THE DIRECTOR, PNP NARCOTICS COMMAND, COMPLAINANT, VS. JUDGE JAIME N. SALAZAR, JR., REGIONAL TRIAL COURT, BRANCH 103, QUEZON CITY,RESPONDENT.

A.M. No. 96-9-332-RTC. August 15, 2001

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

Judge Jaime N. Salazar, Jr., presiding judge of Branch 103 of the Regional Trial Court of Quezon City, is charged with gross ignorance of the law and gross inefficiency in the performance of duty relative to Criminal Case No. 96-6678 entitle People vs. Felix Lasoy and Marcelo Banisa, a prosecution for violation of Sec. 4, Art. 11 of RA 6425, the Dangerous Drugs Act of 1972.

On July 16, 1996 the respondent judge presided over the arraignment of the two accused in the aforementioned case under the following information to wit:

> "INFORMATION
>
> The undersigned accuses MARCELO LASOY Y GOM-OYEN and FELIX BANISA Y FAUSTINO of the crime of Violation of Sec. 4, Art. II, R. A. 6425, (The Dangerous Drug Act of 1972), committed as follows:
>
> That on or about the 2nd day of July, 1996, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping each other, not having been authorized by law to sell, dispense, deliver, transport or distribute any prohibited drug, did, then and there, willfully, unlawfully sell or offer for sale a total of 42.410 grams of dried marijuana fruiting tops, a prohibited drug, in violation of said law.
>
> CONTRARY TO LAW."[1] (Emphasis supplied)

Both the accused pleaded "not guilty" to the crime charged. The defense counsel made a manifestation to the trial court for a change of plea and the respondent judge asked the prosecutor and the defense counsel to approach the bench. The respondent judge then instructed the court interpreter to re-read the Information to the accused, who both changed their plea to that of "guilty".[2] Considering that the offense charged in the Information involves 42.410 grams of marijuana, the respondent judge asked the public prosecutor to comment on the imposable penalty which is six (6) months and one (1) day, to which the prosecutor interposed no objection.[3] That same day respondent judge imposed sentence on the accused as follows:

> "SENTENCE
>
> On arraignment accused Marcelo Lasoy and Felix Banisa with the assistance of his counsel Atty. Diosdado Savellano entered a plea of "guilty" to the crime charged against them in the information.
>
> Accordingly, the court hereby find accused Marcelo Lasoy and Felix Banisa, GUILTY of violation of Section 4 Republic Act 6425 and they are hereby sentenced to suffer a jail term of six (6) months and one (1) day and the period during which the said accused are under detention is hereby deducted pursuant to the provisions of

Republic Act 6127.

The evidence in this case is 42.410 grams of dried marijuana fruiting tops is hereby ordered confiscated in favor of the government. The property Custodian is ordered to turn over said evidence to the Dangerous Drugs Board for proper disposition.

SO ORDERED."[4]

In the afternoon of July 16, 1996 an application for probation was filed by both accused and two days later, the respondent court issued an order giving due course to the application.[5]

More than a month later it was discovered by the Narcom agents who made the arrest that the Information upon which the accused were arraigned and sentenced had been altered and the word "kilos" which indicates the amount of marijuana seized had been erased by corrector fluid and the word "grams" was typed in its place. The entry "no bail recommended" was also erased by corrector fluid and "P60,000.00" was typed in the entry for "Bail Recommended". Upon investigation conducted by the NBI it was found that the Information was altered after it was approved and signed by the Chief Inquest Fiscal and it was the altered information which was submitted for raffle and later transmitted to the sala of the respondent judge.

The administrative complaint before us does not implicate the respondent judge in the alteration of the information. However, the complainant asserts that the respondent judge should be held liable for gross ignorance of the law when he took cognizance of the case despite the fact that the penalty for the crime charged in the altered Information is below his jurisdictional competence to impose. Republic Act 7691, an Act Expanding the Jurisdiction of the Metropolitan Trial Courts, which took effect on April 14, 1994, or two years prior to the questioned arraignment and promulgation of judgment, the respondent judge is charged with notice of the same and should have applied it to the case before it.

The complainant also accuses the respondent judge of gross inefficiency in the performance of duty for failing to closely examine the information, which contains material alterations patently visible to the eye, and the documents attached thereto which would lead a man of ordinary prudence to discover the discrepancy between the statement of the cause of accusation in the information and the report of the PNP Narcotics Command.

On 11 March 1997 this Court referred the case to Justice Conrado M. Vasquez, Jr. of the Court of Appeals, for Report and Recommendation.

On 10 August 2000 Justice Vasquez Jr. recommended the dismissal of the charges of inefficiency in the performance of official duty and gross ignorance of the law against respondent Judge Salazar, in relation to Crim. Case No. Q-96-66788, People v. Lasoy, et al. In his Memorandum dated 16 January 2001 then Court Administrator Alfredo L. Benipayo agreed with the recommendation of Justice Vasquez, Jr. and recommended the dismissal of the charges against respondent Judge Salazar for lack of merit.

