

MERLITA DAPADAP VDA. DE DANA, COMPLAINANT, VS. JUDGE MANUEL V. GINETE, OF THE MUNICIPAL TRIAL COURT OF MASBATE, MASBATE, RESPONDENT.

A.M. No. MTJ-03-1474 (Formerly A.M. No. 99-759-MTJ). January 21, 2003

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Judges may not be held administratively accountable for every erroneous order or decision they render. In the present case, however, respondent's error may be characterized as "gross or patent"; thus, sanctionable.

The Case and the Facts

In her Sworn Statement[1] dated June 25, 1999, Merlita Dapadap Vda. de Danao charged Judge Manuel V. Ginete with gross ignorance of the law, grave abuse of authority, delay in rendering judgments and serious misconduct.

According to complainant, respondent -- the presiding judge of the Municipal Trial Court (MTC) of Masbate, Masbate -- issued a Writ of Seizure dated August 12, 1998, ordering the sheriff of the Regional Trial Court (RTC) of Masbate to take immediate possession of a 6 x 6 truck and to hold it in possession for five (5) days. The judge supposedly did so despite being informed by "C/Insp. Tomas Semeniano, et al." that the truck was in custodia legis, as it was "part of the exhibits formally offered in evidence by the prosecution under Criminal Case No. 7427 pending before the RTC, Branch 44, Masbate."

For this reason, complainant (who was the private complainant in Criminal Case No. 7427) moved to cite respondent in contempt of the RTC of Masbate, Branch 44. Upon learning of this Motion, respondent issued an Order dated September 28, 1998, lifting the aforesaid Writ of Seizure.

On another occasion, complainant continued, respondent committed a second instance of gross ignorance of the law and grave abuse of authority. This time, in a case for perjury entitled "People v. Merlita Dapadap Vda. de Danao," he ordered her arrest solely on the basis of the purported affidavits of witnesses. These affidavits turned out to be "non-existing," as indicated by a Certification dated March 22, 1999, issued by Felixberto V. Granado Jr., Clerk of Court II of the MTC of Masbate. According to this document, "there are no affidavits of Job Bartolata and Rudy Dao, the witnesses cited by Atty. Freddie Serra in the case he filed against Merlita Dapadap Vda. de Danao for perjury docketed as Criminal Case No. 10959 before this Court."

In his Comment dated October 5, 1999, respondent denied that the Orders were tainted with bad faith and done with grave abuse of authority. He explained that the "untimely" issuance of the Writ of Seizure was brought about by the failure of complainant and her counsel to present proof that the truck had actually been under the custody of the RTC of Masbate. He added that, as soon as he learned that the property was indeed in custodia legis, he immediately issued a recall order that demonstrated his good faith and honest intention.

As to the perjury case, respondent attributed the delay to the request for deferment by Atty. Federico Serra. The

request was grounded on the fact that the latter was awaiting the outcome of his appeal with the regional state prosecutor relative to his involvement in Criminal Case No. 7427 (for murder), which formed the basis of the complaint herein. Citing justice and fair play, respondent further argued that there was no need for affidavits of corroborating witnesses in the perjury case, because the affidavit of Atty. Serra (the private complainant in the perjury case) was already sufficient.

Finally, respondent judge contended that the administrative Complaint was premature, because the Motion to cite him for contempt was still pending before the RTC.

The OCA's Recommendation

In its July 25, 2002 Report,[2] the Office of the Court Administrator (OCA) recommended that respondent be administratively sanctioned as follows:

“It was grave error on the part of respondent when he issued the Writ of Seizure inspite of the fact that the subject vehicle was in custodia legis as evidence for the prosecution in Criminal Case No. 1427 pending before RTC, Branch 44, Masbate. Respondent himself admitted the error but he did so only when he learned that a motion for contempt had been filed against him before the RTC where the criminal case was pending. Respondent ignored a basic defect in the application for replevin. He cannot justify the issuance of the Writ by citing absence of proof pendency of the criminal case involving the vehicle. This is easily verifiable. He needed no further proof when he made the turn-around upon learning of the motion for contempt against him.

“Respondent cannot attribute the delay in the disposition of the perjury case to complainant in the case. To hold in abeyance the proceedings in a criminal case for the benefit of the complainant is to go against the right of the accused to speedy trial. Again this is a basic mistake.

“We find respondent Judge liable for making it appear that the basis for issuing the warrant of arrest against herein complainant was the complaint of Atty. Serra and the corroborating affidavits of alleged witnesses, Job Bartolata and Rudy Dao, when in reality there were no affidavits of said witnesses, attached to Serra's complainant as certified by Clerk of Court II, Felixberto V. Granado, Jr.”[3]

The OCA then suggested that respondent should be fined in the amount of P5,000.[4]

This Court's Ruling

The Court agrees with the OCA that respondent is administratively liable, but the penalty should be increased pursuant to Rule 140.

