

ALEJANDRO GALAN AND CARMEN T. GALAN, COMPLAINANTS, VS. JUDGE DIMALANES B. BUISSAN, RESPONDENT.

A.M. No. 1648-CFI. September 10, 1981

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This refers to a verified complaint (pp. 2-4, rec.) dated May 24, 1977, filed with this Court by Spouses Alejandro Galan and Carmen T. Galan of Dapitan City, charging respondent District Judge Dimalanes B. Buissan of the Court of First Instance of Zamboanga del Norte, Branch III, with station at Dipolog City, with alleged violation of constitutional rights and gross ignorance of the law.

The complainants alleged that on May 20, 1976, the City Fiscal of Dapitan filed against them in respondent's court Criminal Case No. 1617, for Estafa, wherein the sum of P1,000.00 was recommended as bail for each of them (Annex "A"); that on June 16, 1976, the respondent knowingly signed the Order of Arrest to be served at San Carlos City, Negros Occidental, without stating the amount of bail; that on September 20, 1976, the Order of Arrest was forwarded to San Carlos City (Annexes "B" and "C"); that on October 13, 1976, they were arrested by the San Carlos City Police and detained thereat (Annex "D"); that on October 14, 1976, Capt. Deocampo, Station Commander of San Carlos, wired the Clerk of Court of First Instance and the respondent inquiring as to the amount of bail and whether they (accused and herein complainants) can put up their bond in San Carlos City (Annexes "E" and "F"); that when no reply was forthcoming, they wired Manuel Tomboc (brother of complainant Carmen T. Galan) who is residing at Dapitan City to inquire personally as to the amount of their bail (Annex "G"); that on October 18, 1976, Manuel Tomboc deposited with the office of the clerk of court of Zamboanga del Norte, the cash bond of P2,000.00 (Annex "H") and they were finally released from the San Carlos City Jail on October 19, 1977 at 10:20 A.M. (Annexes "H" and "I"); that they were detained in the San Carlos City Jail without bail from 11:20 A.M. on October 13, 1976 up to 10:20 A.M. of October 19, 1976 as certified to by the San Carlos Police Lieutenant (Annex "J"); and that on January 31, 1977, the said Criminal Case No. 1617, for Estafa, was dismissed when Tan Tian Tiong, the offended party, withdrew his complaint (Annex "K").

The complainants submit that based on the abovesited facts which are supported by documentary evidence, it is beyond doubt that herein respondent violated the provision of Section 18, Article IV, of the Constitution, which reads as follows:

"All persons except those charged with capital offense when the evidence of guilt is strong shall before conviction be bailable by sufficient sureties. Excessive bail shall not be required."

It is also complainants' further submission that the respondent is guilty of gross ignorance of the law when he knowingly failed to recommend the amount of bail when the warrant of arrest was to be served at Negros Occidental, thus, outside of Zamboanga del Norte and for his (respondent) failure to authorize the Municipal or City Judge of San Carlos City or the Judge of the Court of First Instance of Negros Occidental to accept the bail as provided for under Section 7 of Rule 112, Rules of Court, which provides:

"Admission to bail when warrant of arrest occurs outside of the jurisdiction of the court. - Upon issuing the order of arrest, the Judge shall ascertain whether the defendant is within or without his jurisdiction. In case of the latter, he shall issue an order fixing the amount thereof, and authorizing any Municipal Judge or Judge of First Instance where the defendant may be found to accept such bail."

In his comment embodied in his 2nd Indorse-ment (pp. 28-31, rec.) dated August 9, 1977, the respondent averred that:

"1. The antecedent facts as gathered by the undersigned from reliable sources are as follows:

"(a) Mr. and Mrs. Alejandro Galan, prior to the filing of Criminal Case No. 1617, were residents of Dapitan City, doing their regular business in this City and Zamboanga del Norte;

"(b) Mr. and Mrs. Alejandro Galan, upon failure to pay their obligations to Tan Tian Tiong and upon learning that probable court action was contemplated against them left Dapitan City and went allegedly to Dumaguete but later were traced by private prosecutor to San Carlos City;

"(c) That a warrant or arrest, Annex 'A', was prepared by Acting Branch Clerk of Court Alfredo Pulido and placed on my table for my signature which, as a routine matter, was immediately signed by me. The circumstances and reasons why the amount of bail bond was not placed on the warrant is detailed by Mr. Pulido in his affidavit hereto attached as Annex 'B.'

