

APOLINARIO MUÑEZ, COMPLAINANT, VS. JUDGE CIRIACO ARIÑO MCTC, SAN FRANCISCO, AGUSAN DEL SUR, RESPONDENT.

A.M. No. MTJ-94-985. February 21, 1995

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an administrative complaint [1] against respondent Judge Ciriaco C. Ariño of the Municipal Circuit Trial Court of San Francisco, Agusan del Sur for knowingly rendering an unjust judgment as defined and penalized under Article 204 of the Revised Penal Code. The complaint was originally filed with the Office of the Ombudsman which, after dismissing the case for lack of probable cause for filing in court, nevertheless referred the case to this Court "for possible administrative action against respondent."

It appears that on December 26, 1989, Mayor Asuero Irisari of Loreto, Agusan del Sur summoned to his office herein complainant Apolinario S. Muñoz for conference respecting a land dispute which Muñoz had with one Tirso Amado. As complainant failed to attend the conference, Mayor Irisari issued a warrant of arrest against him on December 27, 1989. [2]

The warrant was served on complainant by CFC Redelio Caballes and Cpl. Rolando Limayan and by virtue of it complainant was brought before Mayor Irisari, although no investigation was later conducted.

Complainant filed a complaint [3] against Mayor Irisari for grave misconduct and usurpation of judicial function with the Office of the Ombudsman as well as an administrative complaint [4] for violation of the Constitution, misconduct in office and abuse of authority with the Sangguniang Panlalawigan of Agusan del Sur.

After preliminary investigation, the investigating officer of the Office of the Ombudsman filed a case [5] for usurpation of judicial function against Mayor Asuero Irisari in the Municipal Circuit Trial Court of Loreto, Agusan del Sur. Originally raffled to the judge of that court, the criminal case was later assigned to respondent Judge Ciriaco Ariño on account of the inhibition of the first judge.

Accused Irisari moved to quash the information on the ground that the acts complained of did not constitute a crime under the law. He contended that under § 143(3) of the former Local Government Code (Batas Pambansa Blg. 337), mayors were authorized to issue warrants of arrest. [6]

On July 28, 1992, respondent Judge Ariño denied the motion to quash on the ground that the power of mayors to issue warrants of arrest had ceased to exist as of February 2, 1987 when the Constitution took effect.

For its part the Sangguniang Panlalawigan, acting on the administrative complaint against the mayor, found him guilty of misconduct in office and abuse of authority and accordingly ordered him suspended for eight (8) months without pay. On appeal, however, the Department of Interior and Local Government (DILG) reversed on the ground that what the Mayor had issued to the complainant, although denominated "Warrant of Arrest," was actually just an invitation or a summons.

On September 21, 1992, Mayor Irisari filed a motion for reconsideration of the order of denial of respondent judge, invoking the resolution of the DILG.

In an order dated February 15, 1993, respondent Judge Ariño reconsidered his previous order and dismissed the case. Respondent said in his order:

The accused, in his Motion for Reconsideration, asserts that since the question about the warrant of arrest issued against Apolinario Muñoz has been resolved in an administrative proceedings as not the warrant of arrest contemplated by law, it would follow then that this case now before this Court against the accused be dismissed. The Court finds that the subject matter in this case and that in the administrative complaint arose from one and the same incident and it involved the same parties.

Courts are not bound by the findings of administrative agencies like the DILG as in this case if such findings are tainted with unfairness and there is arbitrary action or palpable serious error.

. . . The Court believes that the resolution by the administrative agency in DLG-AC-60-91 is not tainted with unfairness and arbitrariness neither it shows arbitrary action or palpable and serious error, therefore, it must be respected (*Mangubat vs. de Castro*, G.R. 33892; July 28, 1988; *Blue Bar Coconut Philippines vs. Tantuico, Jr., et al.*, G.R. 47051, July 29, 1988, *Cuerdo vs. Commission on Audit*, G.R. 84592, October 27, 1988).

Upon receipt of this order, complainant Muñoz sent two letters dated July 5 and 12, 1993 to the Presidential Anti-Crime Commission, charging respondent Judge Ciriaco C. Ariño with knowingly rendering an unjust judgment for dismissing the case against Mayor Irisari. The matter was indorsed to the Office of the Ombudsman which, as already stated, referred it to this Court for possible disciplinary action against respondent judge. [7]

We agree with the Office of the Ombudsman that while respondent judge may have acted in good faith, he should nevertheless be administratively held liable.

The acts alleged in the information constitute a crime. Under Art. 241 of the Revised Penal Code, the crime of usurpation of judicial authority involves the following elements: (1) that the offender is an officer of the executive branch of the government; and (2) that he assumes judicial powers, or obstructs the execution of any order or decision rendered by any judge within his jurisdiction. These elements were alleged in the information. Mayor Irisari was an officer of the executive branch.

It is not true that what he had issued against the complainant was not a warrant of arrest. It was. In plain terms it stated:

Republic of the Philippines
PROVINCE OF AGUSAN DEL SUR
MUNICIPALITY OF LORETO
Office of the Mayor

27 December 1989

WARRANT OF ARREST

TO: ANY OFFICER OF THE LAW
This Municipality

G R E E T I N G S:

You are hereby requested/ordered to effect the arrest of Apolinario Muñoz of Poblacion, Loreto, Agusan del Sur for his refusal to acknowledge the Summons dated December 26, 1989, and bring him before the Office of

the Municipal Mayor to answer an inquiry/investigation in connection with the complaint of one Tirso Amado held pending before this Office.