Justice Vasquez, Jr., in his Report and Recommendation, formulated the issues: First, was respondent Judge inefficient in the performance of his official duties? Second, was he guilty of gross ignorance of the law in exercising jurisdiction over Crim. Case No. Q-96-66788.

As regards the charge of gross ignorance of the law, the respondent Judge Salazar claims that he acted on the case based on the provisions of the Dangerous Drugs Act which provide that all violations of the said law are cognizable by the regional trial courts. He contends that he cannot be faulted for acting on the case on the ground that the penalty imposed is below the jurisdiction of the regional trial court. The crime charged is within the jurisdiction of the RTC. On the second charge for gross inefficiency, the respondent judge admits the he saw the alterations on the Information but he relied on the approval of the Inquest fiscal as to the correctness of the entries

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therein. He claims that he acted on the Information on the presumption that official function was regularly performed.

With respect to the charge for gross ignorance of the law, we adopt the findings and conclusions of Justice Conrado M. Vasquez, Jr.. We agree that there is nothing legally reprehensible by the respondent judge's assumption of jurisdiction over the case; consequently, he could not be held liable for gross ignorance of the law. Justice Vasquez found:

> "As for the issue of gross ignorance of the law, the NBI opines that the respondent judge cannot claim concurrent jurisdiction in light of the pronouncements in People vs. Velasco (252 SCRA 135 [1996]). In that case, the High Court ruled that once the Regional Trial Court has already assumed jurisdiction over a drug-related case, regardless of Republic Act 7691, it could continue with the proceedings and mete out the penalty sanctioned by law even if the same is below six years of imprisonment, provided that the court acquired jurisdiction prior to the effectivity of the said Act. Inasmuch as Judge Salazar assumed jurisdiction over the subject case after the effectivity of R. A. 7691 , the NBI argues that he should not have promulgated the sentence but instead remanded the case to the Municipal Trial Court for further proceedings.
>
> As sound as the preceding ruling may be, I cannot simply ignore the concurring opinion of Chief Justice Hilario G. Davide, Jr. in the Velasco Case, and for good reason. Said Justice Davide:
>
> 'I fully concur with the ponencia of Mr. Justice Ricardo J. Francisco. I hasten to add, however, that all drug-related cases, regardless of the quantity involved and the penalty imposable pursuant to R.A. No.7659, as applied/interpreted in People v. Simon (G.R. No. 93028, 29 July 1994; 234 SCRA 555), and of the provisions of R.A. No. 7691 expanding the jurisdiction of the Metropolitan Trial Courts and Municipal Circuit Trial Courts, still fall within the exclusive original jurisdiction of the Regional Trial Court, in view of Sec. 39 of R.A. No. 6425 (the Dangerous Drugs Act of 1972). R.A. No. 7659 and R.A. No. 7691 have neither amended nor modified this Section.' (252 SCRA 149-150)

Section 39 of the Republic Act 6425 expressly provides that:

> ‘The Court of First Instance, Circuit Criminal Court, and Juvenile and Domestic Relations Court shall have concurrent original jurisdiction over all cases involving offenses punishable under this Act: Provided, That in cities or provinces where there are Juvenile and Domestic Relations Courts, the said courts shall take exclusive cognizance of cases where offenders are under sixteen years of age.’

By reason of the integration of the three courts mentioned above into the Regional Trial Court under the provisions of Batas Pambansa Blg. 129, the latter court was vested with the exclusive original jurisdiction over all cases involving offenses punishable by R. A. 6425.

Settled is the rule that laws vesting jurisdiction exclusively with a particular court, as in the foregoing law, are special in character and should prevail over a general law (Manzano vs. Valera, 292 SCRA 66 [1998]). Republic Act No.7691 can by no means be considered as a special law on jurisdiction -it is merely an amendatory law intended to amend specific sections of the Judiciary Reorganization Act of 1980 and it does not have the effect of repealing laws vesting upon the Regional Trial Courts exclusive original jurisdiction to hear and decide the cases therein specified (COMELEC vs. Noynay, 292 SCRA 254 [1998]). Fittingly, the jurisdiction conferred on the Regional Trial Court by a special law like the Dangerous Drugs Act of 1972 must therefore prevail over that granted by a general law on the Municipal Trial Court (Manzano vs. Valer, supra.)”[6]

The administrative charge for gross negligence requires a closer examination of the evidence.

Justice Vasquez made the following observations:

> "Under the foregoing circumstances, Judge Salazar was well within his authority to proceed with the

> arraignment and render judgment with promptness. I fail to see any malice or bad faith in the manner the respondent judge conducted himself in this case. The acts of a judge which pertain to his judicial functions are not subject to disciplinary power unless they are committed with fraud, dishonesty, corruption or bad faith. Fittingly, in the absence of sufficient proof to the contrary, Judge Salazar is presumed to have performed his job in accordance with law. (Fule vs. Court of Appeals, 286 SCRA 698 [1998])."

