

ROAN I. LIBARIOS, PETITIONER, VS. JUDGE ROSARITO F. DABALOS, RESPONDENT.

A.M. No. RTJ-89-286. July 11, 1991

Ponente: PADILLA, J.

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PADILLA, J.:

This is an administrative complaint filed by Roan I. Libarios for and on behalf of his client Mariano Corvera, Jr. against respondent Judge Rosarito F. Dabalos, for grave ignorance of the law, grave abuse of discretion, gross misconduct and partiality, relative to Criminal Case No. 3464. The antecedent facts of the case are as follows:

On 10 March 1988, former Mayor Mariano Corvera, Sr. was shot by Pablo Macapas inside the courtroom of respondent Judge Dabalos, after a hearing in a frustrated murder case against said Pablo Macapas. Corvera, Sr. was the private complainant in the aforesaid criminal case, while Mayor Tranquilino Calo, Jr. was appearing as counsel of Macapas. As a result of the killing of Corvera Sr., a formal charge of murder (I.S. No. 88-138) was filed with the City Fiscal's Office of Butuan City against Pablo Macapas, Mayor Tranquilino Calo, Jr., and his driver-bodyguard Belarmino Allocod, and (2) other "John Does". Macapas was a bodyguard of respondent Calo, Jr.

On 22 June 1988, Investigating Fiscal Macario Balansag issued a resolution, finding a prima facie case for murder against the respondents in I.S. No. 88-138.[1]

On 29 June 1988, the information was signed by the Investigating Fiscal; however, a motion for reconsideration of the resolution was filed by respondent Calo, Jr., which delayed the filing of the Information against Calo, Jr. and his co-respondents.

On 21 July 1988, respondents in I.S. No. 88-138 filed with the RTC Butuan City a petition for prohibition with prayer for preliminary injunction and/or temporary restraining order, to enjoin the Investigating Fiscal from acting on their afore-mentioned motion for reconsideration. Then Executive Judge Vicente Hidalgo issued a TRO, directing the Investigating Fiscal to refrain from acting on the said motion for reconsideration and from further proceeding with the preliminary investigation of the murder charge against respondent Calo, Jr. and his co-respondents. However the TRO expired after the lapse of twenty (20) days, without a preliminary injunction being issued.

Before the motion for reconsideration could be resolved, Investigating Fiscal Balansag was himself gunned down in cold blood while on his way to his office. Based on the investigation conducted by the NBI linking the death of Fiscal Balansag to the killing of Corvera, Sr., another formal complaint for murder was filed against Calo, Jr. and four (4) others.

On 14 September 1988, Acting City Fiscal Brocoy resolved the pending motion for reconsideration, affirming the 22 June 1988 resolution finding a prima facie case for murder against the respondents in I.S. No. 88-138.

On 29 September 1988, the information earlier signed by Investigating Fiscal Balansag, carrying a NO BAIL

recom-mendation, was filed before the Regional Trial Court of Butuan City, Branch IV, docketed as Criminal Case No. 3464. On 14 October 1988, upon motion of the prosecution and with the approval of the court, the information was withdrawn for being fatally defective in form, the same having been signed by Fiscal Balansag who was already dead at the time of the filing of said information.

On 29 November 1988, a new information signed by Acting Fiscal Brocoy carrying also a NO BAIL recommendation, was filed with the court without the necessary supporting affidavits and papers. The case was erroneously assigned to Branch IV of the RTC of Butuan City, where the original information prior to its withdrawal was assigned. The accused filed a Motion to Dismiss and/or Opposition to the Issuance of a Warrant of Arrest Without Bail, and in the alternative, accused sought the fixing of bail for their temporary release.[2] Said motion was set for hearing on 15 December 1988.

Upon motion of the prosecution, the case was scheduled for raffle on 7 December 1988. On said scheduled date for raffle, accused Calo, Jr. and his counsel personally filed an opposition to the holding of the raffle on the ground of lack of notice to the parties.

On 6 and 8 December 1988, Corvera, Jr. and his counsel together with their sympathizers staged a rally demanding the immediate arrest of the accused in Criminal Case No. 3464. After their rally in the afternoon of 8 December 1988, they personally went to see respondent judge in his chamber to reiterate their demand.

After said meeting between Corvera, Jr., et al. and respondent judge, the latter issued an order of 8 December 1988[3] in his capacity as Executive Judge, directing the raffle of the case with due notice to the parties. Without conducting any prior hearing, in the same order of 8 December 1988, respondent judge directed the issuance of a warrant of arrest against the accused, fixing at the same time the bail for accused Calo, Jr. and Allocod at P50,000.00 each; however, no bail was recommended for the temporary release of accused Macapas. Respondent judge fixed bail for the temporary release of accused Calo, Jr. and Allocod on the ground that they were not charged as co-principals by cooperation or inducement, and that the evidence of guilt against them was merely circumstantial.

