

**JUDGE JOSE GODOFREDO M. NAUI, RTC, BRANCH 37, BAMBANG,
NUEVA VISCAYA, COMPLAINANT, VS. JUDGE MARCIANO C.
MAURICIO, SR., MTCC, BRANCH 1, PALAYAN CITY, NUEVA ECIJA,
RESPONDENT.**

A.M. No. MTJ-01-1368. October 23, 2003

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

On March 24, 1998, Presiding Judge Godofredo M. Naui, Regional Trial Court (RTC), Branch 37, Bayombong, Nueva Vizcaya, issued a warrant for the arrest of Pedro de Guzman, the accused in Criminal Case No. 1053-37, for Estafa, raffled to the said branch. The court fixed the amount of P30,000.00 as bail bond for the provisional release of the accused.

Early in the morning of April 1, 1998, police officers of the Criminal Investigation Service (CIS) of the Philippine National Police (PNP) in Cabanatuan City, served the warrant on de Guzman, who was then in the poblacion of General Natividad, Nueva Ecija and placed him under arrest. Instead of surrendering De Guzman and delivering him to judge who issued the warrant, the arresting officers brought him to Barangay Mag-asawang Sampaloc, General Natividad, Nueva Ecija. The police officers proceeded to the house of Judge Marciano C. Mauricio, Sr., Municipal Trial Court in Cities (MTCC), Palayan City, Nueva Ecija. De Guzman offered to deposit to Judge Mauricio, Sr. the cash amount of P30,000.00 as cash bond to secure his provisional liberty. The Judge agreed, and thereafter prepared and signed a Release Order dated April 1, 1998 directing the arresting officers to release De Guzman, and ordering the clerk of court, MTCC, Palayan City to forward all the pertinent papers, documents, fingerprints, pictures, etc., of De Guzman, relative to the bond posted by him to Judge Mauricio, Sr.

On the same day, Police Inspector Serafin Valdez of the PNP-CIS informed Judge Naui, via a 1st Indorsement, of the service of the warrant of arrest on De Guzman and the latter's subsequent release after depositing the amount of P30,000.00 as bail bond. A copy of the release order issued by Judge Mauricio, Sr. was attached thereto.

On April 2, 1998, De Guzman returned to the house of Judge Mauricio, Sr., and requested that he be allowed to retrieve the P30,000.00 he had earlier deposited with the Judge. He explained that needed the amount to pay the services of his counsel, and offered to post a surety bond as a substitute to secure his provisional liberty. The Judge agreed and returned the amount to De Guzman. De Guzman prepared and signed a handwritten Pagpapatunay where he acknowledged receipt of the said amount from Judge Mauricio, Sr. De Guzman, however, failed to post the surety bond as promised, and thus remained free without bail.

On June 15, 1998, Officer-in-Charge Rosalie Dallong-Galicinao of the RTC, Branch 37, sent a letter to the clerk of court of the MTCC, Palayan City, requesting that the original copy of the release order issued by Judge Mauricio, Sr., the original copy of the receipt therefor, and the addendum to the cash bond of de Guzman be immediately forwarded to the Judge Naui's sala. The said clerk of court did not respond. Another Letter dated September 18, 1998 reiterating this same request was sent to the MTCC, Palayan City, this time demanding

compliance within five days from receipt thereof; otherwise, De Guzman's cash bond would be cancelled and a new warrant of arrest against him would be issued. There was, likewise, no response. A third Letter dated October 26, 1998 was sent to the same court, where the request for the immediate transmittal of the requisite documents and papers was reiterated.

In a Letter dated November 23, 1998, Clerk of Court Rosita L. Bagan of the MTCC, Palayan City replied to the series of requests directed at her office. She explained that when she received the first letter-request, Judge Mauricio, Sr. had not been to office as he was suffering from diabetes and intermittent memory loss and was undergoing treatment for his ailment. When Judge Mauricio, Sr. reported for work, she showed the first letter to the Judge, but the latter Judge told her that he could not recall having issued such a release order. The Judge assured her that he would look into the matter. She further declared that she showed the second and third letters to Judge Mauricio, Sr., but that the latter had suffered a mild stroke and sustained a fracture from a nasty fall. She explained, thus:

This is now my dilemma, I could not send you the requested documents because the Honorable Judge Mauricio has not yet located the same and he (Judge Mauricio) could not remember where he placed said documents.

Considering that the letter is now the third request for said purpose I have decided to frankly inform you of my situation. Under the situation, all that I could do is to gently remind our Judge to try to remember and locate the said documents which at the inception were in his possession and has never reached my desk.[1]

In the meantime, the arraignment of De Guzman in Criminal Case No. 1053-37 was set twice, and the accused failed to appear. On December 7, 1998, the RTC issued an Order of Arrest for de Guzman's apprehension, for his failure to appear before the Court, and for Judge Mauricio, Sr.'s failure to forward the documents/papers relative to the bail bond of the said accused.

