

CARLOS L. JIMENA, COMPLAINANT, VS. HON. ORLANDO B. RELANO, RESPONDENT.

A.M. No. 898-MJ. December 14, 1978

Ponente: BARREDO, J.

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BARREDO, J.:

Administrative complaint against respondent Orlando B. Relano, Municipal Judge of Pres. Roxas, Capiz charging as follows:

"(1) Leonardo Tabasco, complainant and client of the undersigned was arrested on January 21, 1975 at about 5:30 p.m. or 6:00 p.m. by two policemen of Pilar, Capiz, Lalo Patricio and Francisco Bordo. There is no criminal complaint against Leonardo Tabasco whatsoever. Complainant, Leonardo Tabasco was detained in jail from the time of his arrest as stated above until the next day January 22, 1975 at about 11:00 a.m., the time when he was released from prison. Leonardo Tabasco was released because it was found out that there is no criminal complaint against him.

"It appears that respondent Judge Orlando B. Relano was negligent in including the name of Leonardo Tabasco in the warrant of arrest that is why he was arrested even without criminal charges filed in court. Judge Relano is the one primarily responsible for the arbitrary detention of Leonardo Tabasco.

"(2) Respondent Judge Orlando B. Relano is likewise not performing his duties under R.A. 3828 amending Sec. 87 of the Judiciary Act of 1948 whereby he is required to personally examine the witnesses and to reduce into writing this personal examination in the form of searching questions and answers before issuing the warrant of arrest. The evidence to prove this allegation is the record of Crim. Case No. 2173, Municipal Court of Pilar, Capiz and the records of other cases to be presented at the administrative investigation." (Page 1, Record.)

The complaint was referred to respondent for comment, upon receipt of which, and because respondent denied the charges against him, the case was referred to the Executive Judge of the Court of First Instance of Capiz, Roxas City, for investigation, report and recommendation. In due time and under date of November 24, 1977, the Investigator, the Hon. Pelayo V. Nuevo, submitted the following:

"INVESTIGATION REPORT
AND RECOMMENDATION

"On July 6, 1977, the Investigator (Executive Judge) received the record of Administrative Matter No. 898-MJ (Carlos Jimena vs. Hon. Orlando Relano) from the Hon. Supreme Court for investigation and recommendation. After several postponements, the hearing commenced on November 9, 1977. Notices were sent to complainant, his counsel and his witnesses, as well as the respondent. Notwithstanding notices to them the complainant, counsel and witnesses failed to appear. Atty. Jose P. Brotarlo, counsel for respondent, moved for the dismissal of the case. The motion was denied by the Investigator who ordered that the respondent present evidence for his defense on the charges filed against him in the letter-complaint (p. 1, record) with the charges specified and spelled out in count Nos. 1 and 2, which in substance reads as follows:

"No. 1. The respondent Judge Orlando Relano issued a warrant for the arrest of Leonardo Tabasco notwithstanding the fact that no complaint was filed against him. Leonardo Tabasco was arrested by virtue of the warrant of arrest and arbitrarily detained until 11:00 o'clock the following day when he was released.

"No. 2. The respondent did not conduct the preliminary examination of witnesses in the form of searching questions before issuing the warrant of arrest as required by law.

"The respondent filed his answer denying the charges alleged in the letter-complaint (pp. 13-16, record).

"In denying the motion to dismiss the Investigator based his denial upon the fact that this being an Administrative Investigation and the matters charged in count Nos. 1 and 2 being matters of record which required an explanation from the respondent, it was not necessary for the complainant to present any evidence to support the charges. The technical rules of procedure applied in judicial trials do not strictly apply in administrative proceedings (Oromeca vs. Social Security, pp. 1188-1193; p. 1192, SCRA, Vol. 4).

"The Investigator proceeded to read count No. 1 and No. 2. Respondent reiterated his plea of innocence alleged in his written Answer. The respondent presented witnesses, namely, the respondent Judge Orlando Relano, Lourdes Aguirre and Patrolman Francisco Bordo, and documentary evidence (Exhibits '1', '1-A', '1-B', '1-C', p. 19, record; exhibits '2', p. 24, record; exhibit '2-A', p. 25, record; exhibit '3', p. 26, record; exhibit '3-A', p. 27, record). The evidence of respondent tended to establish the following facts:

"As to Count No. 1.

