

ANTONIO ABIBUAG, COMPLAINANT, VS. MUNICIPAL JUDGE SEVERINO B. ESTONINA OF CALAPE, BOHOL, RESPONDENT.

A.M. Nos. 91-MJ and No. 319-MJ. July 23, 1974

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

In a written complaint dated February 23, 1971, (Administrative Case No. 37 of Branch I, Court of First Instance of Bohol, Administrative Matter No. 91-MJ), Antonio A. Abibuag charged Municipal Judge Severino B. Estonina of Calape, Bohol, with "grave misconduct and or conduct unbecoming a judge," allegedly committed as follows:

"On November 7, 1970, while I was still in jail for a charge which I am sure was fabricated, Judge Estonina summoned me from the jail and had me brought before him in his office. While there, he induced and tried to convince me to (1) dissolve our organization of farmers in Calape known as the Federation of Free Farmers, Calape Chapter, and (2) desist from exercising our rights under Republic Acts 1199, as amended, and 3844 and be contented with the 50-50 sharing system with our landlords. The said Judge promised me that if I agree to his proposals, the charge against me would be dropped and if I didn't more charges would be filed against me and I would rot in jail. Showing his ignorance of the law, he further told me that the Land Reform Code is only good in Luzon but not in Bohol, and that if the Code were implemented in Bohol, then there would be trouble."

Respondent denied all allegations of the complaint and averred that the administrative complaint was devoid of cause of action and merit for being purely motivated by vengeance to harass the respondent. Respondent also alleged that the complainant and a certain Fermin Gandia filed against him two criminal cases in the Court of First Instance of Bohol, Branch II, Criminal Case No. 196 for violation of Sec. 167 (4) of Republic Act No. 3844, known as Agricultural Reform Code; and Criminal Case No. 197 for violation of Sec. 167 (2) of the same Republic Act No. 3844; that these cases arose from the same cause and incident that precipitated Administrative Case No. 37, and that the Hon. Antonio J. Beldia, Presiding Judge of Branch II of the Court of First Instance of Bohol, after a thorough preliminary investigation, and in a lengthy and scholarly discussion of the issues involved, declared in his Order dated November 27, 1970, that in both cases "the Court finds no crime or crimes committed by accused Severino B. Estonina nor any reasonable ground to believe that Severino B. Estonina had committed the crimes he is charged, allegedly violating Section 167, paragraphs 2 and 4 of Act 3844; hence the complaints in Criminal Cases Nos. 196 and 197 are not given due course."

I

When this Administrative Case (No. 37) was set for investigation on August 14, 1971, by Hon. Paulino S. Marquez, Presiding Judge of Branch I, Court of First Instance of Bohol, Atty. Benjamin Baluyot filed a written "appearance and motion for postponement" in representation of the complaint, but neither the said lawyer nor the complainant appeared at the hearing. Respondent operated to the postponement and informed the presiding judge that the administrative case arose from the same incident which was the subject matter of Criminal Cases Nos. 196 and 197 of the Court of First Instance of Bohol, Branch II, wherein after preliminary investigation respondent was exonerated. Portions of the record in the two criminal cases were presented as exhibits (Exhibits 1 to 4) to

enlighten the Investigator of what transpired in those two cases. In his order dated September 11, 1971, the Investigator stated that after reading "quite meticulously" the complaint and the answer, and that after taking into consideration that the complainant asked for postponement for the second time when the administrative case should be disposed off speedily, and realizing that the administrative case arose from the same incident that gave rise to the two criminal cases (Nos. 196 and 197) wherein respondent was exonerated, he stated that what complainant wanted the Investigator to do in the administrative case was for him to review the order in Criminal Cases Nos. 196 and 197 issued by the Presiding Judge of Branch II, Court of First Instance of Bohol, exonerating respondent. The Investigator correctly stated that he did not have that power nor authority; so he ordered the administrative case dismissed.

A perusal of the record of the preliminary investigation conducted by District Judge Antonio J. Beldia of the Court of First Instance of Bohol, Branch II, in Criminal Cases Nos. 196 and 197, including his dissertation on the issues involved, contained in the Judge's order of March 27, 1970, convinces us that respondent did not commit any violation of Sections 167 (4) and 167 (2) Republic Act 3844.

