

ROLANDO DAPLAS Y SARMIENTO, COMPLAINANT, VS. JUDGE BELENITA TOLEDO ARQUIZA, MUNICIPAL COURT, KAWIT, CAVITE, RESPONDENT.

A.M. No. 1129-MJ. August 21, 1980

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

Complainant Rolando Daplas y Sarmiento in his verified complaint dated November 10, 1975 charges respondent Judge Belenita Toledo Arquiza of the Municipal Court of Kawit, Cavite for ignorance of the law, grave abuse of discretion, gross incompetence, inefficiency and partiality.

The record shows that on August 6, 1975, Sgt. Vicente Cagalpin of the Philippine Constabulary Headquarters in Imus, Cavite filed a case of Robbery with Frustrated Homicide against Victoriano Coching, Ferdie Sapida and Efren Alot with respondent's court which was docketed therein as Criminal Case No. 2121; that the corresponding warrants of arrest against the three accused were issued by respondent on August 14, 1975; that on the same date, accused Efren Alot was arrested and the case against him was remanded to the Court of First Instance of Cavite; and that the case against the other two accused remained with respondent's court, they being at-large and therefore said court had not yet acquired jurisdiction over their persons.

On September 1, 1975, a Motion to Quash was filed by counsel of the said two accused at-large, over whom the court had not yet acquired jurisdiction. Respondent granted said motion on September 2, 1975 and ordered Sgt. Cagalpin to file an amended complaint charging the proper offense and at the same time recalling the warrant of arrest earlier issued. On September 8, 1975, Sgt. Cagalpin filed an amended complaint for Less Serious Physical Injuries against the said two accused at-large, which he later amended to Frustrated Homicide on September 10, 1975. On the same date, Sgt. Cagalpin also filed another complaint for Robbery against the same two accused at-large, which, according to the complainant, respondent refused to accept and docket for reasons known only to her.

To this complaint, respondent judge filed her answer, dated December 5, 1975, wherein she explained, among others, that it is true that on September 1, 1975 Atty. Camilo Flores, as counsel for the accused Coching and Sapida who were still at-large, filed a motion to quash the charges against the said accused. She claims that upon finding that counsel just wanted to call her attention to the fact that there is no such complex crime of Robbery with Frustrated Homicide, she treated the motion as a mere motion to amend the complaint already filed, and the amendment being only a matter of form, ordered complainant to file an amended complaint charging the proper offense, glossing over the fact that within 24 hours of the filing of the motion, she issued her order quashing the charges against the said two accused at-large. Moreover, respondent denies that she refused to accept the robbery case filed by Sgt. Cagalpin against the two accused who were still at-large because the same was accepted on September 10, 1975 and docketed as Crim. Case No. 2148.

Pursuant to the Court's Resolution of September 28, 1977, the Executive Judge of the Court of First Instance at

Cavite City conducted an investigation of the complaint.

Respondent's contention that she granted the motion to quash since the motion was not, in reality, a motion to quash but a motion to amend the complaint is untenable. The context of her Order dated September 2, 1975 is too explicit to leave any room for doubt that she hastily ordered the complaint filed against the accused at-large Ferdie Sapida and Victoriano Coching for robbery with frustrated homicide quashed even though they had not yet been brought under her court's jurisdiction, although at the same time she ordered the filing of an amended complaint charging the proper offense within five (5) days from receipt of said Order. It is elementary that it is the allegations of the complaint and not the designation of the offense that determine the crime committed and charged. The mere misnomer of the offense committed did not justify the quashal of the charge. Respondent herself had determined in the preliminary examination that a crime had been committed by the said accused at-large and had issued the warrants for their arrest. Her duty was to hear said accused at the second stage or preliminary investigation under Rule 112 of the Rules of Court and maintain the charge or discharge the accused and thereafter elevate the record to the clerk of the court of first instance under section 12.

Respondent's inexplicable procedure of quashing the charges (when she herself had found a prima facie case and issued the arrest warrants) enabled the said accused to remain free and make threats against the complainant-offended party, as charged by the latter.

The investigating Judge, Hon. Luis L. Victor, in his report dated August 18, 1976 (8) found that in fact "a reinvestigation was conducted by the Provincial Fiscal of Cavite on the [lone] criminal case [against Alot who had been arrested][1] remanded by the respondent judge to the Court of First Instance of Cavite. The Fiscal, after reviewing the findings of the respondent judge, and after conducting his own investigation, found a prima facie case of Robbery against the three accused Alot, Sapida and Coching, who were accordingly charged in an Information filed with the Court of First Instance of Cavite, docketed as Criminal Case No. 168-75, which is pending trial before Branch II of the said Court. x x x."

The investigating Judge had occasion to deplore respondent's attitude in the course of the investigation in his Order of March 6, 1978, thus: "(T)his Court is appalled by the statement of the respondent municipal judge in her motion to postpone this investigation to the effect that 'justice could be dispensed to a greater number by proceeding with the trial of criminal cases in the Municipal Court of Kawit, than proceeding with the hearing of the above-entitled administrative case.' The respondent's attitude in comparing the degree of her work in the administration of justice with that of this Court in this case is indeed deplorable. This investigation should not be equated with the discharge of responsibilities by the respondent in her court. If respondent feels that the administrative charge against her is trifle and of no moment, that is her concern and lookout. But she need not resort to odious comparison in seeking postponement of this investigation. This Court has a task to fulfill in this administrative case and this duty shall be done as the Supreme Court has directed this Court to perform."

The investigating Judge's recommendation that "respondent should be admonished to be more cautious and exercise greater care in the conduct of preliminary investigation of cases submitted before her court. As this High Tribunal has consistently reminded - a judge owes it to the public and to the legal profession to know the very law he is supposed to apply to a given controversy. He is called upon to exhibit more than just a cursory acquaintance with the statutes and procedural rules. There will be great faith in the administration of justice if there be a belief on the part of litigants that the occupants of the bench cannot justly be accused of an apparent deficiency in their grasp of legal principles," is well taken.

Hence, while a respondent judge may be excused for occasional mistakes or errors of judgment particularly when incurred on fine or complex points of law or mitigated by the "hourly difficulty of keeping abreast of our ever

increasing decisions,"[2] judges are expected to show more than a cursory acquaintance with the elementary rules governing procedure and preliminary investigations and well settled and authoritative doctrines. They certainly must at all times show fealty to the canon of judicial ethics that "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."[3]

ACCORDINGLY, the Court finds respondent administratively liable and imposes upon her a fine[4] equivalent to her actual salary for one (1) month, the same to be paid within thirty (30) days from finality of this decision.

SO ORDERED.

Makasiar, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.
Fernandez, J., on leave.

[1] Notes in brackets and emphasis supplied.

[2] *Aducayen vs. Flores*, 51 SCRA 78, 83.

[3] Cited in *Ajeno vs. Inserto*, 71 SCRA 166.

[4] Vide, *Adm. Matter No. 699-CFI, Galangi vs. Hon. Francisco Men Abad*, Feb. 28, 1980.

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