

EMETERIO A. BUYCO AND HUGO B. DAGUMAN, COMPLAINANTS, VS. HON. MARIANO A. ZOSA, RESPONDENT.

Adm. Case No. 101. March 27, 1968

Ponente: DIZON, J.

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DIZON, J.:

This is an administrative case instituted on May 30, 1966 against the respondent judge of the Court of First Instance of Misamis Occidental. After giving due course to the complaint, We referred it to Mr. Justice Ruperto G. Martin of the Court of Appeals for investigation, report and recommendation. After a thorough investigation of the charges, His Honor submitted the report now before Us.

Regarding the nature of the charges, the report contains this summary statement:

"The charge specifies six (6) different counts, to wit: first - falsification of public documents under Article 171, paragraph 4, of the Revised Penal Code, consisting of untruth-ful statements in a narration of facts made in certifications prepared by the respondent relative to his ownership over vehicles for the use of which he filed claims for gasoline allowance from Ozamis City; second - violation of complainant's constitutional right to bail in ordering said complainants' arrest and detention, with-out immediately fixing the amount of their bail bond, as an incident to a contempt proceedings the respondent himself instituted against said complainants; third - arbitrary detention under Article 124 of the Revised Penal Code in ordering, in the same contempt proceedings heretofore adverted to, the detention of complainants allegedly without legal ground; fourth - conduct unbecoming of a judge in connection with allegedly irrelevant statements of the respondent in the contempt proceedings aforesaid respecting the circumstances which led to said respondent's appointment to the judiciary; fifth - indiscretion, also in reference to other statements made by said respondent in the contempt proceedings which are claimed to be 'socially futile and value-less', 'ridiculous' and uttered merely 'to hide his lack of resourcefulness' and 'lack of patience'; and sixth - vindictiveness in having subjected complainants to humiliating acts such as speaking to them in 'forceful, angry and demanding voice' and ordering the confinement of complainant Buyco in jail for allegedly 'sneering in ridicule of this Court' - which complainants deny."

In the light of the evidence presented by the parties, the investigator submits the following considerations in relation to the different charges:

"Re:- Count No. 1 -

The gravamen of the falsification imputed upon the respondent Judge under Count No. 1 consists in his having 'maliciously and intentionally falsified the facts contained in vouchers marked as Annexes 'B' and 'C' (Ex-hibits Q and R herein) by making it appear that his gasoline allowance is commutable when in truth and in fact his privilege to claim such gasoline allowance as authorized by the President of the Philippines is only 'payment on reimbursement basis' and not a commutable allowance', as well as having likewise wil-fully, intentionally and maliciously falsified the statements in the said vouchers relative to his supposed ownership of the Lincoln Sedan and the jeep supposedly used by him and for which he was claiming the gasoline allowance subject of the vouchers aforesaid.

Respecting the first point, it is at once apparent that complainant's charge cannot be sustained. The vouchers aforesaid were pre-pared pursuant to Resolution No. 72 of the City Council of Ozamis City long before said resolution was ever brought to the attention of the proper department head for approval. Nothing in the resolution aforesaid as much as suggests that the allowance granted was either on a commutable or on a reimbursement basis. The approval of that resolution upon the condition that the payment of the allowance granted be merely on the 'reimbursement' basis come only on January 28, 1966. Accordingly, whatever may have been stated by the respondent in the vouchers prepared prior thereto cannot be denounced as malicious falsification of a fact. At the very least, the statement that the claim is 'commutable' amounts to no more than a mere conclusion on the part of the claimant.

x x x x x x x x

Anent the certifications relative to respondent Judge's ownership of the vehicles used by him, we find that the explanation given is quite reasonable. That there was an original agreement for the purchase of the jeep is amply demonstrated. And, we find nothing unusual in the claim that thereafter that agreement was revised to substitute the Lincoln Sedan in place of the jeep and that, pending the overhaul and repair of the car, the use of the jeep would still remain with the respondent. True, the jeep was never registered in respondent Judge's name; while the car was registered in his name only on August 6, 1965. But he did not certify that said vehicles were so registered. He merely said that they were respectively his 'personal property'. And, he very well could have claimed ownership over property even if it was not registered in his name. Of course, while it is true that title over the jeep never passed actually to him because his use thereof was temporary and only in lieu of the car while the latter was undergoing repairs, still it is a fact that he actually possessed and used the same pursuant to an arrangement with the registered owner which undoubtedly vested in him some rights, short of ownership though they may have been. There was thus, at least, a colorable truth in his claim respecting the ownership over the vehicles in question and, accordingly, the discrepancy in his certifications complained of cannot be denounced as a falsification inasmuch as to be such, the falsity should be absolute."

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"Re: Counts 2 and 3

The charges of violation of complainants' right to bail and of arbitrary detention sprang from actuations taken by the respondent judge in the contempt proceedings he proffered against said complainants.

Without going into the legality of the contempt charge, it is to be noted that, under the Rules, it appears within the power of the court to detain an alleged contemner and within its discretion to allow the release thereof upon filing a bond to insure his appearance when the cause is heard. In the case at bar, while the respondent Judge did not forthwith fix any amount as bail bond for the complainants when he ordered their detention - and, there is nothing that makes it his mandatory duty to do so - he readily approved the petition of counsel for complainants for the fixing of that bail bond, approved the bond filed thereupon, and forthwith ordered the release of the detainees. Offhand, nothing in the proceedings thus taken smacks of a violation of any right to bail or of arbitrary detention."

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"Re: Count 4 and 5 -

We see nothing condemnably unbecoming or particularly indiscreet in the utterances made by the respondent Judge which are the subject of Counts 4 and 5 of the charge herein. Considering the nature of the matter involved below and, as aforesaid, the pitch to which the tempers and emotions have risen in the course of the proceedings, the statements in question appear to be pertinent to the matter then before the court."

"Re: Count 6 -

Relative to the charge of vindictiveness, we are not prepared - after perusing the whole record - to recommend that the respondent Judge be dubbed as vindictive. Had he been so, he would not have reconsidered his order for the detention of City Auditor Buyco for sneer-ing and laughing in court barely 15 minutes after it was made; he would not have allowed complainants to be released on bail after or-dering their detention to assure their appear-ance. But, he did - and, without much ado, at that. He may have been adamant, it is true. But, as insisted by him, only in his desire to uphold the dignity of his office. Perhaps, he was wrong; he could have been wrong. But, that would merely be an error of judgment which can-not, by the standard heretofore set forth, rise to the category of 'serious misconduct'.

On the basis of the foregoing, the investigator makes the following recommendation:

"In the main, we are of the considered view that the charges have not been established by a preponderance of evidence, much less be-yond reasonable doubt. The worst that can be said is that the respondent Judge may have, somehow, allowed himself to be carried away in his desire to uphold the dignity of his office and may have given the impression that he was disposed to take advantage of his lofty po-sition to have his way. But, there is extant absolutely no clear and convincing evidence that he had acted partially, or maliciously, or corruptly, or arbitrarily, or oppressively.

"Accordingly, the undersigned respectfully recommends the exoneration of the respondent Judge from the charges imputed to him."

UPON CONSIDERATION OF THE EVIDENCE OF RECORD, We are of the opinion that the findings of the investigator are entirely correct, and, as a result, the respondent Judge is hereby exonerated.

Reyes, Acting Chief Justice, Makalintal, Bengson, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

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