

FELIX CARREON, COMPLAINANT, VS. MUNICIPAL JUDGE BRUNO R. FLORES OF DINALUPIHAN, BATAAN, RESPONDENT.*A.C. No. 111-MJ. May 30, 1975*

Ponente: TEEHANKEE, J.

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The Court finds from the established facts and circumstances of the case that respondent municipal judge is unfit for the office and therefore orders his separation from the service. Respondent judge's rendering a verdict of conviction against complainant for theft of about a cavan of palay could in no way be factually or legally justified, in that the essential elements of unlawful taking and that the property stolen belongs to another were lacking and the Court of Agrarian Relations in an earlier judgment (duly brought to respondent's attention as an exhibit for the defense) as well as in its memorandum had relieved complainant (as agricultural lessee) from all liability for share rentals (the one cavan of palay) to the alleged offended party (landowner-lessor) since complainant had already delivered and deposited more palay for the landowner than he was legally obligated under their leasehold relation under the Land Reform Code. The charge of theft against complainant amounted to an impossible crime since he could not steal what entirely belonged to himself.

Complainant Felix Carreon, a farmer-tenant, filed on November 11, 1968 the present complaint against respondent Judge Bruno R. Flores of the municipal court of Dinalupihan, Bataan for utter ignorance of the law and incompetence and manifest partiality in rendering a verdict of conviction finding complainant guilty of theft of a little more than one (1) cavan of palay valued at P25.00 and meting out a heavy imprisonment term therefor on the basis of a groundless criminal complaint filed against him by the landowner-lessor, Mayor Jose Payumo, Jr. of the same municipality of Dinalupihan through his Acting Chief of Police Jose G. Penaflor for harassment purposes.

The original criminal complaint dated and filed June 20, 1967 sworn to by the acting chief of police before respondent judge charged herein complainant with attempted theft allegedly committed as follows:

"That on or about 1:00 P.M. June 16, 1967 in Barrio Luacan, Dinalupihan, Bataan, Philippines, and within the jurisdiction of this Honorable Court the said accused did then and there willfully, unlawfully and feloniously, with intent of gain and without the knowledge and consent of the owner thereof, reaped and threshed five (5) cavans and (two) 2 gantas of palay worth P102.00 from the crops existing in the landholding of said owner and concealed the same from the owner with the intent of taking the same away and appropriate the same for his own benefit to the damage and prejudice of the owner Mayor Jose C. Payumo, Jr., in the said amount. The accused failed to execute all the acts necessary to consummate the crime of theft for reasons independent of his will, that is by timely discovery of his unlawful acts." [1]

Three days later on June 23, 1967, the same criminal complaint was amended to one of consummated theft charging that on June 16, 1967 herein complainant, allegedly did "willfully and feloniously, with intent to gain and without the knowledge and consent of the owner thereof, thereby take, steal and carry away the eight (8) cavans of Milfor variety belonging to Mayor Jose C. Payumo, Jr., in the amount of ONE HUNDRED SIXTY

(P160.00) PESOS Philippine Currency, to the damage and prejudice of the said owner."[2]

As background facts, it is undisputed that complainant as the share tenant of his landlord Mayor Jose Payumo, Jr. of Dinalupihan, Bataan over a two- hectare parcel of riceland situated at sitio Mangindon, barrio Luacan of the said town, gave notice on April 25, 1966 to the latter that effective the agricultural year 1966-1967 "panag-ulan" (wet) season, the agricultural leasehold system (in lieu of the share tenancy) would govern their relations, but that as Mayor Payumo refused to accede thereto notwithstanding the mediation conference held for the purpose at the office of the Agrarian Counsel, complainant petitioned on December 22, 1966 the Court of Agrarian Relations at Bataan for a declaration of establishment of the agricultural leasehold relations between them and for the fixing of the leasehold rental under the Land Reform Code.

After trial and hearing, the Court of Agrarian Relations presided by Judge Milagros German rendered its decision of November 29, 1967 in favor of complainant, as follows:

