

**EMMA G. ALFELOR, COMPLAINANT, VS. HON. AUGUSTUS C. DIAZ,
PRESIDING JUDGE, METROPOLITAN TRIAL COURT, BRANCH 37,
QUEZON CITY, RESPONDENT.**

A.M. No. MTJ-16-1883 (Formerly OCA IPI No. 12-2497-MTJ). July 11, 2017

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CAGUIOA, J:

Before the Court is an administrative complaint[1] filed with the Office of the Court Administrator (OCA) by Complainant Emma G. Alfelor (Alfelor) against Respondent Hon. Augustus C. Diaz (Judge Diaz), Presiding Judge, Metropolitan Trial Court (MeTC), Branch 37, Quezon City (MeTC 37), for gross ignorance of the law, incompetence and manifest bias and partiality in connection with the Decision in Criminal Case No. 37-139993,[2] wherein Alfelor was the accused.

The undisputed facts, as borne by the records, are as follows:

Romeo Garchitorena (Romeo) is the brother of Alfelor. Sometime in 2000, Alfelor issued ten (10) postdated Land Bank of the Philippines (Land Bank) checks in favor of Romeo for payment of the loan she obtained from him in 1995, including interest, to wit:

Check Number

Date

Amount

0000251546

January 19, 2000

P100,000.00

0000251547

January 24, 2000

P100,000.00

0000251548

January 31, 2000

P100,000.00

0000251549

February 29, 2000

P500,000.00

0000251550

March 30, 2000

P500,000.00

0000251551

April 30, 2000

P500,000.00

0000251552

May 31, 2000

P500,000.00

0000251553

June 30, 2000

P500,000.00

0000251554

July 31, 2000

P203,492.75

0000251555

August 31, 2000

P203,492.75[3]

Upon presentment for payment by Romeo, the bank dishonored the checks for having been drawn against insufficient funds and closed accounts, prompting him to send verbal and written demands to Alfelor. However, Alfelor failed to pay the total amount of the checks despite demand.[4]

On January 9, 2002, Romeo filed a complaint for Violation of Batas Pambansa Blg. 22 (BP Blg. 22) with the Office of the City Prosecutor of Quezon City (OCP) against Alfelor in connection with the ten (10) dishonored Land Bank checks. Thereafter, on March 14, 2002, the OCP recommended the filing of Informations for nine (9) counts of Violation of BP Blg. 22, one (1) Information for each check. The nine (9) cases of Violation of BP Blg. 22 were raffled to the MeTC, Branch 43, Quezon City (MeTC 43), which was then presided by Judge Manuel B. Sta. Cruz, Jr. (Judge Sta. Cruz).[5] The OCP dismissed the complaint as to Land Bank Check No. 0000251550 (subject check) on the ground that it was presented for payment beyond the 90-day period from the date of issuance; hence, the presumption of knowledge of insufficiency of funds on the part of Alfelor did not arise.[6]

This prompted Romeo to file a petition for review with the Secretary of the Department of Justice (DOJ Secretary), seeking to reverse the OCP's recommendation. The DOJ Secretary granted the petition, and on July 10, 2006, a separate Information for Violation of BP Blg. 22 as regards the subject check was filed against Alfelor, and raffled to MeTC 37, which was presided by Judge Diaz. The case was docketed as Criminal Case No. 37-139993 (subject criminal case).[7]

In an Order[8] dated March 25, 2009, MeTC 43, through Judge Sta. Cruz, acquitted Alfelor in the nine (9) BP Blg. 22 cases filed against her based on the demurrer to evidence she filed, on the ground that the prosecution

failed to prove that Alfelor received the demand letter notifying her of the dishonor of the checks, as follows:

WHEREFORE, premises considered, the Demurrer to Evidence is hereby GRANTED and the accused is acquitted on the criminal charges.

ACCORDINGLY, set the reception of defense evidence on the civil aspect on September 2, 2009 at 8:30 in the morning.