On motion of de Guzman, the RTC set aside its December 7, 1998 Order. De Guzman was arraigned on January 18, 1999, and entered a plea of not guilty. The prosecution forthwith complained that the MTCC clerk of court had not yet forwarded to the documents relative to the bond of the accused with the RTC. De Guzman's counsel prayed that he be afforded more time to make the appropriate inquiries from the MTCC clerk of court.

The RTC set the trial on August 5, 1999. On said date, de Guzman and his counsel failed to appear, prompting the court to re-issue a warrant of arrest against de Guzman. De Guzman remained at large.

The Office of the Court Administrator (OCA) thereafter received a Letter-Complaint dated August 5, 1999, from Judge Naui, charging Judge Marciano Mauricio, Sr. with gross negligence. The matter was docketed as A.M. OCA No. 99-804-MTJ. In a 1[st] Indorsement dated November 12, 1999, the OCA requested Judge Mauricio, Sr. to file his Comment. The respondent judge complied with the directive and filed his Comment on January 24, 2000.

In the meantime, due to his weakening condition, the respondent judge applied for disability retirement, under Republic Act No. 910, as amended. In a Resolution dated March 28, 2000, this Court granted the respondent judge's application, effective November 16, 1999.

In a Resolution dated August 22, 2001, the Court adopted the recommendation of Deputy Court Administrator Jose P. Perez, directing the parties to manifest their willingness to submit the case for resolution on the basis of the pleadings submitted.

In the interim, Judge Mauricio, Sr. filed with this Court Urgent Motions for the Release of Retirement Benefits, manifesting that he is "on the verge of the end of his earthly journey", and in view of his present state of health which has been steadily deteriorating, he was "in dire need of finances to safe-keep his life". He likewise averred

that should he be found guilty of the offense charged against him, the penalty that may be imposed may not be so extreme as to warrant the forfeiture of his entire retirement benefits. The respondent appealed to the Court to grant such release, and expressed willingness to withhold therefrom a considerable amount to answer for whatever liability may be imposed upon him by reason of the instant administrative complaint.

In a Report dated July 21, 2001, the DCA Perez found Judge Mauricio, Sr. guilty of simple misconduct and recommended that, considering the judge's state of health, he be ordered to pay a fine in the amount of P5,000.00, which amount was to be deducted from the latter's retirement benefits. According to DCA Perez:

We take exception to the manner by which the respondent Judge allowed the posting of the cash bond and the withdrawal of the same by the accused and his family.

The evidence on record disclosed that respondent judge allowed the accused to post his cash bond right in the confines of his (respondent's) residence at 6:25 a.m. of April 1, 1998 (Release Order dated April 1, 1998). Respondent even admitted in his comment that he personally prepared the Release Order.

The following day (April 2, 1998), the accused returned to respondent's residence and the latter allowed the accused to withdraw the cash bond, on the pretext that the accused would secure a surety bond in lieu of the cash bond.

As the accused did not post the surety bond he promised, he in effect enjoyed temporary liberty without the required bond. This eventuality was facilitated by the erroneous practice of respondent judge of conducting official function/s in his residence. This should not be countenanced.

We find this practice improper if not anomalous as the residence of a judge is not an extension of his office or vice-versa. Such act constitutes misconduct in office for which respondent judge should be sanctioned.[2]

We are not in full accord with the recommendations of the Deputy Court Administrator.

It bears stressing that respondent judge was not authorized to entertain, much less accept, the bail bond of De Guzman. Section 17, paragraph (a), Rule 114 of the Rules of Criminal Procedure provides:

"Sec. 17. Bail, where filed.--(a) bail in the amount fixed may be filed with the court where the case is pending, or in the absence or unavailability of the judge thereof, with any regional trial judge, metropolitan trial judge, municipal judge, or municipal circuit trial judge in the province, city, or municipality. If the accused is arrested in a province, city, or municipality other than where the case is pending, bail may also be filed with any Regional Trial Court of said place, or if no judge thereof is available, with any metropolitan trial judge, municipal trial judge, or municipal circuit trial judge therein.[3]

De Guzman was arrested in Gen. M. Natividad, Nueva Ecija, a place other than where the criminal case filed against him was pending. Pursuant to the above rule, De Guzman had two options: to post bail in the court where his case was pending, or to post bail with any regional trial court in the province, city or municipality where he was arrested. In the absence of a regional trial court judge, he could file his bail bond with any metropolitan trial judge, municipal trial judge or municipal circuit trial judge therein.[4]

In this case, De Guzman did not file his bail bond with the RTC, Branch 37 where his case was pending; neither did he post bail with the court where he was arrested. Instead, he opted to post his cash bond with the respondent, the Presiding Judge of Branch 1 of the MTCC in Palayan City. Paragraph (a) of Section 17, paragraph (a) of Rule 114 of the Rules of Criminal Procedure provides that any metropolitan trial judge, municipal trial judge or municipal circuit trial judge in the place where the arrest was made may entertain and accept a bail bond only when no regional trial court judge is available. There is no showing that there was no regional trial court judge in Nueva Ecija available when De Guzman went to the respondent to deposit his cash bond.

