

PAMPANGA BAR ASSOCIATION, COMPLAINANT, VS. MUNICIPAL JUDGE OSCAR G. LAGMAN OF SAN FERNANDO, PAMPANGA, RESPONDENT.

A.C. No. 176-MJ. May 30, 1974

Ponente: ANTONIO, J.

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ANTONIO, J.:

In a complaint filed on December 12, 1972 by Atty. Gregorio M. Albino, Jr., President of the Pampanga Bar Association, with the Secretary of Justice, respondent Municipal Judge Oscar G. Lagman of the Municipal Court of San Fernando, Pampanga, was charged with gross ignorance of the law and/or knowingly or through negligence rendering an unjust order or judgment, to wit:

(1) By promulgating a decision, dated October 5, 1970, in Criminal Case No. 3300 (People vs. Carlito Masangcay), where the findings of fact are contrary to the dispositive portion thereof;[1]

(2) By rendering a decision, dated February 27, 1970, in Criminal Case No. 8072 (People vs. Edmundo Manabat), where the plea of guilty was not considered as a mitigating circumstance in the imposition of the penalty;[2]

(3) By stating in his order, dated March 5, 1970, in Criminal Case No. 8127 (People vs. Jose Manalo), that if the Court would allow the amendment of the criminal complaint from Homicide thru Reckless Imprudence to Simple Homicide, the accused would stand charged with two crimes;[3]

(4) By refusing to accept as evidence in his order, dated August 23, 1968, in Criminal Case No. 6198 (People vs. Esteban Gopez, Jr.), a sworn statement of the accused on the ground that the same had not been identified by the affiant himself;[4] and

(5) By requiring in his order, dated March 10, 1969, in Criminal Case No. 7962 (People vs. Abraham Manalo, et al.), the accused, who filed a petition for bail, "to be the ones to prove their petition." [5]

On February 22, 1973, the aforementioned administrative complaint, together with its annexes A,B,C, D & E, was transmitted to this Court by a letter, dated January 23, 1973, of the Department of Justice, pursuant to the provision of Section 7, Article X, of the new Constitution.

In his letter dated May 23, 1973, Atty. Gregorio M. Albino, Jr. informed this Court that he was withdrawing his charges against the respondent Judge because he has lost interest in the prosecution of the same as he believes that said charges arose out of a misunderstanding between him and the respondent.

On November 9, 1973, this Court, after considering the allegations of the complaint, dated May 15, 1971, and the annexes appended thereto, resolved to deny his request and instead referred the same to the Executive District Judge, Court of First Instance, San Fernando, Pampanga, for investigation, report and recommendation.

When the case was set for hearing on January 9, 1974 by the Investigating Judge, Atty. Gregorio M. Albino, Jr.

not only reiterated his motion for the withdrawal of his complaint, but when his motion was denied, he failed to appear on the subsequent dates set for the hearing of said charges to submit evidence in support of the same.

Consequently, respondent thru counsel submitted the case for decision on the basis of his answer to the complaint.

In his report, the Investigating Executive Judge found that all the five (5) aforecited charges had no sufficient basis. Thus:

With respect to the first charge, the Investigating Executive Judge found that the dispositive portion of respondent's decision, dated October 5, 1970, in Criminal Case No. 3300, finding the accused guilty of Homicide thru Reckless Imprudence and sentencing him to suffer an imprisonment of four (4) months, to indemnify the parents of the victim in the amount of P6,000.00, to pay the costs, and to suffer subsidiary imprisonment in case of insolvency, was in accordance with the findings of fact contained therein. Contrary to the claim of complainant, the judgment of conviction was based on the admission of the accused Carlito Masangcay during the trial to the effect that he accidentally pressed the trigger because of the action of Rafael Tinio causing as a result thereof the gun to fire, and the bullet thereof hitting fatally the victim Ricardo David. Upon denial of the motion for reconsideration of said decision, the accused appealed the case to the Court of Appeals in C.A.-G.R. No. 12183-CR, but the appeal was dismissed for failure of said accused to file within the reglementary period the requisite brief. Consequently, the judgment of conviction became final and the convict eventually served his sentence.

