

**SANLAKAS NG BARANGAY JULO, SAN ANTONIO, INCORPORATED,
REPRESENTED BY ITS OFFICERS MRS. FLERIDA C. SULIT, MRS.
TERESITA CASTILLO AND MR. ROGER ULATAN, COMPLAINANTS, VS.
HON. TIBU...**

A.M. No. MTJ-98-1174. February 06, 2001

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This is a sworn complaint written in Pilipino filed by Sanlakas ng Barangay Julo, San Antonio, Incorporated (hereinafter referred to as SANLAKAS), represented by its officers, against respondent Judge Tiburcio V. Empaynado, Jr., Presiding Judge of the Municipal Trial Court of San Antonio, Nueva Ecija, for malicious delay in the administration of justice under Article 207 of the Revised Penal Code, and discrimination of action relative to Criminal Cases Nos. 23 (96) and 24 (96) both entitled "People of the Philippines vs. Felicitas Bascara" for malicious mischief.

On April 27, 1996, SANLAKAS filed two separate criminal cases for malicious mischief against Felicitas de Leon Bascara before the Municipal Trial Court of San Antonio, Nueva Ecija presided by respondent Judge Tiburcio V. Empaynado, Jr. Weeks later, wondering why no action had been taken on the said cases, SANLAKAS inquired about the delay and was informed by court personnel that the trial could not proceed because accused Bascara was out of the country. SANLAKAS checked with the Commission on Immigration and Deportation, and was informed that, based on CID records, no one by the name of Felicitas de Leon Bascara had left the country.

On July 9, 1996, SANLAKAS filed a Motion to Set the Case for Hearing. However, respondent Judge did not act on the said motion. SANLAKAS likewise learned that accused Bascara has filed a counter-affidavit dated June 10, 1996, but they were not furnished with a copy thereof.

In the same complaint, SANLAKAS averred that they filed another case^[1] for malicious mischief against Angelica de Leon-Vasquez, sister of accused Bascara, before the Office of the Provincial Prosecutor. The filing of the case against accused Vasquez was recommended by the Provincial Prosecutor on June 13, 1996. However, nothing happened to this case due to respondent Judge's inaction.

SANLAKAS was thus compelled to file the instant complaint against respondent Judge for malicious delay in the administration of justice. SANLAKAS charged that respondent Judge's unjustified failure to act on the cases they filed was a violation of Article 207 of the Revised Penal Code.

Moreover, they also accused respondent Judge of discrimination, claiming that while their complaints were not acted upon, a separate case filed by accused Bascara against the officers of SANLAKAS was acted with dispatch by respondent Judge although it was filed on a later date.

SANLAKAS further alleged that one of its members, Maura Esmundo, approached respondent Judge for

assistance in effecting the arrest of a certain person who threatened her son and nephews with a gun. According to Esmundo, the respondent Judge refused to help her because "wala raw siyang magagawa dahil kung ito ay kanyang ipakukulong ay magpipiyansa lamang dahil ang nanutok ng baril ay isang mayaman at marami raw pera." [2]

Respondent Judge denied the allegations, assailing the complaints of SANLAKAS as baseless, fabricated, licentious, perjurious and unsupported by evidence. He claims that the complaint for malicious delay in the administration of justice is an ill-motivated ploy of SANLAKAS to prevent him from exposing the irregularities in the documents submitted by SANLAKAS, through its representative Roger Ulatan.

Respondent Judge also argued that the alleged delay in the proceedings of the two criminal cases for malicious mischief was justified because he reviewed every piece of document submitted by SANLAKAS. He verified the inconsistent entries in the documents with the Clerk of Court of the Regional Trial Court of Manila and even with the Supreme Court.

Contrary to SANLAKAS' allegation that he failed to take any action, respondent Judge claimed that he issued an Order on November 6, 1996 directing the Provincial Prosecutor of Nueva Ecija to make clarifications on the erroneous entries in the notarial register of SANLAKAS' documents. However, it took some time for the Provincial Prosecutor to submit his observations.

Respondent Judge's investigative efforts resulted in the confirmation of the following facts:

First.