"That the respondent did not issue a warrant for the arrest of Leonardo Tabasco but for the arrest of Lenardo Tabasco together with other accused, namely, Hugo Bolaño and Ramon Bolaño. Respondent presented the original of the warrant of arrest with the xerox copy of the same marked as Exhibit '1' for the respondent (p. 19, record). The Investigator compared the xerox copy (Exhibit '1') with the original and found the copy to be a correct and faithful reproduction of the original. Respondent explained that in the caption of the warrant of arrest the name 'Leonardo Tabasco' was corrected to read Lenardo Tabasco by the cancellation of the letter 'o' after the letters 'Le' (Exhibit '1-A'). The cancellation was made by Lourdes Andama Aguirre, Clerk-stenographer employed at the Municipal Court of Pilar, Capiz. In the body of the warrant of arrest, there appears the typewritten name, 'Leonardo Tabasco', and similarly the same correction was made by cancelling the letter 'o' after the letters 'Le' in the name Leonardo with the corresponding initial of the Clerk who made the cancellation (Exhibit '1-B'). These cancellations or corrections were made in the original of the warrant of

arrest and was reproduced in Exhibit '1' which is a xerox copy. Said corrections were made by the Clerk-stenographer upon order of the respondent himself who discovered that in the warrant of arrest the correct name, Lenardo Tabasco, was mistakenly typed as Leonardo Tabasco, thus, the need for the correction. The said correction was made before the respondent signed the warrant of arrest and before its issuance for service.

"The warrant of arrest was prepared and typed by Lourdes Aguirre, clerk-stenographer of the Court presided by respondent.

"Francisco Bordo of the Police Department of Pilar served the warrant of arrest issued by respondent Judge Orlando Relano on January 17, 1975 bearing the afore-stated corrections. Patrolman Bordo served the warrant at 5:00 o'clock in the afternoon in the company of Patrolman Candelario Patricio. Patrolman Bordo saw a man up in the coconut tree and when he called the man down he asked him if he was Lenardo Tabasco to which the man answered in the affirmative. The man smelled tuba, a locally made liquor. Patrolman Bordo informed him that he was under arrest and he was taken to the Municipal Jail of Pilar at 5:00 o'clock in the afternoon. Upon reaching the Municipal Jail, Patrolman Bordo turned over Leonardo to Patrolman Ballera. However, Patrolman Ballera told Patrolman Bordo that the person was not Lenardo Tabasco but Leonardo Tabasco. Where upon, Patrolman Ballera ordered Leonardo to go home. However, in view of the fact that curfew was still enforced Leonardo decided to stay for the night in the office of the Patrol Section of the Police Department (Exhibit '1-C', second page of exhibit '1', p. 9, record). Leonardo was afraid that he could not make it to his house because it was already far into the night and his house was far. Patrolman Bordo confronted Leonardo (by way of explanation) that he was not Lenardo but that when he was asked his name whether he was Lenardo he told him 'yes'. Leonardo left the following morning at 5:00 o'clock.

"Patrolman Bordo did not know personally Lenardo at the time of the arrest. However, he came to know later that Lenardo Tabasco was the son of Leonardo Tabasco.

"As to Count No. 2, respondent testified that it is not true that he did not perform his duties as required by law particularly the conduct of preliminary examination by searching questions before the issuance of the warrant of arrest. The respondent called the attention of the Investigator to Annex 'G', page 24 of the record marked Exhibit '2' which is an investigation in question and answer form conducted by the respondent on the witness Sulpicio Bulaqueña in the local dialect (the corresponding translation into English marked Exhibit '2-A', page 25 of the record) conducted on January 17, 1975 and the preliminary examination conducted by the respondent on the witness Angeles Bordo (Exhibit '3', p. 26, record) in the local dialect (corresponding translation Exhibit '3-A', p. 27, record) conducted on January 17, 1975. The two witnesses, Angeles Bordo and Sulpicio Bulaqueña, were the two witnesses in Criminal Case No. 2173.

"The Investigator after going over the testimony of the witnesses for the respondent and the documentary evidence presented for his defense is of the opinion and holds that the respondent Judge Orlando Relano is not guilty of the charges filed against him in Count Nos. 1 and 2 of the letter-complaint which is the subject-matter of the investigation.

"As to Count No. 1 the Investigator believes that the evidence for the respondent indisputably shows that the

warrant of arrest prepared by the clerk-stenographer of the respondent Judge in typing the warrant of arrest misspelled the correct name Lenardo Tabasco as L-e-o-n-a-r-d-o Tabasco both in the caption as well as in the body of the warrant of arrest, thus, constituting a clerical error in the spelling which should be Lenardo Tabasco. This mistake, however, was corrected in due time before the respondent affixed his signature to the warrant of arrest by the respondent's instruction to the Clerk-stenographer Lourdes Aguirre to correct the spelling to Lenardo Tabasco. The correction was made by the Clerk-stenographer and properly initialed by her (Exhibit '1-A'; exhibit '1-B'). It was only after the corrections were made that the respondent Judge affixed his signature to the original of the warrant of arrest. The original of the warrant of arrest was produced before the Investigator who had a chance to compare the original with the xerox copy of the same marked as Exhibit '1'. The Investigator found that the xerox copy (Exhibit '1') was a correct and faithful reproduction of the original.

"The warrant of arrest duly corrected was personally brought by the Clerk-stenographer, Lourdes Aguirre, to the Police Department of Pilar for service. The same was served on January 17, 1975 at about 5:00 o'clock in the afternoon by Patrolman Francisco Bordo who served it on a person who when he was asked whether he was Lenardo Tabasco answered that he was. The person was brought to the Municipal Jail of Pilar only to be discovered by Patrolman Ballera of the same Police Department that the man was not Lenardo Tabasco but Leonardo Tabasco. Leonardo was released forthwith but he decided to stay in the Patrol Section of the Police Department till the following morning for fear that he might be overtaken by the curfew hour on his way home.

