

**IN RE: PETITION FOR THE DISMISSAL FROM SERVICE AND/OR
DISBARMENT OF JUDGE BALTAZAR R. DIZON, PRESIDING JUDGE OF
THE REGIONAL TRIAL COURT OF PASAY CITY, BRANCH 113. HON.
ALEXANDE...**

A.M. No. 3086. May 31, 1989

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PER CURIAM:

Acting on the motion for reconsideration filed by respondent Judge Baltazar R. Dizon praying that the resolution of this Court dated 23 February 1988 in this case be reconsidered, the Court took a second hard look at the present case in the light of the various arguments raised by the movant.

The sole charge brought against the respondent by the former Commissioner of Customs, Hon. Alexander A. Padilla, of which we found him guilty in our Resolution of February 23, 1988, is that he rendered a manifestly erroneous decision in Criminal Case No. 86-10126-P entitled "People of the Philippines v. Lo Chi Fai" through gross incompetence and gross ignorance of the law.

It was alleged that Judge Dizon not only acquitted Lo Chai Fai of the crime of violation of Central Bank Circular No. 960 in spite of the accused having been apprehended with US\$355,349.57 worth of foreign currencies while boarding a plane for Hong Kong, erroneously ruling that the State must first prove the criminal intent to violate the law and benefit from the illegal act; he also ordered the return of US\$3,000.00 out of the US\$355,349.57 thus seized to the accused on the grossly wrong interpretation that Central Bank Circular No. 960 exempts this amount from seizure and forfeiture proceedings.

This court pointed out that in offenses punished by special laws, proof of malice or deliberate intent is not necessary. The offenses are mala prohibita. C.B. Circular No. 960 also requires a tourist upon arrival to declare any foreign currency he is carrying if the same exceeds US\$3,000.00. Respondent having manifestly disregarded and failed to apply this plain and fundamental legal principle, despite the fact that the record did not so clearly bear out the second charge-in fact, it would now appear that the US\$3,000.00 was never returned to Lo Chi Fai by order of the respondent or otherwise -- we considered that "his actuations in this case amount(ed) to grave misconduct prejudicial to the interest of sound and fair administration of justice" and ordered his dismissal from the service.

The respondent now comes to us appealing for a compassionate review of the Court's judgment. He admits that his decision was erroneous but pleads that his mistaken judgment proceeded from good faith and not from a deliberate desire to pervert his position. He pleads also "(E)ven for the sake of his family alone, x x x for a review of (such a) pronouncement which not only imposes the stigma of removal from his position, but adds the trauma of the loss of all benefits derived from his long years of service and the forfeiture of further gainful employment in -the Government." (Motion for Reconsideration, p. 2)

After another painstaking look at the records of this administrative case, we have decided to act favorably on the respondent's plea to view with less rigor the error of judgment he committed. We have also taken into account the

long government service of the respondent spanning more than twenty-six (26) years.

The story of Lo Chi Fai that he and five other business associates from Japan and Hongkong separately brought the foreign currencies into the Philippines for a business venture and that he tried to declare his US\$50,000.00 and Yen 8,500,000.00 upon arrival but the Central Bank representative refused to accept his declaration pending confirmation from the Hongkong source is, as we ruled, palpably concocted. Instead of looking for criminal intent, the respondent should have immediately rejected the unbelievable story.

This notwithstanding, there is no clear indication from the records that the respondent's assailed decision was inspired by corrupt motives or a reprehensible purpose to set the plainly guilty free. There is gross misjudgment -- yes, but not a deliberate twisting of facts to justify his decision. His plea that because the penalty for violation of CB Circular No. 960 was that provided for in the Revised Penal Code, he believed that intent or malice was an essential element of the offense of course deserves but scant consideration. But because such belief is clearly wrong does not rule out its being held and acted upon in good faith, not from improper motives. There is likewise no question that he did not transgress the procedural requirements needed for the rendition of a judgment in a criminal case. The facts are all stated in the decision. It was his egregiously erroneous interpretation of the law which led us to discipline the respondent.

In our February 23, 1988 resolution, we stated that "(A) judge can not be held to account or answer, criminally, civilly, or administratively, for an erroneous decision rendered by him in good faith." (Emphasis supplied) The foregoing doctrine remains the law.

We do not, by any means, exonerate the respondent from all blame nor do we completely overlook the erroneous judgment. His act remains unjustified. It does not speak well of an officer who must "read, study and ponder" and "personify learning and equanimity." (Lopez v. Fernandez, 99 SCRA 603 [1980]). In the case of Fajota v. Balonso (105 SCRA 1, 4 [1981]), this Court reiterated the strong admonition of former Chief Justice Enrique M. Fernando in his concurring opinion in Quizon v. Baltazar Jr., (65 SCRA 293, 299 [1975]), to wit:

"It is a truism that the learning process in law does not stop upon graduation from college and admission to the Bar. There should be, on the contrary, more sustained intellectual effort on the part of the members of the legal profession. Certainly, judges are not exempt from this obligation. It is even more incumbent on them as they are thought of as the 'oracles of law.' There is likely then to be a disillusionment in the judicial process if, as did happen here, an occupant of the bench was found to be woefully lacking in legal knowledge. x x x The efforts for improvement in the mode of administering the government in all its manifold complexity would come to naught if our people can harbor the suspicion that judges do not even know what the law is."