The Articles of Incorporation and By-Laws of SANLAKAS were ratified and executed before a certain Atty. Sulpicio B. Benigno, supposedly a Notary Public commissioned in the City of Manila. However, the records in the Office of the Clerk of Court of the Regional Trial Court of Manila revealed that no such person was ever commissioned and appointed as notary public in said city for the years 1995 up to 1997. [3]

Second.

The Certificate of Registration of SANLAKAS supposedly issued by the Securities and Exchange Commission disclosed that the Articles of Incorporation was filed on January 21, 1996, which day happened to be a Sunday, and it was highly unlikely that the SEC would be open for business on a non-working day. That the said Certificate of Registration was a spurious document was further bolstered by the evident tampering of the date when such Articles of Incorporation was registered, making it appear that it was registered in 1996 instead of 1995. Furthermore, the SEC Registration Certificate number used and claimed by SANLAKAS (ANO-95-00587) was issued to a different organization in the name of Samahang Magkakapitbahay sa Hongkong Village, Incorporated. [4] All these incongruent details lead to the inescapable conclusion that SANLAKAS is not a duly registered organization, and thus lacks the juridical personality and legal capacity to sue.

Third.

The same Roger Ulatan who was the only signatory to the complaint, was accused of having forged the signature of Atty. Sulpicio B. Benigno in several documents, and was in fact indicted for seven (7) counts of perjury, while being accused of several counts of falsification of public documents in violation of Article 172 of the Revised Penal Code. [5]

Respondent Judge also belied Maura Esmundo's charges that he refused to effect the arrest of a certain Dante Tan against whom Esmundo had filed a complaint for grave threats. He did admit that Esmundo came to his office to demand the immediate arrest of Dante Tan, but he did not accede knowing that the case for grave threats was

covered by the Rule on Summary Procedure. Under the said rule "the court shall not order the arrest of the accused unless for failure to appear whenever required." [6] Respondent Judge also stressed that the case was covered by Republic Act No. 7160, requiring conciliation efforts before the barangay authorities prior to the filing of an action in court.

Nevertheless, instead of dismissing the case for prematurity due to Esmundo's failure to submit the controversy before the barangay authorities for conciliation proceedings, respondent Judge referred the case to the barangay captain for possible settlement. Respondent Judge alleged that no intentional delay was meant for he was merely following the proper procedure. Accordingly, Esmundo's charges are without basis and are clearly unfounded.

Finally, respondent Judge manifested that while he was the Presiding Judge of the Municipal Trial Court of Jaen, Nueva Ecija, he was designated by the Supreme Court to be the Acting Presiding Judge of the Municipal Trial Court of San Antonio, Nueva Ecija. This resulted in doubling his caseload, but he exerted earnest efforts to prevent delays in the proceedings and in the disposition of the cases pending in the said courts. His diligence in examining all the documents submitted by SANLAKAS in the subject cases led him to conclude that some, if not most, of these were either spurious or questionable documents.

Upon recommendation of the Office of the Court Administrator, the case was referred to Judge Arturo Bernardo, Presiding Judge of the Regional Trial Court of Gapan, Nueva Ecija, Branch 36, for investigation, report and recommendation. [7] In his report, Judge Bernardo recommended that respondent Judge be censured. [8] Thereafter, the case was referred back to the Office of the Court Administrator for further evaluation, report and recommendation. [9]

In the meantime, respondent Judge applied for retirement from government service, which was approved by this Court on July 15, 1999. The Financial Management Office and the Court Administrator was directed to set aside or withhold the amount of Sixty Thousand Pesos (P60,000.00) from his retirement pay until the three (3) administrative cases against respondent Judge, this case included, shall have been resolved. [10]

After evaluating the report submitted by Judge Bernardo, as well as its own investigation, the Office of the Court Administrator recommended that a fine in the amount of Two Thousand Pesos (P2,000.00) be imposed on the respondent Judge for failing to act on the two cases filed by SANLAKAS.

We find good reason to adopt the recommendation of the Court Administrator. The records reveal that the two cases for malicious mischief were filed on April 27, 1996 and seven (7) months later, or on November 20, 1996, when the instant complaint was filed, the two cases had not been set for hearing.