On 14 December 1988, a petition for certiorari was filed by herein complainant with the Court of Appeals, assailing the 8 December 1988 order of respondent judge, docketed as CA-G.R. SP No. 16383. In response to the urgency of the petition, a resolution dated 20 December 1988 was issued by the Court of Appeals restraining the execution and implementation of the assailed order, pending the resolution of the petition on the merits. However, on 26 December 1988, respondent judge and Calo, Jr. informed the Court of Appeals that accused Calo, Jr. and Allocod had already put up their respective bail bonds of P50,000.00 as of 9 December 1988 and that both have been released, thus rendering the primary objective of the CA temporary restraining order moot and academic.

On 31 January 1989, the Court of Appeals rendered a decision[4] setting aside the questioned 8 December 1988 order as having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction. The warrants of arrest as well as the bail bonds filed by the accused in said Criminal Case No. 3464 were declared void and without force and effect; the court of origin was ordered to immediately issue and serve new warrants of arrest upon the accused. To determine whether or not the evidence of guilt against the accused is strong, the trial court was ordered to conduct a hearing and thus resolve the motion for fixing the bail for the temporary release of the two (2) accused, Calo, Jr. and Allocod. The decision of the Court of Appeals became final and executory on 23 February 1989.[5]

In the administrative complaint at bar, complainant claims that the act of respondent judge in granting bail to the accused Calo, Jr. and Allocod without a hearing, is tantamount to gross ignorance and willful, malicious and blatant disregard of the provisions of Sec. 5, Rule 114 of the Rules on Criminal Procedure, which require a

hearing before an accused charged with a capital offense can be granted bail. The impartiality of respondent judge in issuing the questioned warrants of arrest but allowing bail is also questioned on the ground of his "close association" with the accused Calo, Jr.

In his defense, respondent judge argues that Sec. 5 of Rule 114 of the Rules on Criminal Procedure which requires a hearing of an application for admission to bail, filed by any person who is in custody for the commission of a capital offense, is applicable only to cases where the accused is already in custody, but neither of the three (3) accused in Criminal Case No. 3464 was being detained at the time their application for bail was acted upon by respondent judge. In his capacity as Executive Judge, respondent judge claims that he merely followed the precedents set by his predecessors, in issuing warrants of arrest before the raffle of a case in order to avoid delay in the arrest of the accused.

In addition, respondent judge denied the allegation that he was a law partner of accused Calo, Jr., claiming that he was a mere employee in the business of said accused, and that he appeared with accused Calo, Jr. as co-counsel in a case, but not as an associate. To justify his finding that the evidence of guilt is circumstantial against accused Calo, Jr. and Allocod, respondent judge stated that -

"Herein respondent has some doubts whether accused Tranquilino O. Calo, Jr. could have done the acts of giving a revolver to accused Pablo Macapas outside the courtroom and pushed Pablo Macapas into the courtroom to shoot Mariano Corvera, Sr., which acts were allegedly done in the presence of witness (sic) Pacifico Largonita and Fernando Casinao, who by their own admissions, are security personnel and companions of the late Mayor Corvera. These acts being attributed to accused Calo as the brain behind the killing do not appear to be a natural conduct of man. These are stupid acts and accused Calo does not impress herein respondent as having that kind of mental intelligence. Respondent has known accused Tranquilino O. Calo, Jr. as a law practitioner and as a person for about twenty years already. Respondent finds accused Calo to be of above-average intelligence. Thus, when respondent reviewed the findings of the investigating fiscal regarding the statements of P. Largonita and F. Casinao, respondent entertained some serious doubts. Questions cropped up in respondent's mind. Respondent asked himself the questions that if he were the master-mind, would he give, in the presence of some individuals, the gun to the gunman only at the vicinity where the intended victim was to be shot moments before the appointed time of the killing and pushed the gunman to the place where the victim was? Respondent's answer was that he would not behave in such manner, otherwise he would appear to be an inept mastermind and the gunman was reluctant that the latter had to be pushed to execute the plan."[6]

While it does not form part of the record of the case at bar, the decision of the Court of Appeals in CA-G.R. SP. No. 16383 is quite enlightening. That decision, as already mentioned, declared as null and void the warrants of arrest issued by respondent judge as well as the bail fixed by him for the temporary release of the accused, all accomplished without a hearing. The Court of Appeals said:

"It is conventional wisdom in legal circles that the determination as to whether or not the evidence of guilt is strong in a capital offense rests upon the sound judgment and discretion of the court which can only be exercised and reached after due or summary hearing. (People vs. San Diego, 26 SCRA 522; Ocampo vs. Bernabe, 77 Phil. 55). In that hearing, the fiscal must be notified and given the opportunity to present his evidence. If the court grants bail without affording such opportunity to the prosecution, due process is seriously violated. (People vs. San Diego, supra; Mendoza vs. CFI of Quezon, 51 SCRA 373). And even where the prosecutor refuses to adduce evidence in opposition to the application to grant and fix bail, the Court may ask the prosecution 'questions to ascertain the strength of the state's evidence or judge the adequacy of the amount of bail.' (Herras Teehankee vs. Director of Prisons, 76 Phil. 756, 789).

