

SIMEON BENJAMIN, SR., COMPLAINANT, VS. JUDGE EUGENIO C. ALABA, RESPONDENT.

A.M. No. MTJ-92-720. September 05, 1996

Ponente: TORRES, JR., J.

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TORRES, JR., J.:

Simeon Benjamin, Sr. filed a complaint against Judge Eugenio Alaba alleging that the latter dismissed Criminal Case No. 1720, entitled "People vs. Romulo Geriza and Jose Maningo," with grave abuse of discretion and authority in view of the admission by accused Geriza that he killed complainant's son, Simeon, Jr.. Prior to the dismissal of the complaint for murder, it was twice amended, first to drop Maningo, and second, to amend the charge to Homicide. The amendments were allegedly made by the respondent judge without any motion or basis for such action. When the case was set for preliminary investigation, the parties were required to submit "clarificatory questions." But on March 27, 1991, when counsel for private prosecution filed an urgent ex-parte motion to reset the conference, the respondent judge dismissed the case for failure to establish a prima facie case.

In his comment, respondent judge averred that Jose Maningo was charged with only Light Threats by virtue of the testimonies of the two prosecution witnesses. He also narrated the facts relative to the dismissal of the complaint as follows:

"a. On March 7, 1991, the case at bar was called for preliminary conference. The conference did not prosper because of a new incident which came up. The Court then gave the respective parties an allowance. A xerox copy of the order for the allowance is hereto attached as annex - "2".

b. On March 14, 1991, since both parties were not yet ready for the preliminary investigation, the Court ordered the respective clarificatory questions to be propounded by the Court on the witness subject of the clarificatory questions. A xerox copy of said order is hereto attached as annex - "3".

c. On March 25, 1991, the Court called the case again for preliminary investigation as scheduled in the last order. The witnesses for the prosecution, the very persons who executed the affidavits which were the basis of the complaint, did not appear. The counsel for the private prosecution manifested however the reason for the non-appearance of the witnesses. Thus, an order for postponement, a xerox copy of which is hereto attached as annex "4", was issued.

d. On March 27, 1991, the four (4) and only witnesses for the prosecution did not appear again in spite due notice. The successive non-appearance of the only witness lead this Court to conclude that the only witnesses for the prosecution were no longer interested to testify against the accused. A prima facie case could not be established by the prosecution, neither can the accused be held for trial in the absence of these four witnesses. Under this circumstance, the Court had no other alternative but to dismiss this case. A xerox copy of the order of dismissal is hereto attached as annex "5".[1]

Respondent judge contended that the resolution dismissing the complaint was merely recommendatory and therefore not final. The resolution was purportedly an exercise of the Court's discretion and was based on Rule 112 of the new rules on Criminal Procedure.

On July 06, 1993, the Court issued a resolution referring the case to the Office of the Court Administrator for evaluation, report and recommendation.[2]

On September 30, 1993, it was resolved that the complaint be referred to Executive Judge Getulio Francisco of the Regional Trial Court of Tacloban City, Leyte, for investigation and report.[3]

On July 26, 1994, Judge Francisco issued an order dated July 08, 1994, recommending the dismissal of the administrative complaint in view of complainant Simeon Benjamin, Sr.'s motion to dismiss dated July 04, 1994.[4]

The Court, in its resolution dated Aug. 04, 1994, did not accept the recommendation of Judge Getulio Francisco. It stated that the motion to dismiss of the complainant did not, by itself, constitute sufficient ground to warrant the dismissal of the instant complaint considering that it was filed long after complainant's Reply was received by the Court.[5] Hence, the administrative investigation proceeded.

On November 21, 1994, Judge Francisco submitted his report and with the following recommendation:

"Based on the investigation conducted by the undersigned Executive Judge, it is hereby recommended that this case be considered submitted for resolution by the Honorable Supreme Court based on the evidence on record. The complainant sent a letter to the undersigned dated September 22, 1994 asking that the record of this case be forwarded to the Honorable Supreme Court based on the pleadings on hand."[6]

On February 14, 1995, a resolution was issued returning to the Executive Judge his report, it appearing that the said report merely summarized the testimony of the complainant and one of the respondent's witnesses. It was resolved that the Executive Judge submit a new and complete report on the administrative investigation.[7]

In the amended investigation report dated March 14, 1995,[8] the following were the findings of the Executive Judge:

"Based on the testimonial evidence and the pleadings as received, it is the finding of this investigating Executive Judge that a case for Murder was filed against Romulo Geriza and Jose Maningo in the Municipal Trial Court of Tanauan, Leyte presided over by respondent Judge Eugenio C. Alaba. During the preliminary investigation the prosecution was represented by Atty. Anita de Loyola and the accused were represented by Atty. Daniel Matriano. Counsel for the accused initiated a compromise agreement with the widow of the victim with respect to the civil liability of the accused. The original conference was made outside the session hall in the presence of respondent Judge Eugenio C. Alaba. No settlement could be had. Another conference was had inside the chamber of respondent Alaba, but the respondent judge and the father of the victim, Simeon Benjamin, Sr. left the chamber. Simeon Benjamin, Sr. was ordered by the respondent Judge Alaba to go out as the widow of the victim was already there. Simeon Benjamin, Sr. reluctantly left the office while the conference between the widow of the victim and counsel for the accused was going on. Respondent Judge who also left his office for a while did not participate in the conference. Again, no settlement was reached. So the preliminary investigation was scheduled. For three successive hearings the prosecution witnesses did not appear. Neither did the private prosecutor, Atty. Anita de Loyola. The prosecution was represented only by the Chief of Police. The defense invoked the constitutional right of the accused to speedy hearing; and moved to dismiss the case. The respondent Judge Eugenio C. Alaba forwarded the records of the case to the Provincial Prosecutor's Office and recommended for the dismissal of the case. The Provincial Prosecutor's Office, thru Asst. Provincial Prosecutor Robert Visbal dismissed the case. The prosecution appealed to the Department of Justice which reversed the findings of the Provincial Prosecutor's Office and ordered the filing of the Information.

Meanwhile, a letter-complaint with the Supreme Court was filed by Simeon Benjamin, Sr. against Judge Eugenio C. Alaba. Hence, this Administrative Matter No. MTJ 92-720 subject of this Report and

Recommendation.

The respondent should not have sent out of the conference room the herein complainant Simeon Benjamin, Sr. because he is the father of the victim even if the widow of the victim was already present. This, Simeon Benjamin, Sr. resented. He might have suspected that an agreement might be reached disadvantageous to the heirs of his deceased son who was the victim. To settle the civil case is merely a subterfuge because once the offended party is paid by the accused he would no longer take interest in prosecuting the case. Hence, even if it appears to be the civil aspect that should be settled but actually what is settled is the whole case itself, which should not be done. Inquest Judge should be guided by Sections 3 and 5, Rule 112 of the 1985 Rules on Criminal Procedure in conducting preliminary investigation.

Respondent Judge Eugenio C. Alaba recommended to the Provincial Prosecutor's Office dismissal of the case, thru Asst. Provincial Prosecutor Robert Visbal and the case was dismissed. Even if the action of an Inquest Judge is merely recommendatory to the Office of the Provincial or City Prosecutor, but he should be more circumspect in his official conduct to avoid suspicion. "A Judge should be, like Cesar's [sic] wife, not only above reproach but also above suspicion."

"Members of the Judiciary should display not only the highest integrity but must at all times conduct themselves in such a manner as to be beyond reproach and suspicion. x x x" (Garganera vs. Jocson, Adm. Matter No. RTJ-88-227, Set/ 1. 1992).

"Cannon 2 of the Judicial Ethics says that: "A Judge [sic] should avoid impropriety and the appearance of impropriety in all activities.

RECOMMENDATION

"FROM THE FOREGOING, it is hereby recommended that respondent Judge EUGENIO C. ALABA be reprimanded and ordered to be more circumspect in all his official actuations in the future, with the warning that a repetition of the same act in the future will be dealt with more severely."

The Court Administrator, in his memorandum dated April 25, 1995, also noted the following:

"It appearing that apart from the findings of Judge Getulio Francisco, respondent also irregularly ordered the amendment of the complaint for murder, it is respectfully recommended that respondent Judge Eugenio C. Alaba, who will be compulsorily retired on January 8, 1996, be fined in the amount of Five Hundred Pesos (P500.00) payable within one (1) month from notice, with the warning that the repetition of the same or similar mistakes will be dealt with more severely, instead of merely a reprimand with warning, as recommended by investigating Judge Getulio Francisco."

In the case at bar, respondent Judge should have been conscientious and thorough in applying the law and in issuing orders or recommendations. He should be more circumspect and must always ensure that justice is upheld at all times.

The court adopts the findings and recommendation made by the Deputy Court Administrator in his memorandum dated April 25, 1995, which was supported by the amended report of Executive Judge Getulio Francisco.

WHEREFORE, respondent Judge Eugenio C. Alaba is hereby REPRIMANDED and ordered to pay a FINE of FIVE HUNDRED (P500.00) PESOS payable within one (1) month from notice, with the WARNING that a repetition of the same mistakes will be dealt with more severely.

SO ORDERED.

Regalado (Chairman), Romero, Puno, and Mendoza, JJ., concur.

[1] Comment, Rollo, pp. 25-26.

[2] Rollo, p. 68.

[3] Ibid., p. 70.

[4] Ibid., p. 83.

[5] Ibid., p. 85.

[6] Ibid., p. 143.

[7] Ibid., p. 145.

[8] Ibid., pp. 152 to 154.

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