GUILLERMA D. CABAÑERO, COMPLAINANT, VS. JUDGE ANTONIO K. CAÑON, MUNICIPAL CIRCUIT TRIAL COURT, HINATUAN-TAGBINA, HINATUAN, SURIGAO DEL SUR, RESPONDENT.

A.M. No. MTJ-01-1369 (Formerly A.M. OCA IPI No. 99-784-MTJ). September 20, 2001

Ponente: PARDO, J.

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PARDO, J.:

Death of the respondent in an administrative case is not in itself a ground for the dismissal of the complaint.

In a complaint dated September 16, 1999, Mrs. Guillerma D. Cabañero charged Judge Antonio K. Cañon, Municipal Circuit Trial Court, Hinatuan-Tagbina, at Hinatuan, Surigao Del Sur with partiality, issuance of unjust interlocutory orders and grave abuse of discretion relative to Criminal Case No. 4036-H, entitled, People vs. Jessie Cabañero, for qualified theft.

Complainant alleged that a certain Jaime Cañal accused her son, Jessie D. Cabañero, of entering Cañal's farmland and harvesting falcata trees valued at P3,191.00.

The chief of police filed the case[1] with the 7[th] MCTC Hinatuan-Tagbina, with station at Hinatuan, Surigao del Sur, presided over by Judge Antonio K. Cañon. Respondent Judge conducted a preliminary investigation of the case to determine probable cause for the issuance of a warrant of arrest.

Complainant alleged that respondent judge exhibited bias and partiality by asking leading questions to implicate her as co-accused in the criminal case.

On October 1, 1998, Judge Cañon issued a warrant of arrest not only against Jessie Cabañero but also against complainant Guillerma D. Cabañero for covering up for her son.

On October 15, 1998, policemen arrested the complainant and detained her at the Hinatuan Municipal Jail. To secure her temporary liberty, she posted bail, which could not be issued and approved in her name because she was not an accused in Criminal Case No. 4036-H. Respondent judge pegged the bail at thirty thousand pesos (P30,000.00). On October 16, 1998, complainant was released. Incidentally, on October 7, 1998, when her son was arrested, he also posted bail amounting to P30,000.00.

She alleged that considering the value of the property allegedly stolen, the bail required was excessive.

Respondent judge explained that complainant was a principal by inducement and that the arrest of the complainant was based on his findings.

On April 24, 2000, respondent judge died.

The cessation from office of respondent judge due to death does not per se warrant the dismissal of the administrative complaint filed against him while he was still in the service.[2] Since the instant administrative complaint was filed before respondent's death on April 24, 2000, the Court retains authority to pursue the

administrative complaint against him.

Regarding the charge of partiality, we have set the parameters in disqualifying a judge as follows: (1) that there be adequate evidence to prove the charge; (2) that there be showing that the judge had an interest, personal or otherwise, in the prosecution of the case at bar; and (3) that to be disqualified, the bias and prejudice must have stemmed from an extra-judicial source and result in an opinion on the merits on some basis other than what the judge learned from his participation in the case.[3]

There is nothing in the complaint that sustains the charge of bias and partiality. Mere suspicion that the judge is biased in a case will not suffice.

As to the interlocutory orders, the remedy of the complainant is judicial, not administrative. He could have raised the issues in the judicial proceedings.

As to the charge of grave abuse of discretion, we find the charge meritorious.

Respondent judge erred in ordering the arrest of the accused and complainant Guillerma D. Cabañero. She was not included as one of the respondents in the criminal case filed by the chief of police of Hinatuan. Respondent judge was aware of this fact.

The judge explained that he had discretion to add names of respondents in the complaint filed by the police investigator as well as to determine the degree of their participation whether as principal by participation or inducement or as accomplice.

We find respondent's interpretation of his powers under the Revised Rules of Court far-fetched. Respondent judge imposed excessive bail.

Under Department Circular No. 4, the 1996 Bail Bond Guide for the National Prosecution Service for the offense of qualified theft, if the value of the property stolen is more than P200.00 but does not exceed P6,000.00, the bail recommended is P24,000.00. In the instant case, the monetary value of the falcata trees cut into logs is P3,1991.40. The bail of P30,000 is not proportionate to the amount stolen.

When the law transgressed is elementary, the failure to know or observe it constitutes gross ignorance of the law.[4]

The Court cannot permit any act or omission which yanks public faith away from the judiciary. That is why, despite respondent's death, we sanction his acts.

Judges are expected to be competent and qualified for the position to which they were appointed.[5] To be able to render substantial justice and to maintain public confidence in the legal system, judges must keep abreast of all laws and prevailing jurisprudence, consistent with the standard that magistrates must be the embodiments of competence, integrity and independence.[6]

WHEREFORE, Judge Antonio K. Cañon is hereby ordered to pay a FINE in the amount of P5,000.00, to be taken from his retirement benefits in view of his demise.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

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[1] Criminal Case No. 4036-H.

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[2] Tuliao v. Ramos, 348 Phil. 404 [1998]; Office of the Court Administrator v. Diaz, 363 Phil 580 [1999]; Perez v. Abiera, 64 SCRA 302 [1975]; Secretary of Justice v. Marcos, 76 SCRA 301 [1977]; Pesole v. Rodriguez, 81 SCRA 208 [1978];Zarate v. Judge Romanillos, citing People v. Valenzuela, 220 Phil. 385 [1985] and Pera v. Abiera, 64 SCRA 302 [1975].

[3] People v. Gako, G. R. No. 135045, December 15, 2000, citing People v. Court of Appeals, 309 SCRA 705 [1999].

[4] Supena v. De La Rosa, 334 Phil 671 [1997].

[5] Macasasa v. Imbing, 312 SCRA 385 [1999].

[6] Rodriguez v. Bonifacio, A. M. No. RTJ-99-1510, November 6, 2000, citing Cortes v. Agcaoili, 355 Phil 848 [1998].

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