District Judge Antonio J. Beldia, ruled that the Courts of First Instance can take cognizance of criminal cases for violation of the provisions of Republic Act 3844; that the proclamation of the National Reform Council that a certain region or place is a land reform area was a condition precedent before the Agricultural Reform Code (Republic Act 3844) is made effective therein; and that judicial notice can be taken of the fact that in the province of Bohol only to the municipality of Bilar has the land reform law been extended. Accordingly he declared correctly that he did not find reasonable ground to believe that the offenses charged were committed and that the accused is probably guilty thereof.

The respondent was charged in Criminal Case No. 196 with alleged violation of Sec. 167 (4) of Republic Act 3844, which prohibits and punishes interference in the rights to self organization of farm workers and to engage in concerted action for the purpose of collective bargaining, other aid, and mutual protection. The only evidence presented to support the charge was the testimony of complainant Antonio A. Abibuag. The presiding judge upon a close scrutiny and evaluation of complainant's testimony found that what happened on November 7, 1970, was that the complainant who was then confined in jail was brought to the office of respondent municipal judge so that he could be informed of the charge against him. When complainant was asked by respondent why he was brought before him, and he replied that he was arrested and that he was the president of the Federation of Free Farmers, the respondent merely told him that he was troublesome. The respondent did nothing to disband the Federation of Free Farmers nor to prevent anyone from joining it. He simply remarked that the Free Farmers Federation (F.F.F.) was troublesome, but what respondent probably had in mind was the insistence of the F.F.F. on the adoption of the 70-30 sharing basis with the tenant getting 70%, although at that time there was no legal basis for such demand. The remark made by the respondent is not a violation of Sec. 167 (4) of Republic Act 3844, because he did not commit any act of interfering with the farm workers' right to self-organization and to engage in concerted action for the purpose of collective bargaining, other aid and mutual protection.

In Criminal Case No. 197, respondent was charged with alleged violation of Section 167 (2) of Republic Act 3844, which punishes the act of inducing a tenant "to execute or enter into a share tenancy contract with himself or with another in violation of this Code x x x, provided that the execution of share tenancy contract shall be considered prima facie evidence of such inducement x x x x" The only evidence presented against respondent was that in the same incident of November 7, 1970, when complainant Antonio A. Abibuag who was in jail was brought before respondent, he allegedly told Abibuag, in the presence of about 10 tenants, to tell the farmers to accept the 50-50 sharing, otherwise more cases will be filed against him. But notwithstanding said remark there was no contract entered into by the tenants on the 50-50 sharing basis and none was presented to the court to

prove that there was such an inducement. The remark made by respondent, on its face, cannot be considered as the kind of inducement contemplated and prohibited by Sec. 167 (2) of Republic Act 3844.

The administrative case and the two criminal cases that arose from the same incident, and which occupied so much time and effort of two branches (Branches 1 and 2) of the Court of First Instance of Bohol, could have been avoided had the respondent been more discreet in making side remarks while engaged in the performance of his official function. If it was true that on November 7, 1970, the complainant was brought before the respondent so that the former could be informed why he was detained, the respondent should have confined himself to his duty of so informing the complainant and should have refrained from making remarks about tenancy problems that could be misunderstood by the tenants who were present. It is the duty and responsibility of a judge to be discreet at all times in his acts and utterances while performing his task of administering justice so that he may not be suspected of bias or partiality in adjudicating issues brought before his judicial cognizance. He must be always on guard against loose statements and gratuitous utterances that could form erroneous impressions in the minds of those who hear them and who may conclude that the judge is prejudging issues that may come before him in the exercise of his jurisdiction. For respondent's failure to be circumspect and discreet in making remarks while in the performance of his official functions, in Administrative Matter No. 91-MJ he is hereby censured and admonished that henceforth in his acts and utterances while discharging his duty he should be careful in observing that proper judicial decorum which inspires confidence and respect of the people.

II

An anonymous complaint dated April 1, 1972, gave rise to the second administrative case (Administrative Matter No. 319-MJ) against respondent "for an irregularity committed" when he allegedly imposed a straight penalty of eight months imprisonment in a judgment of conviction for qualified theft of carabao worth less than P200.00.