1. Declaring the relationship between complainant Carreon and landowner Mayor Payumo as one of "leasehold tenancy in lieu of share tenancy, beginning and effective the wet season of the agricultural year 1966-1967;"
2. Based on the average crop of the three preceding agricultural years as established by the trial and pursuant to section 34 of the Land Reform Code "fixing the leaseholds rental on the landholding at 19 cavans and 1 ganta for the 'panag-ulan' (wet season) crop and 18 cavans and 19 gantas for the 'panag-araw' (dry season) crop," both to be paid by complainant to Mayor Payumo immediately after each harvest;
3. In view of the fact that complainant had deposited with the Sto. Nino Rice Mill at Dinalupihan pursuant to court order 25 cavans of BE-3 variety (corresponding to the wet season) and 15 cavans of Milfor variety (corresponding to the dry season) representing the Mayor's 25% supposed share in the "panag-ulan" and "panag-araw" harvests respectively, (which the mayor and his representative had refused to receive from complainant and which refusal, the CAR noted in its decision, was "not at all explained or justified by the defendant (mayor) during the hearing of this case" and that the number of cavans thus tendered "is not below the 25% provided for by law but is even more than the legal leasehold rental determined by this court"), "declaring the plaintiff (complainant) relieved of his responsibility of the payment of the share or rental due the defendant (mayor)" for both seasons of the agricultural year 1966- 1967;
4. Ordering the defendant (mayor) to take delivery of the said 40 cavanese of deposited palay; and
5. Ordering the defendant (mayor) to pay complainant P30.00 as reasonable litigation expenses.

This CAR decision of November 29, 1967 (which does not appear to have been appealed by the landowner-complainant Mayor Payumo nor has it been questioned by him either in the criminal case or in the present proceedings) was duly presented in evidence by herein complainant at the trial of the criminal case and brought squarely to respondent judge's attention. This CAR decision completely relieved the herein complainant-accused of all responsibility to pay the leasehold rental for both seasons of the 1966-1967 agricultural year, since he had in fact overpaid the same.

Nevertheless, complainant stood charged with theft before respondent judge's court for having allegedly taken away 5 cavans from the harvest of the land tenanted and leased by him from Mayor Payumo, all of which 5 cavans belonged solely to him, since as found by the CAR he had already fully paid the leasehold rentals to the Mayor.

Worse, despite the fact that said CAR decision was handed down eight and a half months before respondent judge rendered his questioned verdict of August 12, 1968, he considered the same "without any relevance" or connection whatsoever with the crime of theft before this court" (to quote the investigating judge's report)[3] and pronounced complainant guilty of theft of about a cavan of palay and imposed on him an imprisonment term of

four months and one day to six months of *arresto mayor*.

Hence, the present administrative complaint filed on November 11, 1968 with the Secretary of Justice which was endorsed on the same date by then Undersecretary of Justice, now Associate Justice of this Court, Felix Q. Antonio to the district judge of the Bataan court of first instance for investigation, report and recommendation.

Respondent's answer of December 20, 1968 sought to justify his ruling that a co-owner may be held liable for theft committed against a co-owner on the basis of an alleged "doctrine" of this Court in an unspecified case in 1956 and to disparage complainant expressing his "suspicion" that complainant, "his accuser is mentally sick, considering that he (Felix Carreon) has lodged many complaints even against lawyers in the office of the Agrarian Counsel to whom (he) goes often for legal aid or consultation" and assailing the charges against him as "malicious and preposterous and apparently intended to harass or malign him.)."

The investigation of the complaint was however held in abeyance by agreement of the parties until after complainant's appeal from his conviction for theft by respondent was heard and decided by the court of first instance which was presided also by the investigating judge, Hon. Abraham P. Vera. Judge Vera handed down on April 26, 1972 his decision setting aside respondent's judgment of conviction and acquitting complainant of the charge of theft. Although the judge used the standard phrase of the "prosecution (having) failed to establish the guilt of the accused . . . beyond reasonable doubt," it is evident from his decision that complainant was fully entitled to an acquittal on the basis of the facts above-recited, with the judge observing that because of the landowner's refusal to accept his share (rental) "the accused had to bring the matter to the attention of the CAR and the share pertaining to Payumo was deposited by the implementing officer of said court with the Sto. Nino Ricemill" (40 cavan of palay which exceeded that which was due the lessor, by virtue whereof the CAR declared complainant relieved of all liability for rentals), that accused (complainant) "could not therefore steal what belongs to him," and that "it is clear therefore that the accused did not commit theft of one (1) cavan of palay corresponding to Payumo's share."

Thereafter, the investigating judge proceeded with the investigation and submitted his report of October 22, 1973 with the testimonial and documentary evidence submitted by the parties. In view of the seriousness of the charges, the Court set the case for hearing on April 4, 1974 at which respondent was personally present and heard.

Passing mention need be made only of the charge that respondent judge permitted the complaining witness in the theft case, Mayor Payumo, during the trial and in open court to shout grave threats of killing and shooting the herein complainant if he insisted on staying on the land, since the investigating judge found the same to be unsubstantiated and chose to disbelieve the complainant's witness as a "biased witness" and this charge is not essential for the proper disposition of the case in view of the other findings of facts of record.

