

LUDOVICO AJENO, COMPLAINANT, VS. HON. SANCHO Y. INSERTO, JUDGE OF THE COURT OF FIRST INSTANCE OF ILOILO, CITY OF ILOILO, RESPONDENT.

A.M. No. 1098-CFI. May 31, 1976

Ponente: MARTIN, J.

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MARTIN, J.:

In a verified complaint dated October 25, 1975, complainant Ludovico Ajeno of Barotac, Nuevo, Iloilo, charged Judge Sancho Y. Inserto of the Court of First Instance, Iloilo City for ignorance of the law, particularly Article 39 of the Revised Penal Code, as amended by Republic Act No. 5465[1] and Article IV, Section 13 of the 1973 Constitution[2] by sentencing complainant "to suffer an imprisonment of four (4) months of arresto mayor, to indemnify Solomon Banagua, Jr. in the sum of P200.00 with subsidiary imprisonment in case of insolvency and to pay the cost of the suit." [3] Complainant claims that the indemnity of Two-Hundred (P200.00) Pesos is a civil liability and to order his imprisonment for non-payment thereof is in violation of the constitutional provision that "no person shall be imprisoned for debt." [4] He thus prays this Court to remove respondent Judge from office "for incompetence and for lack of the highest degree of intellectual responsibility and integrity required of him by the nature of his office * * *." [5]

In his comment to the charge of complainant, respondent Judge admitted his error in imposing upon the complainant the subsidiary imprisonment of forty (40) days in case of insolvency, to pay the indemnity of P200.00 to Solomon Banagua, Jr. and alleged among others that he realized his oversight when the case was appealed to the Court of Appeals; that it was never his intention to oppress anyone, much less the complainant; that at the time he committed the mistake he was relying on the doctrine that what the Constitution prohibits is imprisonment for debt arising exclusively from action ex contractu and does not include damages arising from action ex delictu, fines, penalties imposed in criminal proceedings, citing the case of *People vs. Cara*, 41 Phil. 828. [6]

The main issue in this case is whether the respondent Judge can be administratively held liable for his error in imposing upon complainant the subsidiary imprisonment of forty (40) days in case of his insolvency to pay the indemnity of P200.00 to the offended party in the criminal case filed against him.

A well established doctrine that has gained foothold in our jurisdiction is that a judge must be wholly free to render a just decision in the application of the correct law to the facts of a given case. [7] This is based on the legal truism embodied in the Canons of Judicial Ethics that precisely "courts exist to promote justice, and thus to serve the public interest. Their administration should be speedy and careful. Every judge should at all times be alert in his rulings and in the conduct of the business of the court, so far as he can, to make it useful to litigants and to the community. He should avoid unconsciously falling into the attitude of mind that the litigants are made for the courts instead of the courts for the litigants." [8] Of course this Court is aware of its policy of not disciplining judges for inefficiency on account merely of occasional mistakes or errors of judgment committed by them, [9] yet

it is highly imperative that judges should be conversant with the law including its latest amendments which they are to apply to the facts and the evidence adduced during the trial, so as to forestall any harm, injury or prejudice to the litigants.

In the present case, there is hardly any dispute that respondent Judge has violated Article 39 of the Revised Penal Code, as amended by Republic Act No. 5465, which provides, among others, that if the principal penalty imposed be prison correccional six (6) years, or one (1) day to six (6) months (arresto mayor) and a fine, the subsidiary imprisonment shall not exceed one-third (1/3) of the sentence nor more than one (1) year at the amended rate of one (1) day for each eight (P8.00) pesos fine. In the criminal case filed against him, complainant was sentenced to four (4) months imprisonment and to indemnify the victim Solomon Banagua, Jr. in the sum of P200.00 for alleged medical expenses. It is clear here that the sum of P200.00 was intended to answer for the indemnity to the offended party. Therefore non-payment thereof can not subject the accused to subsidiary imprisonment because under the amendment introduced by Republic Act No. 5465, it is only for non-payment of the fine that the accused may be required to serve subsidiary imprisonment.