Respondent claims that he assumed jurisdiction over Criminal Case No. 2504 for qualified theft against Restituto Talaboc, Gavino Albit, and Alex Redulla because the value of the stolen carabao was below P200.00. During the trial of the case, and before the presentation of evidence, the Accused changed their plea of not guilty to that of guilty after the complaint had been read and explained to them. Without objection of the private prosecutor, counsel for the defense requested the court to consider the following mitigating circumstances in favor of the accused: (1) voluntary plea of guilt; (2) voluntary surrender; (3) that the crime was committed due to extreme poverty and hunger; (4) the theory of self preservation; (5) that the accused did not intend to commit so grave a wrong; (6) lack of education; (7) and voluntary restitution of the stolen carabao. The respondent stated that the court did not consider the fourth, fifth and sixth mitigating circumstances. As to the seventh mitigating circumstance, the record of the case shows that the accused Restituto Talaboc was the one who showed the policemen the place where the stolen carabao was kept and he even untied the carabao and gave it back to its owner who was then Assistant City Fiscal Rafael Bollozos of Tagbilaran City. Respondent explained that when he imposed the penalty of eight months imprisonment, he honestly believed that it "was just and equitable and within the bounds of the law", considering the aforementioned circumstances and that the law "must be tempered with human justice, specially for those who have less in life, for they ought to have more in law."

Hon. Antonio J. Beldia, District Judge of the Court of First Instance of Bohol, Branch II, who investigated this case opined that the respondent honestly believed that he (respondent) had concurrent jurisdiction with the Court of First Instance to try Criminal Case No. 2504 for qualified theft of a carabao worth less than P200.00, based on available jurisprudence (People vs. Salvacion Colecio, 88 Phil. pp. 196-203; People vs. Penas, G.R. No. 2922, June 22, 1950; People vs. Rey, G.R. No. 2923, June 23, 1950), and that since respondent was the first to take cognizance of Criminal Case 2504, he tried it on the merits.

Even assuming that respondent had jurisdiction over the case for qualified theft involving large cattle, still the

imposition of a straight penalty of eight months imprisonment is clearly erroneous. In Criminal Case No. 2504, the accused were charged with qualified theft of a carabao valued at P180.00, in violation of Article 310 in relation to Article 309 (4) of the Revised Penal Code. The proper penalty for this crime under Article 310 of the Revised Penal Code, as amended by Commonwealth Act No. 417 and Republic Act 120, is two degrees higher than *arresto mayor* in its medium period to *prision correccional* in its minimum period, which is the penalty prescribed for violation of Article 309(4) of the Revised Penal Code, or *prision mayor* in its medium period to *reclusion temporal* in its minimum period or 8 years and 1 day to 14 years and eight months. Even if there were only mitigating circumstances and no aggravating circumstance to offset them so as to lower the imposable penalty by one degree, the duration of the penalty would still fall within *prision correccional* in its medium period to *prision mayor* in its minimum period, or 2 years, 4 months, 1 day as minimum, to 8 years as maximum.

Applying the indeterminate sentence act under which the minimum penalty is one degree lower than the penalty prescribed by law and the maximum is the proper period of the prescribed penalty (in Criminal Case No. 2504, 2 years, 4 months, 1 day of *prision correccional* in its medium period, to 8 years of *prision mayor*, in its minimum period), the correct indeterminate penalty would be from 6 months and 1 day to 2 years and 4 months of *prision correccional*, as minimum, to from 6 years to 8 years of *prision mayor* as maximum.

Undoubtedly there was a patent error when the respondent imposed a straight penalty of eight months imprisonment instead of the correct indeterminate penalty. As a judge respondent ought to have realized that there are limitations on the exercise of discretion in the imposition of penalties to a convicted accused. In meting out a penalty for violation of the Revised Penal Code, he must strictly adhere to the pertinent rules prescribed thereby, having due regard for the duration thereof under the Indeterminate Sentence Law. He cannot just rely upon his mere whim or compassion in fixing the same. Within the minimum and maximum periods of the penalty fixed by law, he can exercise his discretion, but he cannot go beyond the limits of the range of the prescribed penalty. If because of gross ignorance, serious misconduct or grave abuse of discretion he runs counter to the law and tries to justify his action by one reason or another, he thereby exposes himself to disciplinary action. We are not, however, disposed to find that respondent acted maliciously in imposing the penalty in question.

WHEREFORE, considering that the error committed by the respondent in Criminal Case No. 2504 was done in good faith, motivated as he was by humanitarian reasons, without any personal or ulterior motive, or intent to gain; and considering further that in the other administrative case for ignorance of the law herein decided, we have censured and admonished him to be more careful in his judicial acts, in order to underscore the need for greater care in the exercise of his judicial functions, respondent is hereby suspended from office for a period of one (1) month without pay, with a warning that repetition of a similar irregularity in the future will be dealt with more severely.

Makalintal, C.J., Zaldivar, Castro, Fernando, Teehankee, Barredo, Makasiar, Antonio, Fernandez, Muñoz Palma, and Aquino, JJ., concur.

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