"Patrolman Bordo at the time of the service of the warrant did not know Lenardo Tabasco nor Leonardo Tabasco. So that when Patrolman Bordo asked the man whether he was Lenardo Tabasco, it is possible (and in fact the Investigator believes it to be the fact) that the man thought that he heard the name Leonardo instead of Lenardo as the subject of the inquiry of Patrolman Bordo. It is very apparent that the name Lenardo sounds like Leonardo (*idem sonans*). This in the opinion of the Investigator was the cause of the mistake in the arrest of Leonardo Tabasco when the intended subject was Lenardo. These set of facts show that the respondent has never been negligent in the performance of his duty and is not responsible for the mistaken arrest of Leonardo Tabasco. He is not guilty of the charge in Count No. 1.

"As to Count No. 2 the record shows that the respondent conducted the required preliminary examination of the two witnesses, Sulpicio Bulaqueña and Angeles Bordo, in Criminal Case No. 2173 filed with the Municipal Court of Pilar presided by the respondent Judge. The respondent conducted the preliminary examination by question and answer on Sulpicio Bulaqueña (Exhibits '2', '2-A', pp. 24-25, record) and also conducted the preliminary examination of Angeles Bordo by question and answer (Exhibit '3', p. 26, record; exhibit '3-A', p. 27, record). These documentary exhibits disprove the allegation in Count No. 2 that the respondent failed to conduct the preliminary examination of the witnesses before the issuance of the warrant of arrest.

"WHEREFORE, in view of the opinion of the Investigator that the evidence presented by the respondent Judge Orlando Relano show that he is innocent of the charges filed against him in Count Nos. 1 and 2 of the letter-complaint (p. 1, record), it is hereby respectfully recommended that respondent Judge Orlando Relano be exonerated of the charge against him in this administrative case." (Pp. 146-153, Record.)

We have carefully reviewed the record of the investigation, consisting of the transcript of the stenographic notes of the proceedings and the various documents presented in the course thereof. We are satisfied that the findings and recommendation of the Investigator are substantially supported by the evidence and are in accordance with law. We, therefore, approve the same.

Incidentally, it may be mentioned that in his comment-answer, the respondent included the following observations regarding Atty. Carlos L. Jimena, his accuser:

"The said Atty. Carlos L. Jimena has filed against the undersigned a certiorari case in the Court of First Instance of the Province of Capiz which is entitled Civil Case No. V-3792, copy of said petition is hereto attached and made part of this answer as Annex 'K'. In said petition in the Court of First Instance of the Province of Capiz, the said Atty. Carlos L. Jimena has also accused the undersigned municipal judge for not conducting his own Preliminary Investigation in a form of searching question and answer in accordance with Republic Act 3828 in the case pending in my court known as Criminal Case No. 1344 for Qualified Theft where Atty. Carlos L. Jimena is one of the accused. The undersigned municipal judge has filed his answer in the Court of First Instance of the Province of Capiz in Civil Case No. V-3792, a copy of which is attached herewith and made part of this answer as Annex 'L';

"In the case of certiorari pending in the Court of First Instance of the Province of Capiz which Atty. Carlos L. Jimena has filed against the undersigned municipal judge, it involved Criminal Case No. 1344 filed in my court wherein Atty. Carlos L. Jimena is one of the accused but which nevertheless he did not mention it in filing this letter complaint. What he complained now is a case pending in the Municipal Court of Pilar, Capiz, because he is not an accused person there although the party and the land involved is the same land wherein Atty. Carlos L. Jimena is the lawyer who lost this case in the Court of Appeals. His motion for reconsideration has been already denied by the Supreme Court for three times and the decision of the Court of First Instance of the Province of Capiz in favor of Mrs. Elisa Arquillo Bermejo was affirmed by the Court of Appeals as evidenced by a copy of the decision rendered by the Court of Appeals of the Philippines CA-G.R. No. 44889-R which is attached hereto and made part of this answer as Annex 'M'. The land where the plowing was done by the accused in Criminal Case No. 2173 is the same land involved in CA-G.R. No. 44889-R and according to witnesses it was Atty. Carlos L. Jimena who advised them to harvest the palay on the land of Mrs. Elisa Arquillo Bermejo." (Pp. 15-16, Record.)

The foregoing remarks could explain the motive behind the unfounded and unjustified complaint against respondent in this case. In the premises, We reserve to respondent the right to file, if he chooses, the corresponding administrative complaint against Atty. Jimena for disciplinary action as a member of the bar.

WHEREFORE, the instant complaint is dismissed and respondent is hereby exonerated.

Fernando, (Chairman), Antonio, Concepcion, Jr., and Santos, JJ., concur.

Aquino, J., did not take part.

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