

ABRAHAM S. PUA, COMPLAINANT, VS. JUDGE JULIO R. LOGARTA, MAXIMO CONTRERAS, CLERK OF COURT, RTC, MAKATI, MARCELO BUENAVENTURA, ADMINISTRATIVE OFFICER, OFFICE OF THE CLERK OF COURT...

A.M. No. RTJ-92-867. August 31, 2004

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

For resolution is the instant administrative case against Atty. Maximo Contreras, Marcelo Buenaventura and Roberto Mendoza in connection with the issuance of a fake counter-attachment bond and clearance in Civil Case No. 88-2193 before the Regional Trial Court, Branch 150, Makati (RTC for brevity).

The records disclose the following factual antecedents:

On October 17, 1988, complainant Abraham S. Pua, the managing director of Cascade Commercial Corporation, filed before the RTC a complaint for Sum of Money with a prayer for the issuance of a writ of preliminary attachment against spouses Vicente and Norma Yap, docketed as Civil Case No. 88-2193.[1] On October 20, 1988, presiding Judge Julio R. Logarta granted the prayer for a writ of preliminary attachment conditioned upon plaintiff's filing of an attachment bond in the amount of P2,360,000.00.[2] On October 26, 1988 the court issued the writ of attachment after plaintiff had posted the required attachment bond.[3]

Atty. Vetino E. Reyes, counsel for defendants, sought the assistance of Rogelio Acosta, Legal Researcher in RTC (Branch 143) of Makati, in securing a counter-attachment bond. Acosta procured a counter-attachment bond purportedly issued by the First Integrated Bonding and Insurance Company, Inc. (FIBICI for brevity), dated November 5, 1988, from one Sonny Tala, a.k.a. Sonny Sta. Ana.[4] On November 7, 1999, Atty. Reyes, filed an Urgent Motion to Discharge Attachment with prayer that upon filing of the corresponding counter-attachment bond, the writ of preliminary attachment be quashed, dissolved or discharged.[5] On November 11, 1988 Judge Logarta granted the Urgent Motion to Discharge Attachment conditioned upon the filing of a counter-bond in the amount of P2,360,000.00.[6] The counter-attachment bond was approved by Judge Logarta based on a certificate of clearance dated November 11, 1988 from the Office of the Clerk of Court (OCC for brevity).[7]

Complainant questioned defendants' counter-attachment bond based on the Certification, dated November 16, 1988, of Salvador B. Depante, Executive Vice-President of the FIBICI, stating that the defendants' counter-attachment bond is fraudulent and fake because his signature had been forged.[8] An investigation was conducted by Judge Logarta.[9]

While the investigation was pending, complainant filed a complaint-affidavit, dated July 7, 1989, before the Office of the Ombudsman charging Judge Julio R. Logarta, Atty. Maximo Contreras, Clerk of Court, RTC, Makati; Atty. Carlos N. Aguillon, Jr., Branch Clerk of Court of RTC, Branch 150, Makati; Rogelio Acosta, Legal Researcher, RTC, Branch 143, Makati; defendant spouses Vicente and Norma Yap; and Atty. Vetino E. Reyes,

defendants' counsel, with Falsification of Public Document and Violation of R.A. No. 3019, otherwise known as the Anti-Graft and Corrupt Practice Act.[10]

Marcelo Buenaventura, Administrative Officer, OCC, RTC, Makati, and Roberto Mendoza, Officer-In-Charge, Clearance Unit, OCC, RTC, Makati, were subsequently included as respondents.

Meanwhile, on March 13, 1990, a judgment based on a compromise agreement was rendered in Civil Case No. 88-2193.[11] On May 8, 1990, complainant filed an affidavit of desistance and withdrew his complaint before the Ombudsman claiming that it arose from a simple misunderstanding.[12]

Nonetheless, the Ombudsman conducted an investigation based on the complaint and the separate comments filed by the respondents therein. On January 27, 1992, it dismissed the criminal charges for lack of evidence. However, it forwarded the records of the case to the Office of the Court Administrator (OCA for brevity) for the conduct of administrative inquiry against the court personnel.[13]

On August 25, 1992 the Court docketed the charges as an administrative case and required the respondents to comment thereon. The Court also required the NBI to submit to the Court an investigation report thereon.[14]

In his Comment,[15] Judge Logarta explained that he approved the counter-attachment bond because it contained a clearance from the OCC, as it is the duty of the clerk of court to see to it that all bonds are in order, in accordance with the Memorandum of the OCA dated September 30, 1988.