FOR COMPLIANCE.

(Sgd) ASUERO S. IRISARI
Municipal Mayor

For and in the absence of
the Municipal Circuit Judge

Any one reading the warrant could not have been mistaken that it was a warrant for the arrest of the complainant Apolinario Muñoz. As a matter of fact Mayor Irisari justified his order on the basis of § 143(3) of the former Local Government Code (Batas Pambansa Blg. 337) which expressly provided that "in cases where the mayor may conduct preliminary investigation, the mayor shall, upon probable cause after examination of witnesses, have the authority to order the arrest of the accused." This provision had, however, been repealed by Art. III, § 2 of the 1987 Constitution, as this Court held in *Ponsica v. Ignalaga*, [8] in which it was explained:

No longer does the mayor have at this time the power to conduct preliminary investigations, much less issue orders of arrest. Section 143 of the Local Government Code, conferring this power on the mayor has been abrogated, rendered *functus officio* by the 1987 Constitution which took effect on February 2, 1987, the date of its ratification by the Filipino people. Section 2, Article III of the 1987 Constitution pertinently provides that "no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the person or things to be seized." The constitutional proscription has thereby been manifested that thenceforth, the function of determining probable cause and issuing, on the basis thereof, warrants of arrest or search warrants, may be validly exercised only by judges, this being evidenced by the elimination in the present Constitution of the phrase, "such other responsible officer as may be authorized by law" found in the counterpart provision of said 1973 Constitution - who, aside from judges, might conduct preliminary investigation and issue warrants of arrest or search warrants.

That there was no pending criminal case against the complainant did not make the order against him any less an order of arrest, contrary to the opinion of DILG.

On the other hand, the issuance of the warrant when there was before him no criminal case, but only a land dispute as it is now being made to appear, only made it worse for the mayor, for it would then appear that he assumed a judicial function which even a judge could not have done. All the more, therefore, respondent judge should not have dismissed the criminal case against the mayor.

It cannot be pretended that Mayor Irisari merely intended to invite or summon Muñoz to his office because he had precisely done this the day before he issued the warrant of arrest, and he ordered the arrest of complainant because the latter had refused to appear before him. The summons issued by Mayor Irisari shows clearly that he understood the difference between a summons and a warrant of arrest. The summons read:

Republic of the Philippines
PROVINCE OF AGUSAN DEL SUR
MUNICIPALITY OF LORETO
Office of the Mayor

26 December 1989

S U M M O N

TO: Mr. Apolinario Muñoz
Loreto, Agusan del Sur

GREETINGS:

You are hereby demanded to appear before the Office of the Municipal Mayor on 27 December 1989 at around 9:30 A.M. then and there to answer in an inquiry/investigation in connection with a certain complaint of Mr. Tirso Amado lodged in this office.

PLEASE FAIL NOT under the penalty of the law.

Loreto, Agusan del Sur, Philippines.

(SGD.) ASUERO S. IRISARI
Municipal Mayor

Indeed, respondent had previously denied the motion to dismiss which the accused Mayor Irisari had filed on the ground that the authority (B.P. Blg. 337, S 143(3)) invoked by him as basis for his warrant of arrest had been abrogated by the Constitution. He subsequently reversed himself on the ground that the decision of the DILG, finding Mayor Irisari not guilty, "must be respected." He said, "Courts are not bound by findings of administrative agencies like the DILG as in this case if such findings are tainted with unfairness and there is arbitrary action or palpable serious error." Since the DILG decision was not so tainted, "therefore, it must be respected."

Respondent judge Ciriaco Ariño should have known that the case of Mayor Irisari was not before him on review from the decision of an administrative agency and, therefore, there was no basis for applying the rule on substantiality of evidence. What was before him was a criminal case and he should have considered solely the facts alleged in the information in resolving the motion to dismiss of the accused. 0At the very least, he showed poor judgment and gross ignorance of basic legal principles, for which he should be reminded of what this Court said in *Libarios v. Dabalos*: [9]

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.

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. . . . 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. [10]

But there is more than just gross ignorance of legal principles shown here. Although he denies it, what the respondent judge appears to have actually done in this case was to rely on the opinion of the DILG which found the mayor not guilty of serious misconduct in office on the ground that he had not really issued a warrant of arrest against the complainant but only an invitation or a summons. To justify his reliance on the opinion of the DILG, respondent judge invoked the rule in administrative law that the findings of facts of administrative agencies, when supported by substantial evidence, are binding on the courts in the absence of a showing of fraud, imposition or dishonesty. We have already stated why that is grossly erroneous. What we are here concerned is that by relying on the opinion of the DILG, disregarding a previous ruling he had made which was in accordance with law, respondent judge showed lack of capacity for independent judgment.

WHEREFORE, a FINE of P5,000.00 is imposed on respondent Judge Ciriaco Ariño. He is enjoined to exercise greater care and diligence in the performance of his duties as a judge and warned that a repetition of the similar offense will be dealt with more severely.

SO ORDERED.

Narvasa, C.J., (Chairman), Bidin, Regalado, and Puno, JJ., concur.

[1] Rollo, pp. 9-15.

[2] Id., p. 18.

[3] OMB-MIN-90-0239.

[4] Adm. Case No. SP-90-04.

[5] Crim. Case No. 754; Rollo p. 69.

[6] Rollo, p. 71.

[7] OMB-0-93-3367.

[8] 152 SCRA 647, 662-663 (1987).

[9] 199 SCRA 49 (1991).

[10] At 55-56.

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