Respondent's Administrative Liability

Issuing a Patently Erroneous Writ

As a rule, judges may not be held administratively accountable for every erroneous order or decision they render. Otherwise, no one would be able to escape administrative liability. Such sanctions are called for, only when their error is gross or patent, or when they act fraudulently or with gross ignorance.[5] It is the disregard for an established rule of law amounting to ignorance thereof that makes them liable to disciplinary action. [6]

In the present case, contrary to the elementary rules on replevin, respondent improperly ordered the seizure of a vehicle under custodia legis in another court, a higher one at that. Section 2 of Rule 60 of the Rules of Court clearly requires that certain facts must be alleged in the application for replevin, as follows:

“SEC. 2. Affidavit and bond. -- The applicant must show by his own affidavit or that of some other person who personally knows the facts:

x x x x x x x x

“(c) That the property has not been distrained or taken for a tax assessment or a fine pursuant to law, or seized under a writ of execution or preliminary attachment, or otherwise placed under custodia legis, or if so seized, that it is exempt from such seizure or custody;”

Under the foregoing provision, the plaintiff must show, by affidavit, that the subject property has not been (1) distrained, (2) taken for a tax assessment or a fine pursuant to law, (3) seized under a writ of execution or preliminary attachment, or (4) placed under custodia legis.

The records reveal that Fermin Asilum, the plaintiff in the replevin case, concealed from the MTC the fact that he was involved in a pending suit (Criminal Case No. 7427 at the RTC of Masbate, Masbate, Branch 44), and that the property he wanted to recover had been seized by authorities earlier in relation to that criminal case. This circumstance was, however, disclosed by the defendants in their Answer. Notwithstanding the disclosure, respondent issued the Writ of Seizure -- a manifest and gross error on his part.

Since they are duty-bound to administer the law and apply it to the facts, judges are expected to know elementary principles of law and to be diligent in ascertaining the facts.[7] Basic is the rule that property already placed under legal custody may not be a proper subject of replevin.[8] This principle applies especially when a court of coordinate or, as in this case, of superior jurisdiction has already established its authority over the property. A contrary ruling would be tantamount to subverting a doctrine steadfastly adhered to, the main purposes of which are to assure stability and consistency in judicial actuations and to avoid confusion that may otherwise ensue if courts are permitted to interfere with one another's lawful orders.[9]

Respondent should have taken into account the information given by herein complainant that the property was already under custodia legis by the RTC of Masbate. As correctly observed by the OCA, the fact that the subject property was under legal custody was easily verifiable.

Respondent avers in his Comment that after he “discover[ed such fact] by himself, thru his own efforts and initiative,” he “lost no time” in recalling his Order. Prudence dictates that he should have ascertained the information first before issuing the Order of Seizure. Section 2 of Rule 60, mentioned earlier, specifically requires this fact to be established first in an application for a writ of replevin. Before acting, he should not have waited for the Motion to cite him for contempt. He could have then prevented committing a gross error and avoided compromising his judicial office.

Respondent's incredible claim of good faith will not shield him from sanction. Neither will shifting the blame to defendant's counsel, Atty. Elenito Bagalihog, mitigate his liability. Judges are obliged to be faithful to the law and to maintain professional competence.[10] They are duty-bound to be proficient in basic legal principles and to be aware of well-settled doctrines. Anything short of this sworn obligation taints the judiciary's exacting standards.

Unjust Delay in the Disposition of a Case

Respondent was amiss, as well, in the resolution of the Complaint for perjury (Criminal Case No. 10959) against herein complainant, Merlita Danao. He certified Atty. Federico Serra's Complaint-affidavit filed on May 9, 1997.[11] For nearly two years, however, he took no further action until he precipitately issued his March 1, 1999 Order[12] for the arrest of Danao.

In his Affidavit dated October 6, 1999,[13] Atty. Serra claimed that he was responsible for the delay in the resolution of the Complaint, because he had requested the deferment of any action on it. Finding nothing “illegal or immoral” in this alleged verbal request, respondent judge justified his inaction by opining that “Merlita Dapadap Vda. de Danao was not restrained of her liberty as the warrant of arrest was issued only on March 1, 1999 and [she] has posted bail on March 16, 1999.”[14]

We cannot sustain respondent’s flimsy excuse. The Code of Judicial Conduct[15] directs judges to dispose of the court’s business promptly within the periods prescribed by law and the rules. We emphasize that they should be imbued with a sense of duty and responsibility in the discharge of their obligation to administer justice speedily.[16] Time and time again, we have held that unreasonable delays in the disposition of a judicial matter undermine the people’s faith and confidence in the judiciary.[17]

The Rules on Criminal Procedure regarding preliminary investigation of cases falling under the exclusive jurisdiction of the MTC provides that upon the filing of a complaint, the investigating officer, judge or prosecutor shall decide within ten days whether to dismiss the complaint or to proceed with the investigation.[18] After due investigation, the officer has another ten days to determine whether or not there is sufficient ground to hold the respondent for trial.[19] Thereafter, the resolution on the case is submitted to the provincial or city prosecutor for review.[20]

Respondent judge clearly ignored the deadline laid down by law to determine whether there was sufficient ground to hold Merlita Danao for trial. At Atty. Serra’s alleged verbal request, he deferred action indefinitely. He thereby ignored the rights of Danao, who was in jeopardy of losing her liberty should the matter be resolved against her.