Atty. Aguillon chose to adopt his counter-affidavit before the Ombudsman as his comment.[16] In his counter-affidavit, he denied any participation in the preparation, execution and issuance of the bond, as well the certification issued by the OCC. He admitted that he went to the OCC but denied the insinuation that he purposely sought to get a clearance because the clearance was already attached to the bond.[17]

In his Comment,[18] respondent Atty. Contreras denied any intervention or participation in the issuance of the certificate of clearance to the bonding company. He stated that the certificate of clearance issued by respondent Mendoza and Buenaventura referred only to the solvency of the bonding company insofar as the RTC was concerned and had nothing to do with the genuineness or authenticity of any surety bond. He claimed that the alleged alteration or falsification of the certificate of clearance referred to a file number of the certificate which is beyond the control of the OCC. He argued that none of the personnel of the OCC had a hand in the subsequent alteration of any entry in the certificate as well as in the use of said certificate.

In his Comment, Acosta denied any conspiracy with the respondents and iterated that his only participation in the incident was merely to accommodate and assist a long-time friend, Atty. Reyes, counsel of the defendants, and to hand to the bonding agent the amount of the premium after ascertaining, in the best possible manner, the genuineness of the counter-bond through the verification and certification by the OCC as to its authenticity pursuant to the Memorandum of the Court Administrator dated September 30, 1988.[19]

On March 20, 1993, the Court directed respondents Buenaventura and Mendoza to comment on the complaint and referred the records of the Ombudsman to the National Bureau of Investigation (NBI for brevity) for its investigation and report. In the meantime, the evaluation report of the OCA was held in abeyance until receipt of the comments of Buenaventura and Mendoza, as well as the investigation report of the NBI.[20]

On May 24, 1993, respondents Buenaventura and Mendoza filed their joint-comment.[21] They insisted that they had no intervention in the processing, execution, issuance and follow-up of the FIBICI surety bond posted in Civil Case No. 88-2193 of Branch 150. They maintained that the certificate of clearance issued by them is not an integral part of the surety bond but only a clearance for the court to allow the bonding company to post their

bonds in the absence of any pending obligation, and had nothing to do with the authenticity and genuineness of any surety bond.

On November 25, 1993, the Court dismissed the administrative matter as far as Judge Logarta was concerned.[22]

In a letter-report dated December 1, 1993, the NBI stated that no evidence was gathered to substantiate the charge for Violation of Falsification of Public Documents and R.A. No. 3019 against Judge Logarta, spouses Vicente and Norma Yap, Atty. Vetino Reyes, and Atty. Maximo Contreras.[23]

On March 24, 1994, the Court dismissed the charges against Atty. Vetino Reyes, spouses Vicente and Norma Yap, Carlos Aguillon and Rogelio Acosta for lack of merit.[24] The Court, however, directed the NBI to further investigate Sonny Sta. Ana, Atty. Contreras, Buenaventura and Mendoza to determine their involvement, if any, in the issuance of the fake bond and clearance.

In a memorandum dated November 25, 2002 the OCA recommended that the case against respondents Atty. Contreras, Buenaventura and Mendoza be dismissed for lack of sufficient evidence based on the NBI report.[25]

On October 21, 2003, the Court referred the administrative case to retired Justice Narciso T. Atienza, consultant of the OCA, for a thorough investigation with respect to respondents Atty. Contreras, Buenaventura and Mendoza and to submit a report and recommendation thereon.[26]

Justice Atienza conducted a hearing on January 21, 2004. Respondents Atty. Contreras, Buenaventura and Mendoza all disowned any knowledge or involvement in the issuance or procurement of the fake counter-attachment bond. They insisted that the counter-attachment bond was not verified and examined by the OCC and they have not issued any certificate or clearance in connection with said counter-attachment bond. They testified in common that a certificate was issued for a bond in connection with Civil Case No. 88-2227 only and not Civil Case No. 88-2193. Besides, they argued that the certificate merely declared that the FIBICI had no pending liability in the RTC Makati from November 4, 1993 to November 11, 1998 insofar as confiscated bonds are concerned, and it did not attest to the genuineness or authenticity of any counter-attachment bond that may be filed in any RTC Makati branch.

