

PROS. LEO C. TABAO, COMPLAINANT VS. JUDGE PEDRO S. ESPINA, RESPONDENT

RTJ-96-1347. June 14, 1996

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PER CURIAM:

In a sworn complaint dated 4 July 1995, First Assistant City Prosecutor for Tacloban City, Leo C. Tabao, accused Judge Pedro S. Espina then presiding judge, Regional Trial Court, Branch 7, Tacloban City of: (a) Gross Irregularity, (b) Abuse of Authority and (c) Bias in favor of the accused, in handling and deciding Criminal Case No. 93-04-197 entitled "People of the Philippines v. Salvador Padernal" a case for violation of Republic Act No. 6425 (Drug Pushing).

In another sworn complaint dated 21 July 1995, Regional State Prosecutor Francisco Q. Aurillo, Jr. manifested his desire to be a co-complainant against Judge Espina for his handling of the above-mentioned criminal case.

Prosecutor Leo C. Tabao narrated Judge Espina's acts which allegedly merit disciplinary sanction, as follows:

1. On 19 April 1995, when accused Salvador Padernal finished testifying as the third and last witness for the defense in said Criminal Case No. 93-04-197, defense counsel Atty. Lauro G. Noel made a reservation to submit within five (5) days, documentary evidence consisting of the accused's alleged business licenses and permits and the defense's formal offer of exhibits, after which the defense would rest its case;^[1]
2. On 22 June 1995, the prosecution received a notice of promulgation of judgment in the said criminal case which was set on 27 June 1995;
3. On the same day, 22 June 1995, the prosecution filed an urgent manifestation seeking to postpone promulgation of judgment since the defense had not submitted its documentary evidence, formal offer of exhibits and rested its case. The prosecution also manifested its intention of adducing rebuttal evidence to the documentary exhibits to be submitted;^[2]
4. On 23 June 1995, Judge Espina nonetheless issued an order reiterating the notice setting the date of promulgation of judgment on 27 June 1995;^[3]
5. On 27 June 1995, Judge Espina promulgated a judgment in the said Criminal Case No. 93-04-197 entitled "People v. Salvador Padernal" acquitting the accused. The decision was dated 1 June 1995.

Prosecutor Aurillo, aside from reiterating the grounds relied upon by Prosecutor Tabao for holding Judge Espina administratively liable, adds that he (Aurillo) had earlier assailed before the Court of Appeals an Order, dated 22 April 1993, issued by respondent judge granting bail to the accused in the same above-mentioned criminal case without giving the prosecution a chance to present evidence to oppose the grant of bail.^[4] The Court of Appeals in a decision dated 30 August 1994 annulled Judge Espina's orders granting bail to the accused and denying the prosecution's motion for reconsideration of the order which granted bail. The dispositive part of the Court of Appeals decision which became final and executory on 19 September 1994^[5] reads:

"WHEREFORE, for having been issued with grave abuse of discretion, and for lack of or in excess of jurisdiction, the Orders dated April 22, 1993 and June 23, 1993 issued in Criminal Case No. 93-04-197, are declared null and void and set aside. Consequently, the bail bond posted by accused-private respondent is ordered cancelled and respondent court is ordered to issue a warrant of arrest for the accused.

We leave to the sound discretion of respondent Judge, the herein petitioner's prayer for inhibition as he has not been given the opportunity to rule on said motion.

SO ORDERED."[6]

On 22 September 1995, respondent Judge Pedro S. Espina filed comment on the first complaint, arguing that:

1. He proceeded to decide the case without the documentary evidence of the defense since such documents were not submitted within the period allowed;
2. He is of the opinion that the documentary evidence, consisting of business licenses and permits, even if offered to show that accused is gainfully employed, is immaterial to the innocence or guilt of the accused;
3. Respondent judge invokes Sections 3 and 4 of Rule 128 on the admissibility only of evidence relevant to the issue;
4. Finally, respondent judge invokes Section 3(m) of Rule 131 (not Sec. 5(m) of Rule 128 as erroneously referred to in the comment) that presumes that official duty was regularly performed unless the contrary is shown.

On 19 December 1995, respondent Judge Espina filed a pleading entitled "Consolidated Comments" alleging:

1. He granted bail to the accused (Padernal) after the prosecuting fiscal in Criminal Case No. 93-04-197 agreed to submit the issue of bail for resolution after the prosecution filed an opposition to the petition for bail;
2. He granted bail in the amount of P200,000.00 a day after the prosecution filed said opposition;
3. He denied the prosecution's motion for reconsideration of the order granting bail on the ground that the order had become final;
4. The enactment into law of Republic Act No. 7659 on 31 December 1993 and the ruling of the Supreme Court in *People v. Simon* (G.R. No. 93028, 29 July 1994, 234 SCRA 555), giving the law (R.A. 7659) retroactive effect insofar as it is beneficial to the accused, now entitles the accused in the subject criminal case to bail as a matter of right;
5. It is an undue interference with the prerogative of the trial court to argue that the decision in the subject criminal case should not have been rendered (the way and form it was rendered);
6. It is the sole prerogative of the trial court, in the exercise of its authority to appreciate the evidence, to decide the relevance or irrelevance of evidence.

On 6 February 1996, the Office of the Court Administrator submitted to the Court a recommendation to absolve respondent Judge Espina from any administrative liability, based on the opinion that respondent's acts constitute an exercise of judicial prerogative.

We are not persuaded by the recommendation.