SO ORDERED.[9]

Subsequent to the acquittal, on May 5, 2010, Alfelor also filed with MeTC 37 a Demurrer to Evidence[10] in the subject criminal case based on the same ground, that was, the failure of the prosecution to prove that Alfelor received the demand letter notifying her of the dishonor of the checks, and the additional ground that she already settled the amount of the subject check. However, in his Order[11] dated June 1, 2010, Judge Diaz denied the demurrer on the ground that he wanted to have "a [better] perspective" in the resolution of the case, and not due to the sufficiency of evidence on the part of the prosecution. Alfelor filed a Motion for Reconsideration[12] on June 15, 2010, but this was denied in an Order[13] dated August 6, 2010. Trial ensued thereafter,[14] and Alfelor filed her Formal Offer of Evidence,[15] after which the case was submitted for decision.

Alfelor thereafter received a copy of the Decision[16] dated January 30, 2012 in the subject criminal case, where Judge Diaz convicted her of violation of BP Blg. 22 not only for the subject check, but also for the nine (9) other checks which were the subjects of the BP Blg. 22 cases raffled to MeTC 43, and where she was already previously acquitted by Judge Sta. Cruz. The dispositive portion reads:

The foregoing manifest that the accused committed a Violation of Batas Pambansa Bilang 22 beyond reasonable doubt. The accused is hereby ordered to:

- Pay the total amount of the ten checks which are the subject matter of this case;
- Suffer an imprisonment of thirty (30) days for each of the ten (10) checks;
- Pay a fine of [P]200,000.00 for all of the ten checks; and
- Pay the costs of suits [sic].

The accused is to suffer subsidiary imprisonment in case of insolvency. The payment of the fine is to be made within a reasonable period of time.

SO ORDERED.[17]

Astonished by the outcome of the subject criminal case, Alfelor appealed the Decision to the Regional Trial Court of Quezon City (RTC),[18] and filed with the OCA the instant complaint for gross ignorance of the law, incompetence and manifest bias and partiality against Judge Diaz.

In his Comment[19] and Supplemental Comment,[20] Judge Diaz acknowledged his grave error and profusely apologized to Alfelor for his lapses.[21] He attributed it to plain oversight on his part and heavy caseload. He explained that he was in haste in making the decision and relied heavily on the evidence of the prosecution in deciding the case.[22] He also stated that he could have made the necessary correction had the parties pointed out that only one (1) check was involved in the case.[23] In addition, Judge Diaz confirmed with this Court that the decision in the subject criminal case is pending appeal before the RTC.[24] Judge Diaz expressed his remorse and asked for clemency, stressing that this was the first time he committed such an error in all his years in the judiciary.[25]

The OCA's Report and Recommendation

In its Report[26] dated June 13, 2016, the OCA opined that the acts complained of were judicial issues that were beyond the realm of an administrative matter.[27] It also stated that the administrative complaint was prematurely filed, considering that the subject criminal case is still pending appeal with the RTC.[28] Nevertheless, the OCA found that Judge Diaz was careless in rendering the assailed decision based on his admission in his Comment that he indeed committed an error in the decision due to plain oversight.[29]

The OCA also noted that Judge Diaz had served for 21 years[30] in the judiciary, and that he would reach his compulsory retirement age of 70 on August 22, 2016. Moreover, he had been fined in three (3) administrative cases, and he still has two (2) more pending cases, including the instant administrative matter, which prevented him from being promoted to a higher court.[31]

Taking into account Judge Diaz's length of service in the judiciary and his admission of his mistake in rendering the assailed judgment, the OCA issued its recommendation as follows:

RECOMMENDATION: It is respectfully recommended for [the] consideration of the Honorable Court that:

1. the instant administrative complaint be RE-DOCKETED as a regular administrative matter for Gross Ignorance of the Law, Incompetence and Manifest Bias and Partiality against Presiding Judge Augustus C. Diaz, Branch 37, Metropolitan Trial Court, Quezon City; and
2. respondent Judge Diaz be ABSOLVED of the aforesaid charges but nonetheless be REPRIMANDED for his carelessness and REMINDED to be more circumspect in the discharge of his duties, with a STERN WARNING that a repetition of the same or any similar act shall be dealt with more severely by the Court.[32]

In a Resolution dated October 10, 2016, the Court ordered that the instant matter be re-docketed as a regular administrative matter.

The Court's Ruling

After a judicious review of the records, the Court partially agrees with the findings of the OCA. However, the penalty should be modified.