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In the petition at bar, private respondents argue that since they are no longer in custody of the law, the respondent court having granted and fixed their bail which they did forthwith post, the hearing to determine whether or not their guilt is strong is no longer necessary. The argument sounds but casuistic because in Our judgment the respondent court acted deliberately with precipitate haste and with grave abuse of discretion, when on December 8, 1988 it issued the order granting and fixing the bail without any hearing at all, even as private respondents themselves had requested their motion to be heard on December 15, 1988 yet, when respondent court in the same order directed the issuance of warrants of arrest against private respondents, the act was nothing more than a superfluous and useless ceremony because with the grant of bail the accused could and did effectively secure their freedom at once without even seeing a copy of the warrant of arrest itself. As a matter of fact, there is nothing in they records before Us to show that warrants of arrest were actually issued against private respondents."[7]

Respondent judge was declared by the Court of Appeals to have acted with grave abuse of discretion in fixing the bail of the accused without a hearing. Generally, a judge cannot be held liable to account or answer criminally, civilly or administratively, for an erroneous judgment or decision rendered by him in good faith.[8] However, good faith may be negated by the circumstances on record.

In the absence of fraud, dishonesty or corruption, the acts of a judge done in his judicial capacity are not subject to disciplinary action, even though such acts may be erroneous. But, while judges should not be disciplined for inefficiency on account merely of occasional mistakes or errors of judgment, yet, it is highly imperative that they should be conversant with basic legal principles.[9]

In every case, a judge should endeavor diligently to ascertain the facts and the applicable law unswayed by partisan or personal interests, public opinion or fear of criticism.[10] Respondent judge should not have allowed himself to be swayed into issuing an order fixing bail for the temporary release of the accused charged with murder, without a hearing, which is contrary to established principles of law. A judge owes it to the public and the administration of justice to know the law he is supposed to apply to a given controversy. He is called upon to exhibit more than just a cursory acquaintance with the statutes and procedural rules. There will be faith in the administration of justice only if there be a belief on the part of litigants that the occupants of the bench cannot justly be accused of a deficiency in their grasp of legal principles.[11]

The fact that the complainant and his sympathizers had staged a rally demanding the issuance of a warrant of arrest against the accused is not a sufficient excuse for the unjustified haste of respondent judge's act of fixing bail without a hearing.

It has been an established legal principle or rule that in cases where a person is accused of a capital offense, the trial court must conduct a hearing in a summary proceeding, to allow the prosecution an opportunity to present, within a reasonable time, all evidence it may desire to produce to prove that the evidence of guilt against the accused is strong, before resolving the issue of bail for the temporary release of the accused. Failure to conduct a hearing before fixing bail in the instant case amounted to a violation of due process.[12] Irrespective of respondent judge's opinion that the evidence of guilt against herein accused is not strong, the law and settled jurisprudence demanded that a hearing be conducted before bail was fixed for the temporary release of accused Calo, Jr. and Allocod, if bail was at all justified. Respondent judge's disregard of an established rule of law by depriving the prosecution of the opportunity to prove that the evidence of guilt against the accused was strong, amounted to gross ignorance of the law, which is subject to disciplinary action.

Furthermore, considering that respondent judge had a close association with respondent Calo, Jr. as a former employee of the said accused, prudence and regard for his position as judge demanded that he should have refrained from fixing the bail of said accused and from concluding that the evidence against him was merely

"circumstantial", in order to avoid any doubt as to his judicial impartiality. Respondent judge should have waited for the raffle of the case and allowed the judge to whom the case was actually raffled to resolve the issue of fixing the bail of said accused, if he was bailable. A judge should not only render a just, correct and impartial decision but should do so in a manner as to be free from any suspicion as to his fairness, impartiality and integrity.[13]

ACCORDINGLY, respondent judge is hereby imposed a FINE of TWENTY THOUSAND PESOS (P20,000.00) and WARNED to exercise more care and diligence in the performance of his duties as a judge, and that the same or similar offense in the future will be dealt with more severely.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Bidin, Sarmiento, Grino-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.
Gancayco, J., on leave.

[1] Rollo, pp. 74-98

[2] Rollo, pp. 18-19

[3] Rollo, pp. 20-24

[4] Penned by Associate Justice Segundino G. Chua, with the concurrence of Associate Justices Serafin E. Camilon and Justo P. Torres, Jr.

[5] Entry of Judgment was made on 3 May 1989

[6] Rollo, pp. 60-61, Comment of Respondent Judge

[7] 31 January 1989 Decision of the Court of Appeals

[8] Padilla vs. Dizon, A.C. No. 3086, 23 February 1988, 158 SCRA 127

[9] Abad vs. Bleza, A.C. No. 227-RTJ, 13 October 1986, 145 SCRA 1

[10] Canon 3, Rule 3.02, Code of Judicial Ethics

[11] Daplas vs. Raquiza, A.C. No. 1129-MJ, 21 August 1980, 99 SCRA 141

[12] People vs. Sola, G.R. Nos. 56158-64, 17 March 1981, 103 SCRA 393

[13] Martinez vs. Gironella, G.R. No. 37655, 22 July 1975, 6 SCRA 245

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