We find no malice or fraud on the part of respondent Judge. Malice implies that the act complained of must be the result of an evil intent that excludes a mere voluntary act, deliberated to inflict damage on either party to a case before him. [11] We see no such evil intent in his persistence to check the veracity and authenticity of the documents. Clearly, his ardent pursuit of the truth in these two cases cannot be the basis of the charge for malicious delay in the administration of justice. It is a well-established rule that in the absence of malice, fraud, dishonesty or corruption, the acts of a judge in his judicial capacity are not subject to disciplinary action, even if such acts are erroneous. [12]

While we cannot impute malicious intent on the part of respondent Judge in his overzealous effort to expose the irregularities in the documents of SANLAKAS, his misguided efforts derailed the speedy disposition of these cases.

Respondent Judge had several options in disposing the case of malicious mischief filed by the complainant against Bascara which includes dismissing the case outright, requiring the opposing parties to submit their respective

responsive pleadings, or set the case for arraignment and trial. There is no showing that respondent Judge did any of the foregoing, resulting in unreasonable delay of the proceedings.

The Rule on Summary Procedure was promulgated for the purpose of realizing an expeditious and inexpensive determination of cases.[13] This aim was defeated by respondent Judge's failure to act promptly. Consequently, imposing a fine in the amount of Two Thousand Pesos (P2,000.00) is reasonable and just under the given circumstances.

With regard to the allegations of Maura Esmundo, that respondent Judge did not facilitate the arrest of the accused in her complaint for grave threats, we find nothing to support the charges of dereliction of duty. Section 18 of the Rule on Summary Procedure requires referral to the Lupon or Barangay authorities for conciliation under the provisions of Presidential Decree No. 1508. Where there is no showing of compliance with the said requirement, the case must be dismissed without prejudice, to be revived only when such requirement is complied with. It appears that Esmundo's complaint did not show compliance with the said requirement, thus, the respondent Judge was correct in referring the case to the proper barangay authorities. Arresting the accused at that time was not possible considering that referral of the case to the Lupon Tagapamayapa is a precondition to the filing of any action or proceeding in court.[14]

The records show that respondent Judge has, since July 15, 1999, retired after twenty-eight (28) years of public service. While we granted his request for release of his retirement benefits, the Office of the Court Administrator and Financial Management Office was directed to withhold the amount of Sixty Thousand Pesos (P60,000.00) until the three pending administrative cases against him shall have been resolved. In this connection, we reiterate our pronouncement in *Gaspar v. Bayhon* that "after having reached the twilight of his judicial career when respondent Judge is now entitled to have peace of mind in his retirement, it will not serve any administrative purpose to impose any such sanction on him who has already compulsorily left the service." Certainly, he deserves to enjoy the full measure of his well-earned retirement benefits.[15]

WHEREFORE, Judge Tiburcio V. Empaynado, Jr., is imposed a FINE of P2,000.00 to be deducted from the P60,000.00 withheld from his retirement benefits. The Financial Management Office and the Court Administrator are DIRECTED to release the remainder of the amount withheld from Judge Empaynado, Jr.'s retirement pay unless there are other pending administrative proceedings against him.

SO ORDERED.

Davide, Jr., C.J. Puno, Kapunan, and Pardo, JJ., concur.

[1] I.S. No. 0768-0769-96.

[2] "Reklamo", supra., p. 4.

[3] Exhibit "2", Rollo, p. 120.

[4] Exhibit "4" and "5", Rollo, pp. 122-123.

[5] Annexes "K", "L", "M", "N", "P" "Q", and "R", Rollo, pp. 77-89.

[6] Rule on Summary Procedure, Section 16.

[7] Resolution dated January 12, 1998, Rollo, p. 313.

[8] Investigation Report dated December 7, 1998.

[9] Resolution dated February 24, 1999, Rollo, p. 316.

[10] Resolution dated July 13, 1999.

[11] Gaspar v. Bayhon, 278 SCRA 492, 494 (1997).

[12] Equatorial Realty Development, Inc. v. Anunciacion, Jr., 280 SCRA 571, 577 (1997).

[13] Gachon v. Devera, Jr., 274 SCRA 540, 549 (1997); Cruz v. Pascual, 244 SCRA 111, 114 (1995).

[14] Wingarts v. Mejia, 242 SCRA 436, 445 (1995).

[15] Gaspar v. Bayhon, supra., p. 497.

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