But it is erroneous on the part of the complainant to claim that the error committed by the respondent Judge was in violation of the constitutional provision that "no person shall be imprisoned for debt," because the debt contemplated in the constitutional provision refers only to a contractual obligation or an obligation to pay money arising from a contract and not to an obligation arising from a crime. The obligation of the complainant to pay the sum of P200.00 to Solomon Banagua, Jr. does not arise from a contract but from a crime and is therefore beyond the scope of the constitutional provision mentioned. If at all, the error of the respondent Judge is his failure to observe the amendatory law, Republic Act No. 5465, in imposing the penalty to complainant. It was through his own negligence that he imposed forty (40) days of subsidiary imprisonment to complainant in case of non-payment of the P200.00 indemnity to the offended party. He was negligent when he failed to exercise the care that the circumstances justly demanded. He failed to use that diligence which is expected of judges like him to determine whether the provision of law he is enforcing is still applicable, whether it has been amended or not, or whether there are recent doctrines of the Supreme Court pertinent to the case. Had respondent Judge been more careful and cautious in this regard, he would have spared the complainant from the trouble and expense of prosecuting his case in the appellate court to correct the error.

But what really mitigates respondent Judge's offense is the frank admission of his error and his honest disclaimer of bad faith in its commission. Thus he said in his comment:

"* * * It was never my intention to oppress anyone, much less the complainant. As a matter of fact the complainant was charged with frustrated murder but I convicted him of less serious physical injuries only, in accordance with the evidence presented. * * * Had counsel for the herein complainant filed a motion for reconsideration or called my attention in any manner, I could have rectified my error right then and there. The Rules of Court provides the remedy of appeal to rectify possible errors committed by judges in inferior courts. This remedy was availed of by complainant."

That respondent Judge was really acting in good faith when he committed the aforementioned error is depicted by his full support to the doctrine that the prohibition in the Constitution that "no person shall be imprisoned for debt" protects only debt arising from contracts or action ex contractu but not an obligation arising from crimes or action ex delictu, citing the case of *People vs. Cara*, 41 Phil. 828, which doctrine has so far not been changed by this Court. Respondent Judge is correct in relying on said doctrine, but he failed to realize that if subsidiary imprisonment cannot be imposed now in case of insolvency of the accused to pay the indemnity, it is not because its imposition would constitute imprisonment for non-payment of a debt but because of the new amendment introduced to Article 39 of the Revised Penal Code by Republic Act No. 5465, imposing subsidiary imprisonment

only in case of non-payment of the fine. In the case of *In re Horilleno*, 43 Phil. 212, this Court previously ruled that "For serious misconduct to exist, there must be reliable evidence showing that the judicial acts complained of were corrupt or inspired by an intention to violate the law, or were in persistent disregard of well-known legal rules." To hold therefore liable the respondent Judge administratively for ignorance of the law there must be reliable evidence to show that the judicial acts complained of was ill-motivated, corrupt or inspired by an intention to violate the law, or were in persistent disregard of well-known legal rules." None of these has been presented in this case. On the contrary the preponderance of evidence shows that the act of the respondent Judge was an honest error of judgment; it was not inspired by any ill-motive to oppress the complainant; and that it was the first violation of the norm of judicial conduct by the respondent Judge during the 36 years that he is in the service of the government.

This notwithstanding, the Canons of Judicial Ethics would not allow that such conduct pass without any word of admonition to the erring respondent Judge. When he accepted his position he owed it to the dignity of the court, to the legal profession and to the public, to know the very law he is supposed to apply to a given controversy. Even in the remaining years of his stay in the judiciary he should keep abreast with the changes in the law and with the latest decisions and precedents. Although a judge is nearing retirement he should not relax in his study of the law and court decisions. Service in the judiciary means a continuous study and research on the law from beginning to end. In this respect respondent Judge has failed.

IN VIEW OF THE FOREGOING, the respondent Judge is hereby admonished to be more cautious in the application of the law to cases submitted to him for decision with a warning that a repetition of the same will be severely dealt with.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

[1] Art. 39. Subsidiary Penalty. — If the convict has no property with which to meet the fine mentioned in paragraph 3 of the next preceding article he shall be subject to a subsidiary personal liability at the rate of one day for each 8 pesos, subject to the following rules:

1. If the principal penalty imposed be prison correccional or arresto and a fine, he shall remain under confinement until his fine referred in the preceding paragraph is satisfied, but his subsidiary imprisonment shall not exceed one-third of the term of the sentence, and in no case shall it continue for more than one year, and no fraction or part of a day shall be counted against the prisoner as amended by R.A. 5465.

* * * * *

[2] Sec. 13. No person shall be imprisoned for debt or non-payment of a poll tax. (Art. IV, New Constitution).

[3] See page 1 of the Complaint.

[4] Section 13, Art. IV, New Constitution.

[5] See page 4 of the Complaint.

[6] 2nd Indorsement, November 26, 1975 to Executive Officer, Administrative Division, Supreme Court.

[7] *People vs. Ancheta*, L-39993, May 19, 1975.

[8] Canons of Judicial Ethics.

[9] Luciano vs. Mariano, 38 SCRA 184.

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