigned up to the promulgation of their sentence. x x x

[S]uch fact has been admitted by the Respondent Judge, however, he alleged that the right to counsel had already been waived by the complainants after they were apprised of the said right.

While it is true that the complainants were informed of their right to have counsel, however, it is not enough that said complainants be simply informed of their right to counsel; they should also be asked whether they want to avail themselves of one and should be told that they can hire a counsel of their own choice if they desire to have one, or that one can be provided to them at their own request.

X X X

X X X

X X X

[I]t is x x clear from the investigation conducted that the herein complainants did not satisfactorily waived their right to counsel, for although they were mechanically informed and inadequately explained of the same, it's not a guaranty that they have voluntarily, knowingly and intelligently waived such right. One cannot waive a right if in the first place he does not know and understand such right. In that instance, there is no valid waiver to speak of.

X X X

X X X

X X X

With regard to the second issue, the undersigned Investigating Judge cannot be persuaded that on the very basic procedure alone, involving just the mechanical process of arraignment outlined in Section 1 of Rule 116 of the Rules of Court, there was the necessary degree of compliance by the Respondent Judge. Other

considerations reveal how flawed the supposed arraignment actually was. For instance, there is no showing that the complainants were afforded with counsel, nor furnished a copy of the Amended Complaint with the list of witnesses against them in order that they may duly prepare and comply with their responsibilities.

X X X

X X X

X X X

Not frequently indeed, an accused pleads guilty in the hope of a lenient treatment, or upon a bad advice or promises of the authorities or parties of a lighter penalty should he admit guilt or express “remorse.” It is the duty of the Judge, like the herein Respondent Judge, to see to it that he does not labor under these mistaken impression. Failure or omission on the part of the Respondent Judge to exercise caution against the demands of sheer speed in disposing of cases, whether voluntarily or involuntarily, should not only be censured but also condemned. [A] Court cannot, therefore, hold liberty and life forfeit, no matter how despicable the offender when effective protection for his basic rights were denied because of poverty or ignorance.

For failure of the Respondent Judge to strictly follow and observe the mandatory provisions of Rule 116 of the Rules of Court, it can therefore be gainfully said that the herein complainants were not properly arraigned last October 3, 1996.

Anent the last issue, the complainants failed to adduce sufficient evidence that it was indeed Police Prosecutor Willie Adulacion who prepared the Order dated 3 October 1996. The Respondent Judge adequately proved that it was he who wrote the subject Order duly substantiated and corroborated by the testimonies of the other witnesses. Such proof has never been controverted by the complainants. Thus, the complainants claim that it was Police Prosecutor Willie Adulacion who prepared the subject Order is without merit for [utter] lack of basis in truth and in fact.[8]

On 31 January 2001, we referred the Report to the Office of the Court Administrator (“OCA”) for evaluation, report and recommendation.

The OCA’s Evaluation and Recommendation

In its Memorandum dated 11 May 2001, the OCA, while agreeing with the findings of Executive Judge Roxas, finds respondent judge liable not for mere simple neglect of duty but for gross ignorance of the law. Accordingly, the OCA recommends that respondent judge be fined P20,000. The OCA explains:

[R]espondent judge showed his ignorance not only of the scope of his authority to arraign the complainants but also of the procedure to follow in conducting an arraignment. Moreover, respondent failed to properly apprise complainants of their right to counsel and to provide them with counsel de officio particularly during the arraignment, if they do not have a counsel by reason of their poverty. This is a fundamental constitutional precept which respondent Judge is expected to know. Where, as in this case, the law involved is simple and elementary, lack of conversance therewith constitutes gross ignorance of the law.[9]

The Ruling of the Court

The Court finds the recommendation of the OCA well-taken.