Acosta was notified of the hearing to answer clarificatory questions in view of his role in procuring the fake counter-attachment bond, but the notation "Deceased" appears on the Registry Return Receipt. Acosta died on February 21, 1998.

Atty. Aguillon was also notified of the hearing because he was the one who received the forged counter-attachment bond and submitted the same to Judge Logarta for approval, but according to the Registry Return Receipt Atty. Aguillon is no longer connected with RTC, Branch 150, Makati.

Respondents Atty. Contreras and Buenaventura compulsorily retired from the service on April 10, 1997 and September 4, 1993, respectively, while respondent Mendoza is still in service as Administrative Officer I, OCC, RTC, Makati City.[27]

In his Investigation Report, dated July 1, 2004, Justice Atienza found that there is no evidence of the complicity of respondents Atty. Contreras, Buenaventura and Mendoza in the issuance of the fake counter-attachment bond and clearance. The following are the findings of fact and conclusions of Justice Atienza, quoted verbatim:

A careful scrutiny of the records would show that the Urgent Motion to Discharge Attachment dated November 7, 1988 was submitted for the consideration of the court on November 11, 1988. The Certification which was purportedly issued by the Office of the Clerk of Court, RTC, Makati is dated November 11, 1988. The Order issued by the court granting the Motion to Dissolved and Discharged (sic) the Writ of Preliminary

Attachment is also dated November 11, 1988 but the fake counter-bond posted for the lifting of the writ of preliminary attachment was approved by the court on November 5, 1988. In other words, even before the Urgent Motion to Discharge Attachment was filed in court, Judge Logarta had already approved the fake counter-attachment bond posted by the defendants which resulted to the lifting of the writ of preliminary attachment previously issued in favor of the plaintiffs in Civil Case No. 88-2193. Had the anomalous approval of the fake counter-attachment bond been discovered during the previous investigations, especially those conducted by the Office of the Ombudsman and the NBI, the author of the falsification including the co-conspirators may possibly be identified and prosecuted.

The existence of the person whom Rogelio Acosta identified as Sonny Tala from whom he allegedly received the fake counter-attachment bond after handing the money was never established. What is on record is that Cesar Ramirez overheard an alleged conversation between Rogelio Acosta and Sonny Tala about the bond which the latter would provide. In the report of the NBI, it was stated that diligent efforts to locate subject Sonny Tala a.k.a. Sonny Sta. Maria gave negative results.

Atty. Aguillon claimed that upon receipt of the counter-bond, he immediately consulted Atty. Contreras of the Office of the Clerk of Court purposely to inquire from him what should be done in view of the Memorandum of Court Administrator Maximo A. Maceren which he received on November 11, 1988. Atty. Contreras alleged told him that he has not yet received said memorandum and instead referred him to Roberto Mendoza. Unfortunately, Rogelio (sic) Mendoza was not in the office and when he came back for the second time, he did not see Mendoza, so he referred the counter-bond to Judge Logarta, who later on approved the same.

The statement of Atty. Aguillon regarding his purpose in consulting Atty. Contreras on November 11, 1988 is misleading because the fake counter-bond, as shown in its jurat, was approved by Judge Logarta on November 5, 1988. So that when he went to the Office of the Clerk of Court his purpose was not to inquire from Atty. Contreras what to do with the counter-bond in view of the memorandum of the Court Administrator which he received on November 11, 1988. Atty. Contreras confirmed that at one time Atty. Aguillon went to his office not in connection with what to do with the counter-bond but to check on the status of a bonding company. The statement of Atty. Contreras is more credible.

The Memorandum issued by Court Administrator Maceren referred to by Atty. Aguillon enjoins the Clerk of Court or his authorized personnel to see to it that the bond is in order and the signature of the bonding officer is authentic. Since the memorandum of Court Administrator mandates that before a bail/judicial bond is submitted to the judge for approval, the authenticity of the signature of the bonding officer must first be determined and, in view of the fact that Atty. Aguillon did not see Roberto Mendoza when he went to the Office of the Clerk of Court twice, a more prudent Branch Clerk of Court would have called-up the bonding company by phone and inquire whether the company had issued the bond in Civil Case No. 88-2193.

The Certification issued by the Office of the Clerk of Court was only to the effect that “according to the records of this office, and the writs of execution received from February 14, 1983, to date, the First Integrated Bonding and Insurance Company, Inc., has no pending obligation in this court insofar as confiscated bonds in criminal and civil cases are concerned.”