The OCA observed that Judge Diaz carelessly rendered the questioned Decision convicting Alfelor in the said nine (9) checks subject of the BP Blg. 22 cases which were raffled to MeTC 43 under Judge Sta. Cruz, due to plain oversight and heavy caseload, and that he hastily promulgated the said Decision, as he admitted in his Comment and Supplemental Comment.

While the Court agrees with the OCA that Judge Diaz was careless in convicting Alfelor in the nine (9) checks subject of the BP Blg. 22 cases which were not raffled to his sala, it does not and cannot dismiss this act as simple inadvertence. Such carelessness can only be considered as gross ignorance of the law, as defined by this Court in *Re: Anonymous Letter* dated August 12, 2010, *Complaining Against Judge Ofelia T Pinto*, RTC, Branch 60, Angeles City, Pampanga[33]:

We have previously held that when a law or a rule is basic, judges owe it to their office to simply apply the law. "Anything less is gross ignorance of the law." There is gross ignorance of the law when an error committed by the judge was "gross or patent, deliberate or malicious." It may also be committed when a judge ignores, contradicts or fails to apply settled law and jurisprudence because of bad faith, fraud, dishonesty or corruption. Gross ignorance of the law or incompetence cannot be excused by a claim of good faith.[34]

In *Chua Keng Sin v. Mangente*,[35] the Court found Judge Job Mangente guilty of gross ignorance of the law when he carelessly denied the Motion to Dismiss the case for Slight Physical Injuries filed against Chua Keng Sin by his brother, Victoria Chua, despite the obvious lack of a Certificate to File Action from the Lupon of the

barangay as required under the Local Government Code's provisions on Katarungang Pambarangay and Section 18 of the 1991 Revised Rules on Summary Procedure. The Court did not consider Judge Mangente's excuse of heavy caseload and his being a newly appointed judge, "considering the extent of his experience as public attorney for nine (9) years and as prosecutor for twelve (12) years"[36] for his failure to observe such basic and elementary rules, thus:

Respondent was careless in disposing the Motions filed by complainant, in a criminal case no less. The Office of the Court Administrator correctly underscores that his experience as a public attorney and prosecutor should have ingrained in him well-settled doctrines and basic tenets of law. He cannot be relieved from the consequences of his actions simply because he was newly appointed and his case load was heavy. These circumstances are not unique to him. His careless disposition of the motions is a reflection of his competency as a judge in discharging his official duties.[37]

Here, it is obvious that the subject criminal case in Judge Diaz's sala pertained to only one (1) check, that is, the subject Land Bank Check No. 0000251550. Had Judge Diaz been more circumspect in reviewing the records of the case, he could have easily noticed that glaring fact, as well as Judge Sta. Cruz's prior order acquitting Alfelor of the nine (9) BP Blg. 22 cases raffled to MeTC 43, and promulgated a decision based only on that particular check. The fact that he had served more than 21 years in the judiciary meant that he should have known better than to haphazardly render a decision in a criminal case without regard to the specific allegations in the offense charged and his jurisdiction, or lack thereof, to take cognizance of the case. This is gross ignorance of the law.

As for the imposable penalty, it is important to stress that gross ignorance of the law is a serious charge under Section 8, Rule 140 of the Rules of Court. Under Section 11(A) thereof, it is punishable by: (1) dismissal from the service, forfeiture of benefits except accrued leave credits and disqualification from reinstatement or appointment to any public office; (2) suspension from office without salary or other benefits for more than three (3) months but not exceeding six (6) months; or (3) a fine of more than P20,000.00 but not exceeding P40,000.00.[38] Considering that Judge Diaz already reached the compulsory retirement age of 70 on August 22, 2016, the Court can only impose a fine or forfeiture of benefits to him.

In this regard, it is relevant to note that this is not the first time that the Court has held Judge Diaz administratively liable. In *De Joya v. Judge Diaz*,[39] the Court fined Judge Diaz P1,000.00 for inefficiency due to his failure to decide Civil Case No. 24930 within the prescribed period. In *Alvarez v. Judge Diaz*,[40] he was fined P20,000.00 for grave abuse of authority and gross ignorance of the law in granting a Motion for Execution despite the lack of proof of service of the Notice of Hearing to all the parties to the case as required under Section 5, Rule 15 of the Rules of Court. Finally, in *Montecalvo, Sr. v. Judge Diaz*,[41] he was fined P5,000.00 for undue delay in resolving criminal cases for twelve (12) years.