While the Court does not require perfection and infallibility, it reasonably expects a faithful and intelligent discharge of duty by those who are selected to fill the positions of administrators of justice.

In considering the respondent's humble submission which "respectfully entreats the kind of indulgence and sympathetic understanding of this most Honorable Supreme Court," we have taken into account the overloaded dockets of Metro Manila trial judges, the unceasing strain caused by daily hearings on complex cases and the sad lack of libraries, decent courtrooms, office equipment, supplies, and other court facilities which sometimes result in less than thorough appreciation of all relevant data and applicable laws thus leading to lapses and errors which we find difficult to comprehend once the case reaches us. Still, a Judge must rise above environmental difficulties and keep a clear and cool mind when writing down his decisions.

The respondent states that in his five years as a trial Judge, he disposed of 2,601 cases. In 1985, we assigned him to handle the cases in Branch 112 in addition to his regular work as Presiding Judge of Branch 113 of the Pasay City Regional Trial Court. He has never found time to go on leave except when compelled by illness. He has

never gone on a foreign trip.

The factors mentioned in the respondent's motion for reconsideration and subsequent motions for reinstatement do not excuse or exculpate but they suggest that our earlier penalty of dismissal may be mitigated.

We are not unmindful of the fact that in a few other recent decisions, this Court also applied the doctrine of *res ipsa loquitur* in judging the errant Judge's misdeeds. (*People v. Valenzuela*, 135 SCRA 712 [1985]; *Cathay Pacific Airways v. Romillo*, 142 SCRA 262 [1986]; *Prudential Bank v. Castro*, 142 SCRA 223 [1986]; and *Consolidated Bank and Trust Corporation v. Capistrano*, 159 SCRA 47 [1988]) We differentiate this case from these cited cases.

In these *res ipsa loquitur* resolutions, there was on the face of the assailed decisions, an inexplicable grave error bereft of any redeeming feature, a patent railroading of a case to bring about an unjust decision, or a manifestly deliberate intent to wreak an injustice against a hapless party. The facts themselves, previously proven or admitted, were of such a character as to give rise to a strong inference that evil intent was present. Such intent, in short, was clearly deducible from what was already of record. The *res ipsa loquitur* doctrine does not except or dispense with the necessity of proving the facts on which the inference of evil intent is based. It merely expresses the clearly sound and reasonable conclusion that when such facts are admitted or are already shown by the record, and no credible explanation that would negative the strong inference of evil intent is forthcoming, no further hearing to establish them to support a judgment as to the culpability of a respondent is necessary.

Thus, when asked to explain the clearly gross ignorance of law or the grave misconduct irresistibly reflecting on their integrity, the respondent Judges were completely unable to give any credible explanation or to raise reasonable doubt which would have justified a more lenient judgment of their conduct.

Respondent Judge Dizon has, in our view, sincerely evinced a humble repentance. He admits his errors in interpreting the law but he pleads that they are not of such gravity as to deserve a penalty of "virtually capital punishment." Even as he asked for "mercy, compassion, and humanity in the light of his good faith and long years of dedication and devoted service to the government," he begs leave to state that "no man is perfect" and that he himself "is subject to commission of mistakes." He submits, however, that his error "was not motivated by any improper considerations." The respondent "sincerely declares that he respects the wisdom of this Honorable Court its unquestionable disciplinary authority over the members of the bench and the lofty purposes sought to be subserved by the exercise of such constitutional power." He ends his motion for reconsideration with a "respectful and earnest prayer" that we reconsider our Resolution in this administrative matter.

Our decision to dismiss the respondent Judge took effect on February 23, 1988. On the basis of the foregoing considerations, we feel he has been sufficiently punished for the administrative infraction. We, therefore, order is reinstatement.

WHEREFORE, IN VIEW OF THE FOREGOING, the motion for reconsideration is hereby GRANTED. The judgment in the Resolution of this Court dated February 23, 1988 is MODIFIED. Respondent Judge Baltazar R. Dizon is considered suspended from office without pay for the period from February 23, 1988 to the date this resolution is promulgated. He may, therefore, be REINSTATED to office immediately. Let a copy of this resolution be attached to the respondent's personal record.

Fernan C.J., Narvasa, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Bidin, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

Melencio-Herrera, J., no part, did not participate in the deliberations.

Padilla, J., no part; related to the complainant.

Sarmiento, J., on leave.

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