Rogelio (sic) Mendoza, testified that he did not see the counter-bond when he issued the certification. Atty. Aguillon just asked him if the First Integrated Bonding and Insurance Company, Inc. is blacklisted, to which he answered, no. Then, Atty. Aguillon asked him if he can issue a certification to the effect that there is no pending obligation against the said company. From the wordings of the certification, it is clear that Rogelio (sic) Mendoza is not duty bound to find out whether the signature of the bonding officer in a bond is authentic, genuine or not.

The testimony of Roberto Mendoza regarding the purpose of the certification is corroborated by Mr. Marcelo Buenaventura when the latter testified that their concern then was the liability of the bonding company. It is not their duty to determine or verify whether the signature of the person authorized by the company to sign the

bond is genuine or not. It is not even necessary that the bond should be presented.

Respondents were asked if they are aware of the memorandum dated September 30, 1988 to all Clerk(s) of Court and Branch Clerks of Court issued by Court Administrator Maximo A. Maceren, Roberto Mendoza testified that he saw the memorandum only on November 14, 1988. The memorandum was received in their office by Ms. Maria Agnes Sevilla and it was shown to him. On the part of Mr. Buenaventura, he claimed that the memorandum was shown to him several months after the incident, while Atty. Maximo Contreras, testified that he cannot remember whether he received the memorandum but he is sure that all branches of the court were furnished copies thereof.

In 1988 when the Office of the Clerk of Court of the Regional Trial Court of Makati issued the questioned certification, Mr. Buenaventura was the Assistant Clerk of Court and Supervising Staff Assistant who has supervision over the Clearance Unit. As Assistant Clerk of Court, he assisted the Clerk of Court in the supervision of the work of the employees in the office. It is of public knowledge that the Office of the Clerk of Court of the Regional Trial Court of Makati issues hundreds of clearances everyday, not only those issued to bonding companies but also clearances issued to private individuals. In view of the volume of his work in the office, Mr. Buenaventura had to trust and rely on his subordinates. In the Clearance Unit alone, if Mr. Buenaventura will not rely on the competence of his subordinates, he would not be able to do any other work except to review clearances already verified and signed by his subordinates before affixing his signatures on them.

With respect to Atty. Contreras, his signature does not even appear in the certification. Mr. Buenaventura was assigned to supervise the Clearance Unit precisely to relieve the Clerk of Court Atty. Contreras of his duty of reviewing clearances before they are issued/released to applicants.

Admittedly, the counter attachment bond posted by the defendants in Civil Case No. 88-2193 was fake or spurious. It was admitted by Rogelio Acosta that he was the one who procured the fake counter-bond allegedly through a person by the name of Sonny Tala. No evidence was presented that would show that respondent Mendoza who certified that from February 14, 1983 to November 11, 1988, the First Integrated Bonding and Insurance Co., Inc., has no pending obligation in court knew the person from whom Rogelio Acosta procured the fake counter-bond on or before November 10, 1988 when the questioned certification was issued by the Office of the Clerk of Court of RTC Makati. The signature of Roberto Mendoza on the questioned certification is not proof that he participated in the planning and preparation of the spurious counter-bond. (Emphasis supplied).

The Investigating Justice recommended the dismissal of the administrative case.

We take exception from Justice Atienza's findings that the counter-attachment bond had already been approved by Judge Logarta on November 5, 1988,[28] that is, two days before defendants filed their Motion to Discharge Attachment on November 17, 1988[29] and without the Certification issued by respondents Mendoza and Buenaventura on November 11, 1988.[30] While the counter-attachment bond is dated November 5, 1998, there is no showing that it was approved by Judge Logarta on the same date. As explained by Judge Logarta, he approved the counter-attachment bond based on the certificate of clearance attached thereto.

There is no evidence on record showing the involvement of respondents Atty. Contreras, Buenaventura and Mendoza on the procurement of the fake counter-attachment bond. The records lay bare that it was Acosta who procured the counter-attachment bond from one Sonny Tala which turned out to be fake. While Acosta's version of the incident was corroborated by two witnesses, Cesar Ramirez and Eddie Santillan, their separate accounts are far from convincing. Their constant presence in RTC Makati to witness events material to Acosta's version is certainly doubtful and improbable since both are not employees therein. Thus, the existence of Sonny Tala has never been proven. Acosta can no longer shed light on his involvement on the procurement of the bond or Tala's

existence, his lips having been sealed by death.

