

ELIZA RATILLA DE LA CRUZ, ASSISTED BY ENRIQUETA R. DE LA CRUZ, EDELINE CUISON, ASSISTED BY ESTRELLA CUISON, ANA MARIA CRUZ, ASSISTED BY NIEVES CRUZ AND LOLITA SANTIAGO, ASSISTED...

A.M. No. RTJ-93-1062. August 25, 1994

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This is a case of a judge being made to account for his acquittal of an accused on reasonable doubt.

Respondent Judge Crisanto C. Concepcion of the Regional Trial Court, Branch 12, Malolos, Bulacan, is administratively indicted for gross ignorance of the law and knowingly rendering an unjust judgment for acquitting the accused who was charged before his court with acts of lasciviousness. Parenthetically, respondent is not accused of rendering an erroneous judgment spawned in bad faith, fraud, dishonesty or corruption; much less is immorality imputed to him.

Complainants Elisa Ratilla de la Cruz, 13, Edeline Cuison, 11, Ana Maria Cruz, 12, and Lolita Santiago, 12,[2] alleged before the trial court that they were summoned by their coach, accused Loreto Estrella, Jr., together with other volleyball players, to his classroom at about five o'clock in the afternoon of 16 November 1988. He told them that he had to inspect their private parts for the presence of pubic hair as required by MEC (now DECS) memorandum circulars. In three (3) groups, two (2) of threes and one (1) of two, their coach told them to enter the "health corner room" where they removed their shorts and panties and showed their private parts to him which he touched and stroked.

Elisa, Edeline, Ana Maria and Lolita, with the assistance of their guardians, charged their coach in four (4) separate criminal complaints commonly alleging that he -

x x x x being a public school teacher and in relation to the discharge of his duties as the coach of the girls volleyball team of Bustos Central School, did then and there willfully, unlawfully and feloniously, with lewd designs, commit an act of lasciviousness upon the person of (complainant) by then and there touching her private parts against the latter's will and by means of force.

In the joint trial that ensued, the four (4) girls testified almost identically that upon instruction of the accused they reluctantly pulled down their shorts and panties and when their private parts were already uncovered, the accused in kneeling or squatting position touched their exposed private parts. They described on the witness stand the expression on the face of the accused while allegedly stroking their private parts several times which lasted for about five minutes each as that of elation, "with his eyes wide open in wild excitement."

The accused on his part admitted having examined the pubic hair of the girls, particularly to be sure that as members of his volleyball team not one of them was above 13 in strict compliance with specific school directives and guidelines. He however denied that he touched their private parts and threatened them afterwards.

Upon hearing the prosecution and the defense, respondent Judge observed that the girls consented, without any force employed upon them, to strip themselves from waist down although with understandable reluctance because of their desire to be in the team considering that according to MEC Regional Memorandum No. 90, Series of 1981, in relation to MEC Order No. 66, Series of 1979, failure to submit to physical examination would automatically disqualify a candidate from the volleyball team. Respondent Judge was convinced that -

x x x what he (accused) did touch was only what is called the mons veneris or that part of the female sexual organ where pubic hair could grow. No one of these complainants said that accused also touched the inner part or genital orifice of their private parts. If he did, it is inconceivable that not one of them made any outcry from that health corner room where they were inspected inside in groups of three or two, one group at a time. The Court also refuses to believe that accused touched each one of them several times for about five minutes. That is very unlikely and improbable, not to mention that they never said that before in the police investigation, as well as what they now say the wild excitement on the face of accused while touching them.

To better understand and appreciate the rationale of respondent's decision in the light of the charges hurled against him, i.e., gross ignorance of the law, and knowingly rendering an unjust judgment, it is imperative to quote from his decision which we find exhaustively argued-

Understandably, the accused now denies touching the private parts of the four private complainants. That touching is the very accusation of lascivious act imputed against him. He could have very well said that, no matter how improper and humiliating for the girls it would seem to be, it was part of the necessary inspection he was assigned to do as their coach by the guidelines provided by the then Ministry of Education and Culture Order No. 66, Series of 1979 (Exh. '1'), and its implementing rules and guidelines (Exhs. '2' to '8'), in determining the age eligibility and qualification of would-be young athletes to participate in the forthcoming provincial sports event, taking into consideration, among other things, 'breast enlargement' and 'presence of pubic hair.' Growing pubic hair on young girls just above 13 years of age might still be hardly traceable and accused could probably say that he had to feel it with his fingers to be sure that his very eyes were not deceiving him, but he should have used his better sense of propriety and kind consideration to save the girls from the anguish and humiliation of being touched on the most delicate parts of their bodies. There seemed to be no urgency for that in the fulfillment of his duty as a coach and in obedience to the MEC directive, to see to it that ineligible over-aged players are not allowed to play in the athletic meet then forthcoming, lest he be found responsible and 'be suspended from athletic meets throughout his life, without prejudice to the filing of administrative charges against him even after the athletic meet is over' (Exh. '3-A').