The Court has repeatedly stressed the ruling in *People v. Dcicudao*[7] that a hearing is absolutely indispensable before a judge can properly determine whether the prosecution's evidence is weak or strong on the issue of whether or not to grant bail to an accused charged with a heinous crime where the imposable penalty is death, reclusion perpetua or life imprisonment. Hence, a denial of the prosecution's request to adduce evidence, deprives

it of procedural due process, a right to which it is entitled equally as the defense. A hearing is required to afford the judge a basis for determining the existence of those factors set forth under Rule 114, Sec. 6, Rules of Court in granting or rejecting a plea for bail. The hearing for bail though summary in nature is necessary to afford both the prosecution and the defense an opportunity to prove their respective contentions on the matter of bail for the accused.

The Court has never hesitated to impose sanctions on judges who had granted bail to an accused charged with a heinous crime punishable with death, reclusion perpetua or life imprisonment, without the required hearing. In *Santos v. Ofilada*[8] the Court expressing almost exasperation over repeated violations by judges in this regard stated that, "It is indeed lamentable that despite the series of its pronouncements on the same administrative offense, this Court still has to contend with the same problem all over again and to impose once more the same sanction."

In the present case, respondent Judge Espina's failure to comment on this aspect of the complaint against him aggravates his situation. It will be recalled, in this connection, that respondent Judge Espina was also required in another administrative case to comment on the grant of bail to the accused without hearing the evidence of the prosecution.[9] In that case, as in the present case, respondent judge did not comment on the averment that he had granted bail to the accused without hearing the prosecution's evidence. The reason for respondent judge's failure to comment on accusations reflecting on his competence and integrity can only be surmised, but it is apparent that respondent either ignored this Court's resolution ordering him to comment on all the charges in the complaints or respondent judge does not realize the gravity of the accusation that he had granted bail without the required hearing. In the former case, it is gross misconduct, even outright disrespect for the Court, for respondent judge to exhibit indifference to the resolution requiring him to comment on the accusations in the complaints thoroughly and substantially, while in the latter case, not realizing the importance and indispensability of a bail hearing is, to be sure, gross ignorance of the law. In either case, respondent judge should be sanctioned accordingly.

Respondent cannot rely on the ruling in *People v. Simon*[10] since the issue in the present complaints is his having granted bail to an accused charged with an offense then punishable with life imprisonment, without giving the prosecution the opportunity to show that evidence of guilt is strong and that as a consequence, the accused is not entitled to bail. Under the Rules of Court, a hearing for bail is mandatory to afford the State its right to oppose the grant of bail. The ruling in *Simon* did not alter much less set aside the State's right to a hearing to oppose bail. Neither did the ruling in *Simon* cure the defect of lack of a bail hearing in this case.

On the issue regarding the manner of promulgation of the decision in Criminal Case No. 93-04-197, it is evident that respondent judge digressed from the regular course and procedure of rendering judgment, which must be done only after both the prosecution and the defense have rested their respective cases. In the subject criminal case, the defense had yet to rest its case when respondent judge rendered the judgment of acquittal. It is not difficult to imagine the grave injustice which would have resulted had respondent judge convicted the accused before the defense had rested its case. Of course, respondent judge acquitted the accused. But the questions now are: why the deliberate haste to acquit the accused, the same accused to whom bail had been granted by respondent judge without hearing the prosecution's evidence? And why was the prosecution denied the right to present rebuttal evidence when it had manifested its intention to present rebuttal evidence when informed of the promulgation of judgment?

Judges should be reminded that each step in the trial process serves a specific purpose. In the trial of criminal cases, the constitutional presumption of innocence in favor of an accused requires that an accused be given sufficient opportunity to present his defense. So, with the prosecution as to its evidence.

Hence, any deviation from the regular course of trial should always take into consideration the rights of all, the parties to the case, whether in the prosecution or defense. In the exercise of their discretion, judges are sworn not only to uphold the law but also to do what is fair and just. The judicial gavel should not be wielded by one who has an unsound and distorted sense of justice and fairness. Respondent judge's conduct in the disposition of the criminal case subject of the present complaints leaves much to be desired. He miserably failed to exhibit the objectivity required of members of the bench which is necessary, even indispensable, to maintain the public's trust and confidence in the courts.

In sum, respondent judge should be penalized for gross ignorance of the law in granting bail to the accused in Criminal Case No: 93-04-197, where the then imposable penalty was life imprisonment, without hearing. He should also be accordingly sanctioned for having promulgated the decision in the same criminal case before the defense had rested and without according the prosecution an opportunity to present rebuttal evidence.

For these two (2) acts constituting grave misconduct, ignorance of the law and gross incompetence, respondent Judge Pedro S. Espina, now Acting Presiding Judge of the Regional Trial Court, Branch 19, Malolos, Bulacan is hereby DISMISSED from the service, with forfeiture of all retirement benefits and accrued leave credits and with prejudice to re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations. Let copies of this decision be furnished all trial courts in the country with a warning that further violations of the requirement of hearing prior to the grant of bail in cases where the imposable penalty is death, reclusion perpetua, or life imprisonment, will merit the same sanctions imposed in this case. This decision is immediately executory.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado, Davide, Jr., Romero, Melo, Puno, Vitug, Kapunan, Mendoza, Francisco, Hermosisima, Jr., Panganiban, and Torres, Jr., JJ., concur.
Bellosillo, J., no part in deliberation.

[1] TSN, 19 April 1995, pp. 59-60; Annex "A" of Complaint.

[2] Annex "B" of the Complaint.

[3] Annex "C" of the Complaint.

[4] Complaint, p. 1.

[5] Rollo of O.C.A.I.P.I. No. 95-71-RTJ, p. 4.

[6] Id., p. 16.

[7] G.R. No. 81389, 21 February 1989, 170 SCRA 489.

[8] AM. RTJ-94-1217, 16 June 1995, 245 SCRA 56.

[9] Regional State Prosecutor Francisco Aurillo v. Judges Getuli M. Francisco and Pedro S. Espina, A.M. RTJ-93-1097, 12 August 1994.

[10] Supra.

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