The record more than amply substantiates the main charge against respondent of ignorance of the law and incompetence, if not manifest partiality, in having rendered his verdict dated August 12, 1968 finding complainant Felix Carreon guilty of the crime of theft of one (1) cavan of palay (which was duly reversed on appeal by the court of first instance) contrary to and in disregard of the indisputable facts and the applicable laws which he arbitrarily ignored notwithstanding their having been properly brought to his attention.

The investigating judge aptly observed in his report that respondent's "decision has no findings of facts as found by the court," but simply stated the bare conclusion that the evidence established the accused's guilt beyond reasonable doubt.[4]

But from the undisputed facts and from the CAR decision of November 29, 1967 establishing the leasehold relationship between the parties and relieving complainant from all liability for both seasons of the 1966-1967

agricultural year since he had already deposited for the landowner-lessor 40 cavanese of palay which were even more than the amount due from him for rental as determined by the CAR (37 cavanese and 20 gantas) which was duly presented in evidence by complainant (as accused) as Exhibit 1, all of which were duly stressed in complainant's memorandum, as filed with respondent judge[5], the conviction of theft could not possibly be justified — as indeed respondent could not justify the same at the hearing.

Complainant as an agricultural lessee could not be legally convicted for theft because the essential elements of unlawful taking and that the property belongs to another were lacking. Even assuming that complainant had intended to steal the little more than one cavan of the remaining five cavanese, he had been relieved under the CAR decision of all liability for rentals, since he had already delivered (by way of deposit) more palay than he was legally obligated under the Agricultural Land Reform code establishing a 25% rental (share) for the landowner. He could not conceivably be accused, much less found guilty, of stealing the five cavanese which he had no more obligation to turn over or to account for, since they entirely belonged to him as part of the remaining mass of palay after he had delivered (and deposited) the rental (share) due to the landowner. The charge of theft against complainant thus amounted to an impossible crime since he could not steal what entirely belonged to him.

This was duly emphasized in the memorandum filed for the complainant (as accused) with respondent judge, thus: "The relation between the complainant and defendant is one of the leasehold tenancy, and in such a relation, the tenant's failure to pay the rental is not and cannot, be ground to send him to jail for theft - especially in this case where defendant was relieved of any responsibility for the rental or share of the complainant with respect for that 'Panag-araw' crop of 1967. Even admitting, therefore, for the sake of argument that for the 'Panag-araw' crop of 1967 your accused didn't pay the rental to the owner, he may be ejected from the land (Sec. 36 of R.A. 3844) but he cannot, because of such failure, be sent to jail for theft." [6]

Indeed, it is difficult to comprehend how respondent judge under the circumstances of record could have rendered a guilty verdict. Either he did not comprehend the facts and the applicable laws notwithstanding their having been squarely placed before him at the trial and in complainant's memorandum which would make him guilty of utter ignorance of the law and incompetence or although knowing the law, of deliberately having refrained from applying the same notwithstanding that he was in doubt as to complainant's guilt which would substantiate complainant's charge against him of manifest partiality in favor of complainants' accuser, the town mayor, if not gross betrayal of his oath of office to render justice to every man.

Respondent judge's incomprehensible judgment of conviction is further aggravated by the fact that as early as January 9, 1967, (over a year and a half before his guilty verdict of August 12, 1968) the Department of Justice had issued its Circular No. 7, on harassment cases brought against tenants, to all municipal judges, advising them that "(I)n connection with the implementation of the Land Reform Code, it has been brought to the attention of this Department that tenants applying for leasehold tenancy under the provisions of the Code are being discouraged by the institution of criminal cases against them, resulting in their arrest and confinement in jail," and that "(E)xtreme care should therefore be exercised before issuing warrants of arrest in criminal cases filed against tenants applying or desirous of applying for leasehold tenancy in order that the courts may not be utilized as instruments of oppression. The evidence of the prosecution should be closely scrutinized so as to make sure that the criminal complaint is genuine and not merely fabricated for purposes of harassment or detention of the accused tenant."