"2. That when I signed the warrant of arrest, I overlooked the fact that the warrant was to be directly served outside the province of Zamboanga del Norte, believing honestly that the said warrant was to be served within the jurisdiction of the CFI of Zamboanga del Norte;

"3. That the oversight on my part was an honest, unintentional mistake, which any person may commit unknowingly;

"4. That as detailed in Annex 'B' by Clerk of Court Alfredo Pulido, no unnecessary delay, other than the time required for telegraphic communications, was caused to the complainants;

"5. That the arrest and detention of an accused is a necessary consequence of their violation of the law, and even if the amount of bail was placed on the warrant, necessarily the accused will be detained until they can file their bail bond with the court and their release ordered, or even if the warrant was served within the jurisdiction of this Court, still the accused will be detained pending preparation and filing of their bail bond;

xx xx xx xx."

The respondent further stated that as shown in the record of the case, Clerk of Court Pulido, upon learning of the arrest of complainants in San Carlos City, sent on October 18, 1976 a telegram (Annex "E") to the Provincial Commander for PC escort for the accused to Dipolog City although he has no prior knowledge of such step taken by Branch Clerk of Court Pulido; that said telegram was, however, not transmitted as on said date (October 18), Mr. and Mrs. Manuel Tomboc filed cash bond for the accused as certified to by Clerk of Court Primitivo Abarquez (Annex "F"); that on same date (October 18), he [respondent] signed an order of release (Annex "G"); and that on October 18, 1976, Clerk of Court Pulido sent a telegram to the Chief of Police of San Carlos City requesting the release of the complainants (Annex "H").

The respondent reiterated that he did not notice that the warrant of arrest he signed on June 16, 1976 was to be directly served outside the territorial jurisdiction of his Court; that the error was one of oversight, unintentional, without malice and without any intention to prejudice the right of the accused; that said error could have been committed by even a more meticulous and careful person and it could happen to anyone; and that as explained by Mr. Pulido in his affidavit marked as Annex "B", the employees of the Court usually prepare the warrants of arrest

without stating the amount of the bail bond.

Finally, the respondent averred that the filing of the instant complaint was masterminded by former Judge Doroteo de Guzman.

The records show that the First Division, in its resolution dated March 15, 1978, resolved to refer this case to the Court En Banc, it appearing that the respondent Judge has a pending application for compulsory retirement for having reached the age of 65 in February, 1978.

The records further revealed that the respondent filed a manifestation dated January 15, 1980, the contents of which read as follows:

"In connection with respondent's claim that the above-entitled case (referring to the instant Administrative Matter No. 1648-CFI) was masterminded by former Judge Doroteo de Guzman, respondent herewith submits the affidavit of Atty. Uldarico Mejorada, one of the well-known lawyers in this province, as proof of respondent's claim.

"That the attached carbon and xerox copies of Atty. Mejorada's affidavit is respectfully submitted as part of respondent's pleading in this case."

After a review of the entire records, there is no basis to the charge that respondent violated complainants' right to bail as provided for in the Constitution.

There is no dispute that herein complainants were released from the San Carlos City Jail at 10:20 A.M. on October 19, 1976 based on the release order issued by the respondent on October 18 after Manuel Tomboc (brother of complainant Carmen T. Galan) filed a cash bond of P2,000.00 for their (complainants) provisional liberty.

The only charge which deserves consideration is respondent's admitted failure to indicate the amount of bail bond in the warrant of arrest he issued against herein complainants. Such failure to do so was candidly admitted by the respondent. But he explained that such error was only the result of an oversight and an honest and unintentional mistake. There is also no showing that respondent in committing such mistake was motivated by malice or ill will against herein complainants nor was it the result of a deliberate intent to commit an injustice against the said accused.

Under the circumstances, respondent's omission should be visited with an admonition only.

WHEREFORE, RESPONDENT DISTRICT JUDGE DIMALANES B. BUISSAN IS HEREBY ADMONISHED TO BE MORE CAREFUL AND CIRCUMSPECT IN THE PERFORMANCE OF HIS JUDICIAL FUNCTIONS, WITH A WARNING THAT A REPETITION OF THE SAME OR SIMILAR INFRACTION WILL BE DEALT WITH MORE SEVERELY.

LET A COPY OF THIS DECISION BE ENTERED IN RESPONDENT'S PERSONAL RECORD.

SO ORDERED.

Teehankee, (Chairman), Fernandez, Guerrero, and Melencio-Herrera, JJ., concur.

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