Respondent Judge Failed to Properly Apprise
Complainants of their Right to Counsel

The Constitution mandates that “[I]n all criminal prosecutions, the accused shall x x x enjoy the right to be heard by himself and counsel.”[10] Indeed, the accused has a right to representation by counsel from the custodial investigation all the way up to the appellate proceedings.[11] At the arraignment stage, Section 6 of Rule 116 of the Revised Rules of Criminal Procedure provides:

SEC. 6. Duty of court to inform accused of his right to counsel. — Before arraignment, the court shall inform the accused of his right to counsel and ask him if he desires to have one. Unless the accused is allowed to defend himself in person or has employed counsel of his choice, the court must assign a counsel de oficio to defend him. (Emphasis supplied)

Section 6 of Rule 116 means that:

[W]hen a defendant appears [at the arraignment] without [an] attorney, the court has four important duties to comply with: 1 — It must inform the defendant that it is his right to have [an] attorney before being arraigned; 2 — After giving him such information the court must ask him if he desires the aid of attorney; 3 — If he desires and is unable to employ attorney, the court must assign [an] attorney de oficio to defend him; and 4 — If the accused desires to procure an attorney of his own the court must grant him a reasonable time therefor.[12]

Compliance with these four duties is mandatory.[13] The only instance when the court can arraign an accused without the benefit of counsel is if the accused waives such right and the court, finding the accused capable, allows him to represent himself in person. However, to be a valid waiver, the accused must make the waiver voluntarily, knowingly, and intelligently.[14] In determining whether the accused can make a valid waiver, the court must take into account all the relevant circumstances, including the educational attainment of the accused. In the present case, however, respondent judge contends that complainants waived their right to counsel and insisted on their immediate arraignment.

After reviewing the records and taking into account the circumstances obtaining in this case, we find that respondent judge did not properly apprise complainants of their right to counsel prior to their arraignment. Consequently, there was no basis for complainants’ alleged waiver of such right.

In his Answer, respondent judge does not deny that when he “arraigned” complainants, no lawyer assisted the complainants. However, respondent judge asserted that the attendance of a “lawyer was their (complainants’) problem.” Respondent judge stated that before arraigning complainants, he gave a “discourse [of] their rights as accused.” Respondent judge also stated that since the police caught complainants in flagrante delicto, complainants told him “a lawyer would not have much use.” Respondent judge further stated that complainants “expressed that they have no money to pay for a lawyer.” Respondent judge informed complainants “he can give them a PAO lawyer” if they so desired. However, respondent judge did not appoint a PAO lawyer despite being informed by complainants that they could not afford a lawyer.

These do not amount to compliance with Section 6 of Rule 116. Respondent judge has the duty to insure that there is no violation of the constitutional right of the accused to counsel. Respondent judge is grossly mistaken in saying that securing a “lawyer was their (complainants’) problem.” Once the accused informs the judge that he cannot afford a lawyer and the court has not allowed the accused to represent himself, or the accused is incapable of representing himself, the judge has the duty to appoint a counsel de oficio to give meaning and substance to the constitutional right of the accused to counsel.

Respondent judge knew that complainants are mere tricycle drivers. Respondent judge could not have expected complainants to be conversant with the rules on criminal procedure.[15] Respondent judge should not only have followed Section 6 of Rule 116 to the letter, but should also have ascertained that complainants understood the import of the proceedings. Respondent judge should not have proceeded with complainants’ arraignment until he

had ascertained that complainants' waiver of their right to counsel was made voluntarily, knowingly, and intelligently and that they were capable of representing themselves. As well observed by Executive Judge Roxas:

[Respondent judge] is not only duty-bound to tell the complainants the right to which they are entitled, he must also explain their effects in practical terms, and in a language the complainants fairly understand. In other words, the right of the complainants to be informed of their right to have a counsel implies a correlative obligation on the part of the Respondent Judge to explain and contemplates an effective communication that results in understanding what is conveyed. Since the right to be informed implies comprehension, the degree of explanation required will necessarily vary, depending upon the education, intelligence and other relevant personal circumstances of the complainants. Suffice it to say that a simpler and more lucid explanation is needed when the subject is unlettered as in this particular case. Short of this, there is a denial of the right as it cannot truly be said that the herein complainants have been informed of their rights to counsel.[16] (Emphasis supplied)

The unfortunate but expected result of respondent judge's failure to comply strictly with Section 6 of Rule 116 surfaced during the investigation of this case. Complainants uniformly testified that they were unaware of the meaning and consequence of their guilty pleas. Thus, complainant Gamas testified:

[ATTY. OCO]:

Q You did not want to plead guilty, of course?