A careful scrutiny of the Information bearing the tampering shows that the word "kilos " was conspicuously altered to "grams," and the phrase "no bail recommended" appearing immediately below the list of witnesses was erased with the use of a corrector fluid or so-called "sno-pake" and instead, in the space provided for "BAIL RECOMMENDED" the amount of P60,000.00 was entered. Also, the word "prohibited" was superimposed on an erased word and " dried " before the word marijuana was inserted to show a semblance of a harmless mistake or correction. But quite noticeably, the erasures and alterations were not even signed or countersigned by the person or persons who made the "corrections" or alterations to attest to their authenticity, as what is normally done in official documents. Such significant tampering or alterations on an official document as a criminal Information should have instantly provoked the inquisitive mind of a responsible judge and elicited his suspicion, thus placing him at once on guard that there was something wrong in that Information. Ordinary prudence in fact should have dictated that he make necessary inquiries and conduct examinations.

Moreover, a cursory reading of the NARCOM referral letter,[7] Joint Affidavit of Poseur Buyer and Arresting Officers[8] and PNP Initial Laboratory Report,[9] - all of which are attached to the records of the case - readily reveals that the allegations in the Information are not in accordance with the documentary evidence on hand. The referral letter and joint affidavit of the arresting officers indicated in clear and unmistakable terms that approximately forty-five (45) kilos of dried marijuana leaves were confiscated from the accused, while the laboratory report stated a total weight of 42,410 grams of dried marijuana fruiting tops, a far cry indeed from the 42.410 grams stated in the Information. Certainly, respondent Judge could have easily discovered the anomaly had he devoted a little more time to dutifully examine these documents to familiarize himself with the circumstances surrounding the crime charged.

We note that the respondent judge admitted having read the altered Information and the documents attached to the case records. In his comment filed before this court he argued that he relied on the original signatures of three fiscals, one of whom was a reviewing fiscal, on the Information and that he deemed that there was nothing wrong with the Information, in spite of the erasures, as it had been subjected to review by the prosecutor's office. Moreover, respondent judge stated that even if he had returned it for initialing he would not be in a position to determine whether the initial is genuine or not as he cannot possibly familiarize himself with the initials of the more than sixty Fiscals in Quezon City. Respondent also stressed that to require him to return to the prosecutor's office an Information each time there is an erasure would unduly impede court proceedings. As regards the documents attached to the Information, the respondent points out that even the Chemistry Report uses the word "grams" instead of "kilograms" thus, he did not find anything suspicious in the use of "grams" in the Information. Whether or not a comma was used in the Chemistry report to indicate forty two thousand grams (42, 410) as opposed to the use of a decimal point in the Information to indicate forty two grams and four hundredth thereof is too minute to the naked eye that it cannot amount to gross negligence on the respondent's part if he failed to see the difference.[10]

It is not disputed that the respondent judge is not implicated in the actual alteration of the questioned information nor is he charged for complicity therefor and considering that he immediately rectified the error as soon as his attention was called thereto, we are convinced that he honestly believed that the alteration was not unlawfully done. However, his failure to meticulously check the entire records of the case before rendering judgment thereon, to the mind of this court, cannot be dismissed as blameless. A careful scrutiny by the respondent judge of the

entire records of the case, which the respondent judge admitted to have read, as affirmed by the assistant city prosecutor in her affidavit[11] would have avoided this anomalous situation. Considering further, that drug cases have reached alarming proportions and often drug syndicates or drug lords surreptitiously intervene in behalf of the accused, extreme caution on the part of the respondent judge was demanded by the situation and his failure to do so betrayed the extraordinary diligence, conscientiousness and thoroughness - qualities which among others, judges must possess. Judges are duty bound to be extra solicitous and equally alert to the possibility that the prosecutor could be in error. Utmost caution must be exercised to ensure that a miscarriage of justice does not occur.

While the policy of the courts to expedite disposal of cases and prevent clogging of court dockets is desirable, speed in judicial administration should not be promoted at the expense of justice, which is indispensable to any court system worthy of its name.

In view of the foregoing, respondent Judge Jaime N. Salazar, Jr., is hereby REPRIMANDED for negligence in the performance of his duties with a stern warning that a repetition of the same or similar infraction shall be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J., Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Ynares-Santiago, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.
Bellosillo, J., no part.

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[1] Records, p. 1.

[2] Certificate of arraignment, p. 8, Records.

[3] Affidavit, Asst. City Prosecutor Ramos, pp. 57-58, Rollo.

[4] Records, p. 8.

[5] Records, pp. 11-13.

[6] Report, Justice Conrado Vasquez, Jr., pp. 7-8.

[7] Annex "C"; pp. 9-10, Rollo.

[8] Annex "A"; pp. 37-38, Rollo.

[9] Annex "D"; p. 12, Rollo.

[10] Rollo, pp. 130-134.

[11] p. 57, Rollo.

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