The time periods set by law are not to be treated lightly. An unreasonable delay could constitute a serious violation of the constitutional right to the speedy disposition of cases.[21]

Ordering the Arrest of the Accused Based on Fictitious Witnesses

Respondent judge also gravely erred in ordering the arrest of complainant based on nonexisting witnesses. In his March 1, 1999 Order,[22] he ruled that probable cause was established on the basis of witnesses’ affidavits allegedly submitted together with the Complaint. However, a Certification[23] issued by Clerk of Court Felixberto V. Granado Jr. attested to the fact that there were “no affidavits of Job Bartolata and Rudy Dao, the witnesses cited by Atty. Freddie Serra in the case he filed against Merlita Dapadap Vda. Danao for Perjury.”

The assumption of office by respondent judge placed upon him duties and restrictions peculiar to his exalted position.[24] While the determination of probable cause that would warrant the arrest of a person is subject to “judicial discretion,” he should not have carelessly used or abused such discretion. Also, while the lone affidavit of a complainant might have been sufficient to determine probable cause, respondent should have nevertheless clearly indicated such fact in his Order of Arrest. Instead, he made it appear that Atty. Serra had submitted the affidavits of the latter’s witnesses’ along with the Complaint. Further, respondent pretended that he had personally examined these Affidavits to show that he had ample basis to order Danao’s arrest. As a member of the judiciary, he must be beyond suspicion. He must be perceived, not as a repository of arbitrary power, but as one who dispenses justice under the sanction of the rule of law.[25]

Issuing a patently erroneous order and undue delay in rendering a ruling constitute serious and less serious charges under Sections 8 and 9, respectively, Rule 140 of the Rules of Court. A finding of guilt in a serious and a less serious charge results in the following sanctions under Section 11 of Rule 140:

“SEC. 11. Sanctions. – A. If the respondent is guilty of a serious charge, any of the following sanctions may be

imposed:

‘1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;

‘2. Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or

‘3. A fine of more than P20,000.00 but not exceeding P40,000.00.’

“B. If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

‘1. Suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or

‘2 A fine of more than P10,000.00 but not exceeding P20,000.00.

“x x x x x x x x.”

WHEREFORE, Judge Manuel V. Ginete is FINED twenty-five thousand pesos (P25,000) for issuing a patently and grossly erroneous Order and for undue delay in rendering a ruling. He is WARNED that a repetition of the same or similar acts shall be dealt with more severely in the future.

SO ORDERED.

Puno, (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1] Rollo, pp. 1-32; signed by Atty. Orlando M. Danao. The case was erroneously entitled “Petition” instead of “Complaint.”

[2] Signed by Deputy Court Administrator Jose P. Perez and Court Administrator Presbitero J. Velasco Jr.

[3] OCA Report, pp. 3-4; rollo, pp. 79-80.

[4] Id., pp. 4 & 80.

[5] Re: Suspension of Clerk of Court Rogelio R. Jacobo, RTC, Br. 16, Naval, Biliran, 294 SCRA 119, August 12, 1998.

[6] Tolentino v. Cabral, 329 SCRA 1, March 28, 2000.

[7] Farrales v. Camarista, 327 SCRA 84, March 2, 2000.

[8] Pagkalinawan v. Gomez, 21 SCRA 1275, December 18, 1967; Ona v. Cuevas, 83 SCRA 388, May 26, 1978; Paat v. Court of Appeals, 266 SCRA 167, January 10, 1997.

[9] Pagkalinawan v. Gomez, supra.

[10] Rule 3.01, Canon 3, Code of Judicial Conduct.

[11] See Annex “K”; rollo, pp. 28-32.

[12] Annex “G”; id., p. 24.

[13] Annex “9”; id., pp. 54-55.

[14] Respondent's Comment, pp. 5 & 38.

[15] Canon 3, Rule 3.05, Code of Judicial Conduct.

[16] Yu-Asensi v. Villanueva, 322 SCRA 255, January 19, 2000.

[17] Spouses Reaport v. Mariano, AM No. MTJ-00-1253, July 11, 2001.

[18] §3(b), Rule 112, Rules of Court.

[19] §3(f), Rule 112, Rules of Court.

[20] §5, Rule 112, Rules of Court.

[21] Heirs of Crisostomo Sucaldito v. Cruz, 336 SCRA 469, July 27, 2000.

[22] Rollo, p. 24.

[23] Annex "I"; rollo, p. 26.

[24] Tapiru v. Biden, 330 SCRA 40, April 6, 2000.

[25] Ibid.

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