[ANTONIO GAMAS]:

A At that time we do not know what plead guilty is. It is only now that I am aware.

x x x

x x x

x x x

Q When you arrived there at the office of Adulacion, what did Adulacion tell you, if he told you anything?

A He said that since you have no cashbond, you just pleaded guilty since you loaded stolen items.

Q So what was your reaction when Adulacion told you that?

A We were dumbfounded.

Q So you have no reaction at all when Adulacion told that you will plead guilty because you don't have cashbond?

A Nothing, because it was only lately that I came to know the meaning of plead guilty.

x x x

x x x

x x x

Q You did not understand the word "plead guilty?"

A I do not know what is plead guilty.

Q You did not ask Adulacion, "what is that all about, Sir?"

A I did not ask anymore, because he also added that he will give us lighter sentence.

Q So because of that promise of Adulacion, you conformed with his suggestion that you will plead guilty?

A Because he said we are supposed to be star witnesses and he will apprehend the three others, so we pleaded guilty.

Q The fact that you pleaded guilty, you were in conformity to the suggestion of Willie Adulacion?

A We cannot do anything at that time, we were dumbfounded.[17] (Emphasis supplied)

Complainant Sobrio similarly testified:

[ATTY. OCO]:

Q What was the story that transpired between you and Adulacion?

[FLORENCIO SOBRIO]:

A Since we don't have any cashbond, we will plead guilty.

COURT:

x x x

X X X

X X X

Q So what was your answer if there was an answer?

A

I said, “What is plead guilty, I don’t understand that?”

Q

Did Willie Adulacion explain to you what is plead guilty after you inquired from him?

A No.

Q After you asked him, what was the answer of Adulacion when you asked him what is that plead guilty?

A He said that we apply for probation so that he can help us.

Q He did not explain to you that by pleading guilty is admitting the charge against you?

A No.[18] (Emphasis supplied)

These testimonies underscore the need for trial court judges to comply strictly with Section 6 of Rule 116. That the accused, like complainants, insist on their arraignment without representation is no reason for a judge to accede readily to their wishes. A judge has the duty to protect the accused in their rights, even against their wishes, when it is clear, as in this case, that they are not in a position to validly exercise or waive those rights. As we had occasion to observe:

[E]ven the most intelligent or educated man may have no skill in the science of the law, particularly in the rules of procedure, and, without counsel, he may be convicted not because he is guilty but because he does not know how to establish his innocence. And this can happen more easily to persons who are ignorant or uneducated. It is for this reason that the right to be assisted by counsel is deemed so important that it has become a constitutional right and it is so implemented that under our rules of procedure it is not enough for the Court to apprise an accused of his right to have an attorney, it is not enough to ask him whether he desires the aid of an attorney, but it is essential that the court should assign one de oficio for him if he so desires and he is poor or grant him a reasonable time to procure an attorney of his own.[19] (Emphasis supplied)

Indeed, by subsequently vacating his 3 October 1996 Order, respondent judge tacitly admits that complainants were in no position to represent themselves during their arraignment, causing them to enter guilty pleas improvidently.

Respondent Judge's Arraignment of Complainants Highly Irregular

Section 1(a), Rule 116 of the Revised Rules of Criminal Procedure states:

Arraignment and plea; how made. — The accused must be arraigned before the court where the complaint or information was filed or assigned for trial. The arraignment shall be made in open court by the judge or clerk by furnishing the accused with a copy of the complaint or information, reading the same in the language or dialect known to him, and asking him whether he pleads guilty or not guilty. The prosecution may call at the trial witnesses other than those named in the complaint or information.

