

**ALEGRIA P. BELTRAN, PETITIONER, VS. JUDGE OSCAR E. DINOPOL,
EXECUTIVE JUDGE, REGIONAL TRIAL COURT, BRANCH 24,
KORONADAL CITY, SOUTH COTABATO. RESPONDENT.**

A.M. NO. RTJ-06-2020 (Formerly A.M. OCA IPI 05-2230-RTJ). September 20, 2006

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

On the basis of two criminal complaints against Manuel Beltran, a retired Assistant Provincial Assessor of South Cotabato, one for Falsification of Public Documents (Criminal Case No. 5876), and the other for Attempted Murder (Criminal Case No. 5877), filed by the local police before the Regional Trial Court (RTC) of Koronadal City, South Cotabato, Executive Judge Oscar E. Dinopol (respondent) issued two (2) similarly worded Orders[1] finding probable cause to hale the accused into court and consequently ordering the issuance of warrants for his arrest. Thus each order read:

After reading the Criminal Complaint including the Affidavit of the complainant, the Court is satisfied and finds probable cause. There being a need, however, to place the accused in custody of the law in order not to frustrate justice, let a warrant be issued for the arrest of the accused.

On motion of the accused, Judge Laureano T. Alzate of Branch 25 of the Koronadal City RTC to which the cases were raffled, quashed the criminal complaints on the ground of, inter alia, absence of preliminary investigation.[2]

Hence, spawned the filing of a November 10, 2004 letter-complaint of Alegria P. Beltran (complainant),[3] wife of the accused, charging respondent with Gross Ignorance of the Law and Abuse of Authority, which letter-complaint was received by the Office of the Chief Justice on November 17, 2004. A verified complaint essentially reiterating the charges in the said letter-complaint was subsequently filed by complainant on June 14, 2005.[4]

Complainant charges that with respondent's acceptance of the criminal complaints lodged by the police, despite the absence of a preliminary investigation, he "us[ed] his position to sow terror and injustice, . . . violat[ed] men's constitutional rights and distorted [the] interpretation of the law and/[or] the rules." [5]

To the complaint, complainant attached photocopies of respondent's orders and other documents material to her complaint.

In his Comment[6] of January 26, 2005, respondent proffers the following explanation:

When he assumed his duties as Executive Judge, the Office of the City Prosecutor had only one prosecutor, Prosecutor Alfredo Sales, who had no assistant. Prosecutor Sales suffered a stroke, however, and had not fully recovered.

While Prosecutor Ringcar Pinote was designated as Acting City Prosecutor on May 18, 2004, he too suffers from a heart ailment and often fails to attend court hearings and rarely conducts preliminary investigations. Assistant

Provincial Prosecutor Rene Barrion was designated to assist Prosecutor Pinote, but cases were not assigned or indorsed to him. After several communications with the Department of Justice and the Regional State Prosecutor requesting the designation of an active Acting City Prosecutor, Memo Order No. 2004-18 was issued directing Prosecutor Pinote to attend to all cases, but the latter did not heed the same.[7]

Respondent further proffers that given the length of time that there was no prosecutor in the Koronadal City RTC, he and Judge Alzate, Presiding Judge of another branch of the court, agreed, on the basis of the Philippine National Police's written request, to accept cases directly filed by the police on condition that after the arrest of the accused but before arraignment, the cases would be remanded to the Prosecutor's Office for "further" preliminary investigation.[8]

Respondent furthermore explains that the Acting Presiding Judge of the Municipal Trial Court in Cities (MTCC), Koronadal City holds sessions only once a week and has instructions to his Clerk of Court not to accept cases for preliminary investigation, there being a designated City/Acting City Prosecutor to conduct the same;[9] and that "he exercised good faith with the principal motive of filling a gap to make the flow and services of the enforcement and prosecution agencies continuous, for the promotion of an orderly administration of justice." [10]

Acting on the complaint, the Office of the Court Administrator (OCA) has come up with the following:

EVALUATION: Pars. (a), Sec. 6, Rule 112 of the Revised Rules of Criminal Procedure provides:

"Sec. 6. When warrant of arrest may issue. - (a) By the Regional Trial Court. - Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused has already been arrested pursuant to a warrant of arrest issued by the judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to section 7 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint or information."

While the judge of the Regional Trial Court determines the existence of probable cause on the basis of evidence on record, and may consequently issue warrants of arrest, the same cannot be done without the required preliminary investigation prior to the filing of the complaint or information. Section 1, Rule 112 of the Revised Rules of Criminal Procedure provides:

"Section 1. Preliminary investigation defined; when required. - Preliminary investigation is an inquiry or proceeding to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and that the respondent is probably guilty thereof, and should be held for trial.

Except as provided in section 7 of this Rule, a preliminary investigation is required to be conducted before the filing of a complaint or information for an offense where the penalty prescribed by law is at least four (4) years, two (2) months and one (1) day without regard to the fine."