With respect to the second charge, the Investigating Executive Judge found that the plea of guilty of the accused was actually considered in the imposition of the penalty. The accused Edmundo Manabat in Criminal Case No. 8072 was charged with, and convicted of, the crime of simple estafa, and sentenced to suffer an imprisonment of one (1) year, to indemnify the offended party, Quirino D. Yap, in the amount of P5,377.00, to suffer subsidiary imprisonment in case of insolvency, and to pay the costs. The crime of simple estafa is penalized under the 3rd paragraph of Article 315 of the Revised Penal Code, and the penalty prescribed therein is *arresto mayor* in its maximum period to *prision correccional* in its minimum period, if the amount involved is over P200.00 but does not exceed P6,000.00. Since the amount involved in this case is P5,377.00, the imposable penalty, when there are neither aggravating nor mitigating circumstances in the commission of the crime, would be the medium period of the penalty prescribed by law for the offense, which, in this case, is from 1 year and 1 day to 1 year and 8 months, but in view of the plea of guilty of the accused, he is entitled to the imposition of the minimum period of said penalty, which is from 4 months and 1 day to 1 year. It is evident, therefore, that the respondent Judge, in sentencing the accused to suffer the minimum period of said penalty, took into consideration the aforesaid mitigating circumstance.

The third charge referred to respondent Judge's order in Criminal Case No. 8127 (*People vs. Jose Manalo*), dated March 5, 1970, denying the prosecution's request for presentation of two additional witnesses. This was found by the Investigating Judge to be proper in view of the fact that the denial was actually based on the following: (a) the preliminary examination of the criminal complaint for Homicide thru Reckless Imprudence against the accused was already terminated; (b) the two additional witnesses apparently were intended to support the Amended Complaint for Homicide against the same accused but since the motion of the prosecution to amend the complaint from Homicide thru Reckless Imprudence to Homicide had been previously denied, the presentation of said witnesses was premature; and (c) the hearing on that date was in connection with the motion of the prosecution for reconsideration of the court's order of denial.

Relative to the fourth charge which adverts to respondent Judge's order in Criminal Case No. 6198 (*People vs. Esteban Gopez, Jr.*), denying the admission of Exhibit "A", the Investigator also found the aforesaid order to be

legally justified. It must be noted that Exhibit "A" is the alleged extrajudicial confession of the accused which was offered and submitted by the prosecution as their evidence against the objection of the defense. The denial of the admission of the aforementioned document was based on the findings of the respondent Judge that the purported extrajudicial confession was not freely and voluntarily given by the said accused. There is no question that within the intendment of the Constitution, in order that a confession can be received as evidence, it must be shown that it was freely and voluntarily made by the declarant, and not the result of violence, intimidation, threat, menace, or promise or offer of reward or leniency.

Regarding the fifth charge, it was found that neither the original nor copy of the order of the respondent Judge in Criminal Case No. 7962 (People vs. Abraham Manalo, et al.), dated March 10, 1969, wherein he purportedly required the accused who filed a petition for bail "to prove their petition", was submitted to the Investigator. There was, therefore, no basis for the Investigating Judge upon which he could make his finding and recommendation.

The Investigating Judge, on the basis of the foregoing, concluded:

"There being no evidence presented to prove that respondent Judge Oscar G. Lagman had knowingly rendered an unjust judgment, or judgment rendered through ignorance or negligence, for the alleged decisions were not even attached as annexes in the complaint, nor is there any scintilla of evidence presented to prove that such unjust judgments were knowingly rendered, and/or through ignorance or negligence, the said charges have to be dismissed."

WHEREFORE, finding the foregoing recommendation of the Investigating Judge to be in order, the same is hereby approved, the charges against the respondent are therefore, dismissed.

Makalintal, C.J., Zaldivar, Castro, Fernando, Barredo, Makasiar, Esguerra,
Fernandez, Munoz Palma, and Aquino, JJ., concur.
Teehankee, J., concurs in the result.

[1] Annex A, Record, pp. 9-40.

[2] Annex B, Id., pp. 4-42.

[3] Annex C, Id., pp. 43-44.

[4] Annex D, Id., p. 45.

[5] Copy of the order in question is not attached to record as an annex.

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