Respondents cannot also be held accountable for issuing a certificate of clearance despite the Memorandum, dated September 30, 1988, of then Court Administrator Maximo Maceren,[31] which states in part:

All applications for bail/judicial bonds, before their approval by the Judge concerned; shall be coursed thru the Clerk of Court or his duly authorized personnel who shall see to it that the bond is in order and the signature of the bonding officer is authentic before affixing his signature thereto. He shall also indicate therein the outstanding liability of the bonding company, if any, for the information and guidance of the Court. For this particular purpose, the Clerk of Court shall keep a file of specimen signature of authorized bonding officers, to forestall the frequently reported "fake bail bonds."

This particular charge has not been substantiated by credible evidence on record. Respondents completely disowned issuance of a certificate of clearance on the counter-attachment bond filed in Civil Case No. 88-2193. Respondent Atty. Contreras had no hand in the preparation of the certificate of clearance and his signature does not appear therein. With respect to respondents Buenaventura and Mendoza, while they admit that they issued a certificate of clearance regarding FIBICI, it was for Civil Case No. 88-2227 and not for Civil Case No. 88-2193 before Branch 150. We note that the subject Certificate merely declared that as of November 11, 1988, FIBICI had no outstanding liability with the RTC Makati. There is nothing therein that would show that respondents guaranteed the genuineness and authenticity of any bond filed before RTC Makati.

While the Court will never tolerate or condone any conduct, act or omission that would violate the norm of public accountability or diminish the people's faith in the judiciary,[32] nonetheless, we have repeatedly stated that the quantum of proof necessary for a finding of guilt in administrative cases is substantial evidence or such relevant evidence as a reasonable mind may accept as adequate to support a conclusion.[33] In the absence of contrary evidence, what will prevail is the presumption that the respondents have regularly performed their official duties.[34] In this case, substantial evidence is wanting to rebut the presumption of regularity and hold respondents administrative liable.

WHEREFORE, the administrative charge against respondents Atty. Maximo Contreras, Marcelo Buenaventura and Roberto Mendoza is DISMISSED.

SO ORDERED.

Davide, Jr., C.J., Quisumbing, Ynares-Santiago, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, and Chico-Nazario, JJ., concur.

Puno, Panganiban, Sandoval-Gutierrez, and Carpio, JJ., on official leave.

[*] Complaint Dismissed dated November 25, 1993.

[**] Complaint Dismissed dated March 24, 1994.

[1] Rollo, p. 40.

[2] Id., p. 45.

[3] Id., p. 47.

[4] Id., p. 53.

[5] Id., p. 48.

[6] Id., p. 51.

[7] Id., p. 121.

[8] Id., p. 66.

[9] Id., pp. 67-101, 107-108.

[10] Id., p. 37.

[11] Id., p. 181.

[12] Id., p. 183.

[13] Id., pp. 9-11.

[14] Id., p. 214.

[15] Id., p. 218.

[16] Id., p. 250.

[17] Id., p. 252.

[18] Id., p. 273.

[19] Id., p. 277.

[20] Id., p. 295.

[21] Id., pp. 299-301.

[22] Id., p. 315.

[23] Id., p. 319.

[24] Id., p. 628. Curiously, the Court included Atty. Vetino Reyes and spouses Vicente and Norma Yap when they are not court employees.

[25] Id., p. 641.

[26] Id., p. 696.

[27] Id., p. 655.

[28] Id., p. 53.

[29] Id., p. 48.

[30] Id., p. 121.

[31] Re: Judgments of Forfeiture and Writs of Execution on Bail/Judicial Bonds, Rollo, p. 158.

[32] *Capacete vs. Arellano*, A.M. No. P-03-1700, February 23, 2004, p.8, citing *Sarmiento vs. Salamat*, 364 SCRA 301, 308 (2001).

[33] *Avancena vs. Liwanag*, 398 SCRA 541, 546 (2003); *Resngit-Marquez vs. Llamas*, 385 SCRA 6, 21 (2002); *San Juan, Jr. vs. Sangalang*, 351 SCRA 210, 217 (2001); *Office of the Court Administrator vs. Bucoy*, 235 SCRA 588, 593 (1994).

[34] Licudine vs. Saquilayan, 396 SCRA 650, 656 (2003).

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