At the investigation as well as at the hearing, respondent denied, contrary to the facts of record, that the CAR decision relieving complainant of all liability for rentals for both seasons of the year involved because he had already overpaid the same was ever presented in evidence, although he admitted that it was annexed to complainant's memorandum. He further sought at the investigation to negate the change of manifest partiality by

adducing evidence (no longer seeking vainly to legally justify his guilty verdict against complainant as per his answer) that he advised complainant to appeal his verdict and assisted complainant in perfecting an appeal of his own decision to the court of first instance, and testified that "I personally advised him (complainant-accused) to appeal the case and told him that if it properly handled he will be acquitted." [7]

These actions and claims of respondent merely stress rather than mitigate his guilt as to the charges, and strip him of any claim to having rendered an erroneous ruling or decision in good faith as would excuse him from administrative liability. [8] Assuming that the CAR decision had not been presented in evidence but merely annexed to complainant's memorandum (as falsely claimed by him), still this would have amply put him on sufficient notice as to complainant's innocence of the theft charge, and in no way explains his rendering a guilty verdict. It in no way bolsters the justification by inference that he makes (but does not dare assert) that he might have handed a different verdict of not guilty if the CAR decision had been present in evidence — for if this were so, then he should have handed down an acquittal verdict, since the CAR decision per his own admission was indeed submitted to him with complainant's memorandum and in fact (contrary to his denial) was submitted to him at the trial as Exhibit I of the defense.

Respondent's advise to the complainant he had convicted to appeal the conviction with the assurance "that if properly handled he (complainant) will be acquitted" speaks for itself and shows that he himself was in doubt as to his own verdict which he was sure would be reversed on appeal "if properly handled" and had failed to apply the elementary rule that "In a criminal case the defendant is entitled to an acquittal, unless his guilt is shown beyond a reasonable doubt." [9]

A judge who disregards deliberately or is ignorant of the basic fundamentals of law and justice is unfit to continue in office. Respondent's separation from the service is thus called for, in line with the Court's action in *Tadiar vs. Caces* [10] (dismissing therein respondent judge for dereliction of duty in resolving a motion to dismiss a criminal case only after 18 months and failing to file the same and serve a copy thereof on the prosecution) and in *Municipal Council of Casiguran, Quezon vs. Morales* [11] (dismissing therein respondent judge for unjustified absences from his station and being "unmindful of the exigencies of the public service and neglectful of his duties to the prejudice of the residents of Casiguran").

ACCORDINGLY, respondent is hereby dismissed from the office of municipal judge of Dinalupihan, Bataan.

SO ORDERED.

Makalintal, C.J., Fernando, Barredo, Makasiar, Antonio, Esguerra, Muñoz Palma, Aquino, Concepcion, Jr., and Martin, JJ., concur.

Castro, J., concurs in the result.

[1] Rollo, p. 76:

[2] Judge A. Vela's report, p. 1.

[3] Report of CFI Judge Abraham P. Vera. p. 13.

[4] Such decisions of inferior courts which did not contain findings of fact were formerly permissible under Rule 5, section 12, before the inferior courts were converted into courts of record.

The whole text of respondent's decision reads:

"The evidence presented before this Court establishes the guilt of the accused Felix Carreon beyond reasonable

doubt.

"However, it also revealed that only five (5) cavans (Milflor variety) are involved instead of eight (8) cavans alleged in the complaint. At the rate of P20.00 per cavan, the value of five (5) cavans is P100.00.

"Considering that only 25% of the said amount belongs to the offended party and the rest belongs to the accused, the amount of the things stolen must be P25.00 only.

"WHEREFORE, the accused Felix Carreon is hereby pronounced guilty beyond reasonable doubt of the crime of theft of palay valued at P25.00 punishable under Article 309, paragraph 5 of the Revised Penal Code, and is hereby sentenced to suffer imprisonment from four (4) months and one (1) day to six (6) months of *arresto mayor*.

"He is likewise sentenced to indemnify the offended party the amount of P25.00 or to suffer subsidiary imprisonment in case of insolvency which in no case shall exceed one third (1/3) of the principal penalty, and to pay the cost of this suit."

It may be noted parenthetically that the indeterminate sentence, instead of a fixed term, imposed by respondent is itself wrong and reflects on his competence (prescinding from the fact that the conviction is totally unjustifiable since the Indeterminate Sentence Law does not apply where the maximum term does not exceed one year. (Act No. 4013, sec. 2.)

[5] Record, pp. 77-78.

[6] Record, p. 84; see *U.S. vs. Reyes*, 6 Phil. 441 (1906), ruling that defendant's unlawful disposition of share of rice belonging to his partner or joint owner was undoubtedly a violation of their contract but not an act constituting the crime of theft, there being no unlawful taking.

[7] T.s.n. Record, p. 205; see also t.s.n. at pp. 185-186, Record; emphasis supplied.

[8] *Dizon vs. Borja*, 37 SCRA 46.

[9] Rule 133, sec. 2.

[10] Adm. Cases Nos. 89-MJ and 1192, 60 SCRA 215, Oct. 21, 1974, per Aquino, J.

[11] 61 SCRA 14 (Now. 13, 1974), per Esguerra, J., (Adm. Cases Nos. 81-MJ and 559-MJ).

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