GLICERIO M. RADOMES, COMPLAINANT, VS. JUDGE SALVADOR P. JAKOSALEM, RESPONDENT.

A.M. No. MTJ-99-1217 (Formerly OCA IPI No. 98-498-MTJ). December 10, 1999

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

Glicerio Radomes, a tricycle driver, sought the assistance of the Commission on Human Rights' sub-office at Catbalogan, Samar for the filing of a criminal case for Grave Coercion against Police Officer Allan Tuazon for having allegedly "without authority of law, (did) then, and there wilfully, unlawfully, and feloniously by means of threat and intimidation, prevented GLICERIO M. RADOMES from doing something not prohibited by law, to wit: that of fetching water at the artesian well commonly used and owned by the barangay residents of Purok 6, Brgy. Mercedes, Catbalogan, Samar."[1] The case was docketed as Criminal Case No. 9058.

On October 1, 1997, respondent Judge Salvador Jakosalem of the Municipal Trial Court of Catbalogan, Samar, after finding the existence of probable case against the accused therein, issued an order[2] directing Tuazon to submit counter-affidavit/answer and stated that the trial of the case "shall be governed by the Revised Rule on Summary Procedure".

It appears that a criminal complaint was filed charging Radomes of "Direct Assault Upon an Agent of Person in Authority"[3] alleging that Radomes committed "serious intimidation" or "serious resistance" to Tuazon who was engaged in the actual performance of official duties by uttering "COME OUT ALLAN BECAUSE YOU'RE A POLICEMAN, I'M NOT AFRAID TO KILL A POLICEMAN, EVEN ANYWHERE WE MEET" and at the same time allegedly boxed said police officer when the latter tried to pacify the former who was challenging him to a fight. The complaint, which was signed by Chief of Police Elizar Patano Eglobo, was docketed as Criminal Case No. 9064 and on October 3, 1997, respondent Judge Jakosalem issued a warrant for the arrest of Radomes and a bailbond in the amount of P8,000.00 was fixed for his provisional liberty.[4]

In the present administrative complaint, complainant Radomes alleges that the respondent judge was "completely ignorant and totally unmindful of the latest changes of law" when he ruled that the Rule on Summary Procedure should govern the criminal case for grave coercion. He avers that there were apparent discrepancies on the dates and signatures surrounding the issuance of the warrant of arrest against him which suggest that respondent Judge did not conduct an examination in the form of searching questions and answers to determine probable cause. Radomes claims that respondent Judge immediately issued a warrant of arrest against him on the strength of an uncorroborated affidavit and later a complaint by Tuazon rather than issuing a warrant of arrest against the latter for grave coercion which he filed earlier. Radomes accuses respondent Judge of incompetence and gross ignorance of the law.

In his Comment, respondent Judge vehemently denies the charges against him for allegedly being untrue, fabricated and designed to annoy and harass him. He further alleges that Atty. Percival Ortillo, Jr. and Mr. Jesus Pilande of the local office of the Commission on Human Rights, approached him in his chamber requesting for a

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change/amendment of the Order of October 1, 1997 but respondent Judge verbally advised them to file the necessary pleading or motion for reconsideration of the said order but they failed to do so; and that he returned to his "regular-permanent-original station" in the 4[th] MCTC, Motiong, Samar on November 17, 1997 by virtue of the assumption of the newly appointed judge (Odelon Mabutin). Respondent Judge, however, avers that the order was rectified by the new presiding judge in his orders of February 2, 1998, March 16, 1998 and March 17, 1998 to make it conformable to law and a warrant was issued against Tuazon. With respect to the alleged discrepancies in the complaint for direct assault, respondent Judge is of the view that the discrepancy as to the dates of signing of the complaint on October 1, 1997 by the Chief of Police and that of the jurat on September 2, 1997 was apparently due to excusable oversight only. As regards the issuance of the warrant of arrest in the case for direct assault, respondent judge submits that the same was issued upon probable cause after preliminary examination of the complainant personally conducted in the form of questions and answers.

The parties manifested that they are submitting the case on the basis of the pleadings/records already filed and submitted.

The Court Administrator recommended that respondent Judge be ordered to pay a fine of P5,000.00 with a warning that a repetition of the same or similar offense shall be dealt with more severely. The Court Administrator found that respondent Judge erred when he applied the Rule on Summary Procedure in the trial of the case for grave coercion.

Grave coercion is punishable by prision correccional (range: 6 months and 1 day to 6 years) and a fine not exceeding P6,000.00 pursuant to Article 286 of the Revised Penal Code, as amended.[5] The Rule on Summary Procedure cannot be made to govern the trial of the criminal case for grave coercion because the said Rule is applicable only in criminal cases where the penalty prescribed by law for the offense charged is imprisonment not exceeding 6 months, or a fine not exceeding P1,000.00, or both, irrespective of other imposable penalties, accessory or otherwise, or of the civil liability arising therefrom. While the conduct of preliminary investigations by judges of municipal trial courts and municipal circuit trial courts is a non-judicial function, the performance of this non-judicial or executive function does not place the judges beyond the disciplinary power of the Supreme Court for any act or omission in relation to or as an incident to such function, which is only in addition to their judicial functions.[6]

Moreover, judges, who are called upon to administer the law and dispense justice should be studious of the principles of law and diligent in endeavoring to ascertain the facts.[7] Respondent judge owes it to the public and to the legal profession to know the law he is supposed to apply to a given controversy.[8] Respondent ought to be reminded that it is highly imperative that a judge should be conversant with basic legal principles.[9] Among the prime duties to which a judge must ever be faithful is that of being abreast with the law and jurisprudence since the administration of justice requires the continuous study of law and jurisprudence.[10]

While it may be true that the new presiding judge rectified the error, it was incumbent upon the respondent judge to apply the proper rules of procedure if the case does not fall under the Rule on Summary Procedure.[11]

As regards the allegation that respondent judge issued a warrant of arrest against herein complainant without first conducting an examination in the form of searching questions and answers, the same is not substantiated. On the contrary, a preliminary examination was in fact conducted by respondent judge on October 3, 1997 as evidenced by Annex "14" of respondent's Comment.

WHEREFORE, respondent Judge is hereby REPRIMANDED with a warning that a repetition of the same or similar act shall be dealt with more severely.

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SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Purisima, JJ., concur.

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[1] Annex "A".

[2] Annex "F".

[3] Annex "G".

[4] Annexes "I" & "J".

[5] As amended by R.A. 7890, approved February 20, 1995.

[6] Sandoval vs. Manalo, 260 SCRA 611 (Adm. Matter No. MTJ-96-1080, August 22, 1996).

[7] Del Caller vs. Salvador, 28 SCRA 320.

[8] Bacar vs. De Guzman, 271 SCRA 328.

[9] Veluz vs. Babaran, 278 SCRA 471.

[10] DSWD vs. Belen, 275 SCRA 645.

[11] Office of the Court Administrator vs. Villanueva, 279 SCRA 267.

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