While Judge Diaz expressed his remorse in convicting Alfelor in the criminal cases which were not raffled to his sala, and where she was already previously acquitted, the Court cannot close its eyes to the aforementioned administrative matters, especially the fact that he had been previously found guilty of gross ignorance of the law, putting his competency in the discharge of official duties into serious doubt.

In view of the foregoing, a fine of P30,000.00, which shall be deducted from his retirement benefits, would be more appropriate under the circumstances.

WHEREFORE, Hon. Augustus C. Diaz, Presiding Judge, Metropolitan Trial Court, Branch 37, Quezon City, is found GUILTY of Gross Ignorance of the Law. He is hereby FINED in the amount of THIRTY THOUSAND PESOS (P30,000.00) to be deducted from his retirement benefits.

SO ORDERED.

Sereno, C. J., Velasco, Jr., Leonardo-De Castro, Peralta, Bersamin, Mendoza, Perlas-Bernabe, Leonen, Martires, and Tijam, JJ., concur.

Carpio, J., No part. Close relations to respondents.

Del Castillo, and Jardeleza, JJ., on official leave.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on July 11, 2017 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled administrative matter, the original of which was received by this Office on August 29, 2017 at 3:35 p.m.

Very truly yours,

(SGD)

FELIPA G. BORLONGAN-ANAMA

Clerk of Court

[1] Rollo, pp. 1-9.

[2] Entitled "People of the Philippines v. Emma Alfelor," See Decision dated January 30, 2012; id. at 43-46.

[3] Rollo, pp. 2, 43-44.

[4] Id. at 44.

[5] Id. at 2; see also Order dated March 25, 2009, id. at 12-15.

[6] Id.

[7] Id. at 2-3.

[8] Id. at 12-15.

[9] Id. at 15.

[10] Id. at 23-28.

[11] Id. at 33.

[12] Id. at 34-41.

[13] Id. at 42.

[14] See id. at 37-38. Please note that although the violation of BP Blg. 22 is included in criminal cases where the 1991 Revised Rules on Summary Procedure is applicable pursuant to A.M. No. 00-11-01-SC, a trial would still be conducted and testimonies of witnesses may still be subject to cross-examination under Section 15 thereof, as

follows:

SEC. 15. Procedure of trial. - At the trial, the affidavits submitted by the parties shall constitute the direct testimonies of the witnesses who executed the same. Witnesses who testified may be subjected to cross-examination, redirect or re-cross examination. Should the affiant fail to testify, his affidavit shall not be considered as competent evidence for the party presenting the affidavit, but the adverse party may utilize the same for any admissible purpose.

Except in rebuttal or sur-rebuttal, no witness shall be allowed to testify unless his affidavit was previously submitted to the court in accordance with Section 12 hereof.

However, should a party desire to present additional affidavits or counter-affidavits as part of his direct evidence, he shall so manifest during the preliminary conference, stating the purpose thereof. If allowed by the court, the additional affidavits of the prosecution or the counter-affidavits of the defense shall be submitted to the court and served on the adverse party not later than three (3) days after the termination of the preliminary conference. If the additional affidavits are presented by the prosecution, the accused may file his counter-affidavits and serve the same on the prosecution within three (3) days from such service.

[15] Id. at 61-63.

[16] Id. at 43-46.

[17] Id. at 46; emphasis supplied.

[18] See id. at 74.

[19] Id. at 69-72.

[20] Id. at 73-75.

[21] Id. at 70-71, 74.

[22] Id. at 70.

[23] Id. at 74.

[24] Id.

[25] Id. at 71-72, 75.

[26] Id. at 80-84.

[27] Id. at 81.

[28] Id. at 82.

[29] Id. at 82, 84.

[30] Id. at 83.

[31] Id. at 81, 83.

[32] Id. at 84.

[33] 696 Phil. 21 (2012).

[34] Id. at 28. Citations omitted; emphasis supplied.

[35] 753 Phil. 447 (2015).

[36] Id. at 453.

[37] Id. at 455. Emphasis supplied.

[38] RULES OF COURT, Rule 140, Sec. 11(A).

[39] 458 Phil. 278 (2003).

[40] 468 Phil. 347 (2004).

[41] A.M. No. MTJ-07-1684, August 7, 2013 (Unsigned Resolution).

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