What is more nettlesome is that De Guzman deposited his cash bond in the residence of respondent. As aptly put by DCA Perez, the residence of a judge is not an extension of his office.[5] The respondent judge should have instructed De Guzman on the proper procedure: to post bail in the court where his case was pending, or with the regional trial court where he was arrested. Worse, the respondent himself received the amount of P30,000.00 posted by De Guzman as his bail and prepared the release order right in the confines of his own home. According to Section 14, Rule 114 of the Rules of Criminal Procedure:

"Sec. 14. Deposit of cash as bail.--The accused or any person acting in his behalf may deposit in cash with the nearest collector of internal revenue, city or provincial, city or municipal treasurer the amount fixed by the court or recommended by the fiscal who investigated or filed the case, and upon submission of a proper certificate of deposit and of a written undertaking showing compliance with the requirements of Section 2 hereof, the accused shall be discharged from custody. Money thus deposited shall be considered as bail and applied to the payment of any fine and costs and the excess, if any, shall be returned to the accused or to whoever made the deposit."[6]

Irrefragably, only the collector of internal revenue, city or provincial, city or municipal treasurer is authorized to receive bail in cash. A judge is not one of those authorized to receive a deposit of cash bail; nor should such cash be kept in the judge's office, much less in his own residence.[7]

The respondent judge committed another procedural lapsus when he failed to forward the receipt of the cash bail, release order and supporting papers to the RTC of Nueva Ecija where the criminal case filed against De Guzman was pending. He was bound to do so under Section 19 of Rule 114 of the Rules of Criminal Procedure, which provides:

"SEC. 19. Release on bail.--The accused must be discharged upon the approval of the bail by the judge with whom it was filed in accordance with Section 17 hereof.

Whenever bail is filed with a court other than where the case is pending, the judge accepting the bail shall forward the bail, the order of release and other supporting papers to the court where the case is pending, which may, for good reason, require a different one to be filed (*idem*, *supra*)."

The respondent judge should have forwarded the records pertaining to the bail bond immediately after he received the bail same. Instead of depositing the cash bond with the nearest collector of internal revenue or treasurer, the respondent received the cash amount of P30,000.00 and released the said amount to De Guzman the next day. Inexplicably, the respondent judge allowed De Guzman to go scot-free, instead of having him ordered re-arrested for failure to substitute the cash bond with a surety bond.

In fine, we find the respondent, guilty of gross ignorance of the law and gross negligence.

In *Atty. Daniel O. Osumo vs. Judge Rodolfo M. Serrano*,[8] the Court said:

As we pointed out in *Cañas v. Castigador* observance of the law which he is bound to know and swore to uphold is required of every judge. When the law is sufficiently basic, a judge owes it to his office to simply apply it; anything less than that would be constitutive of gross ignorance of law. In short, when the law is so elementary, not to be aware of it constitutes gross ignorance of law.

A judge is called upon to exhibit more than a cursory acquaintance with statutes and procedural rules. It is imperative that he be conversant with basic legal principles. Canon 4 of the Canon of Judicial Ethics requires that a judge must be studious of the principles of law, and Canon 18 mandates that he should administer his office with due regard to the integrity of the system of the law itself, remembering that he is not a depositary of arbitrary power, but a judge under the sanction of law.

The Code of Judicial Conduct also enjoins judges to "be faithful to the law and maintain professional

competence. Indeed, respondent judge owes it to the public and the legal profession to know the law he is supposed to apply to a given controversy. In order to render substantial justice and to maintain public confidence in the legal system, judges are expected to keep abreast of all laws and prevailing jurisprudence, consistent with the standard that magistrates must be the embodiment of competence, integrity and independence. Thus, it has been held that when the judge's inefficiency springs from a failure to consider so basic and elemental a rule, a law or a principle in the discharge of his duties, a judge is either too incompetent and undeserving of the position and title he holds or he is too vicious that the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority.[9]

In recommending a fine of P5,000.00, DCA Perez took into consideration the respondent's state of health, as well as the fact that the Court approved the latter's application for disability retirement. We are in accord with the said recommendation. In the similar case of Julius N. Raboca, vs. Judge Alejandro Velez,[10] the Court also took into account the therein respondent's failing health and the fact of his compulsory retirement, and considered a P5,000.00 fine reasonable under the circumstances. [11]

WHEREFORE, the Respondent Judge is fined the amount of Five Thousand Pesos (P5,000.00) to be deducted from his retirement benefits.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Austria-Martinez, and Tinga, JJ., concur.

[1] Rollo, p. 30.

[2] Memorandum, pp. 2-3.

[3] Now the 2002 Revised Rules of Criminal Procedure, as amended.

[4] Cruz vs. Judge Laneza, 304 SCRA 285 (1999).

[5] Memorandum, p. 3.

[6] Idem, supra.

[7] Juanito Agulan, Jr. vs. Judge Octavio A. Fernandez, 356 SCRA 162 [2001].

[8] 380 SCRA 110 (2002).

[9] Id. at 114-115.

[10] 341 SCRA 543 (2000).

[11] Id. at 550.

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