We have explained the rationale, requirements, and compliance of this rule in this manner:

[S]ection 1(a) of Rule 116 requires that the arraignment should be made in open court by the judge himself or by the clerk of court [1] furnishing the accused a copy of the complaint or information with the list of witnesses stated therein, then [2] reading the same in the language or dialect that is known to him, and [3] asking him what his plea is to the charge. The requirement that the reading be made in a language or dialect that the accused understands and knows is a mandatory requirement, just as the whole of said Section 1 should be strictly followed by trial courts. This the law affords the accused by way of implementation of the all-important constitutional mandate regarding the right of an accused to be informed of the precise nature of the accusation leveled at him and is, therefore, really an avenue for him to be able to hoist the necessary defense in rebuttal thereof. It is an integral aspect of the due process clause under the Constitution.[20]

We subscribe to Executive Judge Roxas' finding that respondent judge similarly failed to comply with the requirements of Section 1(a) of Rule 116. Complainants deny respondent judge's claim that he arraigned complainants by "read[ing] to them [the information] in the dialect they understand and inform[ing] them [of] the nature of the evidence arrayed [against them]."[21] However, there is no disputing that respondent judge failed to furnish complainants a copy of the information with the list of the witnesses.

The procedural steps laid down in Section 1(a) of Rule 116 are not empty rituals that a judge can take lightly. Each step constitutes an integral part of that crucial stage in criminal litigation "where the issues are joined x x x and without which the proceedings cannot advance further." [22] Respondent judge may have genuinely desired to spare complainants the travails of being detained in jail, thus the rush in arraigning them, accepting their guilty pleas, imposing a light sentence, and granting them probation. While well-intentioned, such conduct unjustifiably short-circuited the mandatory arraignment procedure in Section 1(a) of Rule 116.

Respondent Judge's Acts and Omissions Constitute Gross Ignorance of the Law

The rule is that when the law is so elementary, not to know it or to act as if one does not know it constitutes gross ignorance of the law.[23] The provisions of the Constitution on the right of the accused to counsel, and of the Revised Rules on Criminal Procedure on the requirements for the arraignment of an accused, are basic. Every judge should know the fundamental substantive and procedural requirements on arraignment and right to counsel.

By holding complainants' arraignment in the manner he conducted it, respondent judge is liable for this administrative transgression. It may very well be that respondent judge knew the substantive and procedural rules in question. What renders him liable is that he acted as if he did not.

On the Appropriate Imposable Penalty

Under Section 11(A), in relation to Section 8(8), of Rule 140 of the Rules of Court, as amended by A.M. No.

01-8-10-SC, gross ignorance of the law or procedure is punishable by:

- Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;
- Suspension from the office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
- A fine of more than P20,000.00 but not exceeding P40,000.00.

This schedule of penalties under A.M. No. 01-8-10-SC, which took effect on 1 October 2001, does not apply retroactively.[24] Accordingly, we sustain the OCA's recommendation that respondent judge be required to pay a fine of P20,000, a penalty we have meted in similar administrative cases involving gross ignorance of the law.[25]

The Court has no Jurisdiction Over
Respondent Adulacion

We refrain from passing upon the complaint against respondent Adulacion, as he is neither a member of the Bar[26] nor a judiciary employee. This Court's administrative jurisdiction extends only to members of the bar and over all courts and their personnel.[27] However, the dismissal is without prejudice to any action complainants may wish to file against respondent Adulacion before the appropriate body.

WHEREFORE, we find respondent Orlando A. Oco, former Presiding Judge of the Municipal Trial Court, Polomolok, South Cotabato, GUILTY of gross ignorance of the law. Accordingly, we FINE respondent Orlando A. Oco P20,000, to be taken from his withheld retirement benefits. The complaint against respondent Willie Adulacion is DISMISSED.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, and Azcuna, JJ., concur.

Panganiban, J., on official leave.

[1] In the Resolution dated 16 February 1999, the Court approved respondent judge's optional retirement but withheld the release of his retirement benefits pending the resolution of this and another administrative case (OCA IPI No. 98-542-MTJ) against him.