Viewed from the above-quoted provision of the Rule, direct filing of complaints or information is not allowed.

Who are authorized to conduct preliminary investigation? Section 2, Rule 112 provides:

"Sec. 2. Officers authorized to conduct preliminary investigations. -

The following may conduct preliminary investigations:

- (a) Provincial [or] City Prosecutors and their assistants;
- (b) Judges of the Municipal Trial Courts and Municipal Circuit Trial Courts;

- (c) National and Regional State Prosecutors; and
- (d) Other officers as may be authorized by law."

Judges of the Regional Trial Courts are not among those officers authorized to conduct preliminary investigation. Hence, in the absence of a designated provincial or city prosecutor in RTC, Koronadal City, preliminary investigation may be conducted by the MTCC, Koronadal City Acting Presiding Judge. It should be stressed herein that the conduct of a preliminary investigation is not a judicial but an executive prerogative. For which reason, considering that there is a city prosecutor assigned in Koronadal City, preliminary investigation shall first be conducted by the city prosecutor before the filing of a proper complaint or information.[11] (Underscoring in the original; Emphasis supplied).

The OCA thus recommends that respondent be fined the amount of P20,000.00, with warning that a repetition of the same or similar act will be dealt with more severely, and that he be directed to refrain from allowing the filing of criminal complaints or informations which have not been subjected to preliminary investigations and ordering the issuance of warrants of arrest on the basis thereof.[12]

The evaluation and recommendation of the OCA are well-taken.

Section 2, Rule 112 of the Revised Rules of Criminal Procedure enumerates who are authorized to conduct preliminary investigations. RTC judges, who were under the 1964 Rules of Court authorized to conduct preliminary investigations, have been expressly excluded under said section of the Revised Rules of Criminal Procedure.[13]

Preliminary investigation of criminal cases is intended to protect the accused from the inconvenience, expense, and burden of defending himself in a formal trial until the reasonable probability of his guilt has first been ascertained in a fairly summary proceeding by a competent officer. It also protects the State from having to conduct useless and expensive trials.[14]

If, as respondent tries to justify his questioned act, the city prosecutor had been sickly, respondent could have endorsed the criminal complaint to the Presiding Judge of the MTCC, Koronadal City. The alleged instruction of the MTCC judge not to accept cases for preliminary investigation did not justify respondent's violation of the Rules. Neither did the alleged failure of the designated Acting City Prosecutor to attend to all criminal cases in the city. Under those circumstances, respondent was not without any remedy.

Parenthetically, why would, by respondent's own claim, allow the filing in the RTC of criminal cases which have not been subjected to preliminary investigations and, after issuing the warrants of arrest, "remand [the cases] to the Prosecutor's Office for further preliminary investigation"? A case of putting the cart before the horse!

It bears stressing that a judge must be faithful to and proficient in the law. He must maintain professional competence which is a mark of a good judge.[15] Basic legal procedures must be at the palm of his hands.[16] When the law is sufficiently basic, a judge owes it to his office to simply apply it. Anything less erodes the confidence of the public in the courts and it constitutes gross ignorance of the law.[17]

WHEREFORE, respondent Judge Oscar E. Dinopol, Regional Trial Court, Branch 24, Koronadal City, South Cotabato is, for Gross Ignorance of the Law and Abuse of Authority, ORDERED to pay a FINE of Twenty Thousand (P20,000.00) Pesos with WARNING that a repetition of the same or similar act will be dealt with more severely. He is further ORDERED to refrain from allowing the filing before the Regional Trial Court of criminal complaints which have not been subjected to preliminary investigation.

SO ORDERED.

Quisumbing, (Chairperson), and Carpio, JJ., concur.

Tinga, J., No part close professional relationship to the relative of respondent.

Velasco, Jr., J., No part due to prior action in OCA

[1] Rollo, pp. 14-15.

[2] Id. at 113-119; Annex "E."

[3] Id. at 10-12.

[4] Id. at 71.

[5] Id at 10.

[6] Id. at 6-8.

[7] Id. at 6-7.

[8] Id. at 7.

[9] Id. at 7-8.

[10] Id. at 8.

[11] Id. at 3-4.

[12] Id. at 4-5.

[13] Vide IV Herrera, Remedial Law, 2001 ed., p. 225; II Regalado, Remedial Law Compendium, 8th ed., 2000, p. 315.

[14] Salta v. Court of Appeals, Nos. L-41395 and L-42973, July 31, 1986, 143 SCRA 228, 234.

[15] Nedia v. Laviña, A.M. No. RTJ-05-1957, September 26, 2005, 471 SCRA 10, 18.

[16] Pesayco v. Layague, A.M. No. RTJ-04-1889, December 22, 2004, 447 SCRA 450, 459.

[17] Cañas v. Castigador, G.R. No. 139844, December 15, 2000, 348 SCRA 425,440.

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