

GEORGE O. JAVIER, COMPLAINANT, VS. HON. MANUEL E. VALENZUELA, PRESIDING JUDGE, COURT OF FIRST INSTANCE OF RIZAL, BRANCH XXIX, PASAY CITY, RESPONDENT.

A.M. No. 2681-CFI. July 30, 1982

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Complainant George O. Javier charges respondent Judge Manuel E. Valenzuela with gross ignorance of the law or rules, and/or incompetence or misconduct, in approving the bail bond of accused Rolando Vidal in Criminal Case No. LP-81-1213-P without the required supporting papers.

The respondent Judge traversed the material allegations of the complaint.

In a resolution dated January 19, 1982, the complaint was referred to Mr. Justice Crisolito Pascual of the Court of Appeals for investigation, report and recommendation, with a view to pinpointing the person primarily responsible for the alleged missing bail bond.

In his report dated March 18, 1982, Justice Pascual stated:

" . . . In view of the specific instruction of the Supreme Court for the undersigned to conduct a thorough investigation to pinpoint the person primarily responsible for the alleged missing bail bond (Ibid., p. 37), the following persons were subpoenaed to appear at the investigation, namely, the Branch Clerk of Court of Branch 29 of the Court of First Instance of Rizal (Ibid., p. 48), the Branch Clerk of Court of Branch 28 of the Court of First Instance of Rizal (Ibid., p. 49), where Criminal Case No. LP-1213-P was reassigned, the employee directly in charge of the rollos of criminal cases in Branch 29 (Ibid., p. 53), the former lawyer of the complainant (Ibid., p. 52), and the complainant and respondent themselves (Ibid., p. 38).

"The investigation started on February 26, 1982 (Ibid., p. 38). "The prosecution had only one witness, the complainant himself.

"At the hearing, the complainant testified that the personal bail bond posted for Rolando Vidal in Criminal Case No. LP-1213-P by the Sanpiro Insurance Corporation was prepared on the bond-form of Citizens Insurance Company by crossing out the name of 'Citizens Insurance Company' on the form and typing above it the name 'Sanpiro Insurance Corporation' (Exhibit D, Ibid., p. 10). The complainant also testified that 'there was no picture of the accused, no identification as to who filed the bail bond—no address of the accused—the criminal case number was also missing—no notice of the fiscal regarding the personal bail bond' (t.s.n., pp. 19-20, 44-45).

"In his cross-examination, the complainant admitted that he knows Sanpiro Insurance Corporation as an established insurance company (Ibid., p. 44). He also admitted that Sanpiro Insurance Corporation had issued other good bail bonds with supporting documents. The complainant couldn't do otherwise after he was shown several bail bonds issued by Sanpiro Insurance Corporation in other criminal cases, namely, CIC Bonds Nos. 00486, 00492, 00601, 00602, 00958, and 00969. These bail bonds appear exactly like the bail bond posted for

the accused Rolando Vidal (Exhibit D, *Ibid.*, pp. 10-11), that is to say, the name 'Citizens Insurance Company' on the bond-forms was also crossed out and the name 'Sanpiro Insurance Corporation' typed above it. It turned out that Citizens Insurance Company was sold and its name was changed to Sanpiro Insurance Corporation (*Ibid.*, p. 82). The bond-forms of Citizens Insurance Company were used while Sanpiro Insurance Corporation was waiting for its own bond forms (*Ibid.*, p. 82).

"Atty. Basilio B. Bolante, the Branch Clerk of Court of Branch 29, testified, without any contradiction, that the bail bond issued by Sanpiro Insurance Corporation was a complete bond, with the necessary supporting papers (*Ibid.*, p. 67). He also described the routing of bail bonds filed in court (*Ibid.*, pp. 69-70). According to Atty. Bolante, bail bonds filed in court are first examined by him as to their completeness, whether they are in order and whether the necessary supporting papers are attached to the bail bonds. If a bail bond is complete, then it is attached to the cover of the criminal case rollo and submitted to the presiding judge for his approval after which it goes to the section of criminal cases in the office of the branch clerk of court.

"Mr. Arsenio Astudillo, the court employee directly in charge of the rollos in criminal cases recalled that the original bail bond undertaken by Sanpiro Insurance Corporation for the accused Rolando Vidal was complete with the necessary supporting papers. He also corroborated the testimony of Atty. Basilio Bolante as to the routing of bail bonds filed in court.

"Before the respondent Judge could present his evidence, it became evident even to the complainant that his complaint was indeed on shaky ground. The undersigned investigator, noticing this turn of the case, asked the complainant if he was still set on prosecuting the case. To his credit, the complainant, after thinking about it for a while, manifested that he was willing to drop his complaint against the respondent and that he will soon file the necessary manifestation (*Ibid.*, p. 79). This he did on March 10, 1982 (*Ibid.*, p. 84).

". . . As stated above, upon the filing of a bail bond, the branch clerk of court examines the bond for its completeness. If the bail bond is in order together with the necessary supporting papers, it is attached to the cover of the criminal case rollo and sent to the presiding judge for approval. Thereafter, the rollo, together with the bail bond, is sent to the employee in charge of the rollos of criminal cases for safe-keeping. When a criminal case is ready for the calendar, it is then sent to the branch clerk of court who assumes control of the rollo (*t.s.n.*, p. 62).

"In the present case, the former lawyer of the complainant, Atty. Amado Ocampo, asked the branch clerk of court if he could see the rollo of Criminal Case No. LP-81-1213-P in order to have a xerox copy of the bail bond filed for the accused Rolando Vidal (*Ibid.*, p. 46). The branch clerk of court referred Atty. Ocampo to Arsenio Astudillo, the employee directly in charge of the rollo (*Ibid.*, p. 66). Atty. Ocampo then asked someone to have the bail bond xeroxed for him (*Ibid.*, p. 46). The rollo was brought down to the next lower floor where the xerox machine was located (*Ibid.*, p. 47).

"Arsenio Astudillo admitted that he failed to send someone to accompany the person bringing the rollo to the xerox machine. After the rollo was returned to Arsenio Astudillo, he failed to file the rollo immediately since he was very busy attending to the requests of lawyers and interested parties. He also admitted that it is quite possible that the bail bond may have been detached or separated from the cover of the rollo and misplaced.

"The matter was reported to the branch clerk of court who immediately conducted an inquiry and search (*Ibid.*, pp. 61, 63-64) which proved fruitless (*Ibid.*, p. 64).

Because "respondent Judge Manuel E. Valenzuela had nothing to do with the loss of the bail bond filed for the accused Rolando Vidal; that the said bail bond was complete with supporting papers when the respondent Judge approved it; and that the complainant himself manifested his desire to drop the complaint even before the respondent Judge could present his evidence and filed his formal desistance on March 10, 1982, . . ." Justice Pascual recommended the dismissal of the complaint and exoneration of the respondent Judge.

The findings of fact as contained in the foregoing report are supported by the records.

WHEREFORE, THE COMPLAINT AGAINST RESPONDENT JUDGE MANUEL E. VALENZUELA IS HEREBY DISMISSED AS IT HAS NO BASIS IN FACT AND THE SAID RESPONDENT JUDGE IS HEREBY EXONERATED OF THE CHARGES AGAINST HIM.

SO ORDERED.

Fernando, C.J., Teehankee, Barredo, Aquino, Concepcion Jr., Guerrero, Abad Santos, De Castro, Melencio-Herrera, Plana, Escolin, Vasquez, Relova and Gutierrez, JJ., concur.

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