[2] Criminal Case No. OCT 1995-1892 entitled "People of the Philippines v. Joel Calaud, Arnold Toledo, Florencio Sobrio, Antonio Gamas and Joey Espartero."

[3] Complainants are two of five accused in Criminal Case No. OCT 1995-1892.

[4] Rollo, p. 28. The 3 October 1996 Order reads:

ORDER

Antonio Gamas and Florencio Sobrio appeared and expressed that they are pleading guilty to the hereunder quoted complaint:

That on or about [the] 23rd day of October 1995 at about 2:00 in the morning, at Dolefil Field 110-C, within the vicinity of Polonabol Site, Barangay Cannery Site, in the municipality of Polomolok, Province of South Cotabato, Philippines and within the jurisdiction of this Honorable Trial Court the above named accused, conspiring, confederating and mutually helping one another with deliberate intent of [sic] gain, and without the consent of the owner, did, then, and there willfully, unlawfully and feloniously take, steal and carry away 25 sacks of corn cobs [sic] loaded on three (3) motorcycle [sic] with sidecar, the said corn owned by Dole Philippines, Inc. managed by the barker and valued at P2.00 per piece with the total value of Four Thousand Five Hundred Pesos (P4,500.00) Philippine Currency, to the damage and prejudice of the owner in the amount aforestated.

They moved that they be placed on probation and pending action on their probation they be released under their respective recognizance.

Antonio is 39 years old, married, driver and resides at Octavio Village, Cannery while Florencio is 42, married, driver and resides at Londres Village, Cannery, all in Polomolok, South Cotabato.

ACCORDINGLY, finding Antonio Gamas and Florencio Sobrio both guilty beyond reasonable doubt of the crime charged, they are each sentenced to suffer 6 months and 1 day imprisonment of prision correccional.

It appearing that they may be entitled to probation within 10 days from today they are ordered to present themselves to the probation officer at Hall of Justice, Lagao, General Santos City in order to comply with all the requirements of probation and said officer is directed to give us his recommendation in 20 days. Should they fail to report they will serve sentence.

In the meanwhile both are released unto their own recognizance.

[5] Rollo, pp. 1-4.

[6] Rollo, pp. 9-12.

[7] Ibid., pp. 12-13.

[8] Rollo, pp. 166-172.

[9] Ibid., p. 469.

[10] Section 14(2), Article III, Constitution.

[11] Section 12(1), Article III, Constitution; see *People v. Serzo*, G.R. No. 118435, 20 June 1997, 274 SCRA 553.

[12] *People v. Holgado*, 85 Phil. 752 (1950).

[13] See *Sayson v. People*, G.R. No. L-51745, 28 October 1988, 166 SCRA 680.

[14] *People v. Bodoso*, G.R. Nos. 149382-149383, 5 March 2003, 398 SCRA 642.

[15] Complainant Gamas subsequently testified during the investigation that he reached only the 5th Grade of his elementary schooling (TSN dated 22 August 2000, pp. 51, 53).

[16] Rollo, p. 169.

[17] TSN dated 22 August 2000, pp. 56, 59-61 (Antonio Gamas).

[18] TSN dated 19 September 2000, pp. 112-113 (Florencio Sobrio).

[19] Supra, note 12.

[20] *People v. Estomaca*, 326 Phil. 429 (1996).

[21] TSN dated 22 August 2000, pp. 50-51 (Antonio Gamas); TSN dated 19 September 2000, p. 127 (Florencio Sobrio).

[22] *People v. Estomaca*, supra, note 20.

[23] *Chan v. Tamin*, A.M. No. RTJ-03-1786, 28 August 2003.

[24] *Capulong v. Gozum*, A.M. No. MTJ-00-1287, 17 February 2003, 397 SCRA 486; *Vileña v. Mapage*, A.M. No. MTJ-02-1424, 24 April 2002, 381 SCRA 489.

[25] *Sule v. Biteng*, 313 Phil. 398 (1995).

[26] Rollo, p. 474 (Certification dated 14 January 2004 of the Office of the Bar Confidant).

[27] Sections 5(5) and 6, Article VIII, Constitution.

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