To repeat, the Court is inclined to entertain doubt if the act of accused complained of was a manifestation of his lewd designs and not just his repulsive way of following the silly MEC guideline of determining the age qualification of prospective young athletes which did not even discriminate that female athletes should be inspected for the presence of pubic hair or enlarged breasts by a female coach. First of all, if his real motivation was just to satisfy his lust it was unnatural for him to do that by inspecting the girls eight in all of their private parts one group of three at a time, the last of which was a group of two. In other words, he did not inspect any of the girls alone in the secrecy of the health corner room inside his classroom, in which situation he could have taken liberties with the girl(s) unwitnessed by a third person. Added to this, as already noted, is the fact that he did not touch any of the girls on any other part of her body, like her chest for example, to find out if she already had enlarged breasts. The act of the accused subject of the present accusation seems to the Court not the product of a criminal mind, so much so that he deserves to be exonerated from the charge in each of the four informations. However, for such act of indiscretion, though not felonious but still wrongful, which directly resulted to the mental anguish and humiliation of each of the four young complainants in these cases, the accused must answer for such moral damages they suffered.

A careful analysis of the decision of respondent Judge fails to persuade us that for rendering such well-reasoned verdict he is guilty of gross ignorance of the law and/or knowingly rendering an unjust judgment. In *Revita v.*

Rimando[3] we said -

x x x (i)t may be argued that the respondent committed an error of judgment in dismissing the complaint for grave slander and thus causing (at least in complainant's opinion) a miscarriage of justice.

However, there is no proof that the error was attributable to a conscious and deliberate intent to perpetrate an injustice (In re Climaco, Adm. Case No. 134-J, January 21, 1974, 55 SCRA 107, 119). 'As a matter of public policy, in the absence of fraud, dishonesty, or corruption, the acts of a judge in his judicial capacity are not subject to disciplinary action, even though such acts are erroneous' (48 C.J.S. 974).

To constitute gross ignorance of the law, the subject decision, order or actuation of the judge in the performance of his official duties must not only be contrary to existing law and jurisprudence but, most importantly, he must be moved by bad faith, fraud, dishonesty or corruption. In the case before us, the administrative complaint does not even allege that the erroneous decision of respondent was thus motivated.

Knowingly rendering an unjust judgment is both a criminal and an administrative charge. As a crime, it is punished under Art. 204 of the Revised Penal Code the elements of which are: (a) the offender is a judge; (b) he renders a judgment in a case submitted to him for decision; (c) the judgment is unjust; and, (d) the judge knows that his judgment is unjust.[4] The gist of the offense therefore is that an unjust judgment be rendered maliciously or in bad faith, that is, knowing it to be unjust.[5]

An unjust judgment is one which is contrary to law or is not supported by the evidence, or both. The source of an unjust judgment may be error or ill-will. There is no liability at all for a mere error. It is well settled that a judicial officer, when required to exercise his judgment or discretion, is not liable criminally for any error which he commits, provided he acts in good faith. Bad faith is therefore the ground of liability. If in rendering judgment the judge fully knew that the same was unjust in the sense aforesaid, then he acted maliciously and must have been actuated and prevailed upon by hatred, envy, revenge, greed, or some other similar motive.[6] As interpreted by Spanish courts, the term "knowingly" means sure knowledge, conscious and deliberate intention to do an injustice.[7] Mere error therefore in the interpretation or application of the law does not constitute the crime.

The nature of the administrative charge of knowingly rendering an unjust judgment is the same as the criminal charge. Thus, in this particular administrative charge, it must be established that respondent Judge rendered a judgment or decision not supported by law and/or evidence and that he must be actuated by hatred, envy, revenge, greed, or some other similar motive. In the case at bench, the motive of respondent Judge is not even alleged.

May it be asked: Of what law was respondent Judge grossly ignorant when he acquitted the accused? Corollarily, did he knowingly render an unjust judgment when he extensively discussed and satisfactorily explained his decision?

If we hold respondent guilty as charged, then we might be telegraphing the wrong signals to our trial judges. For then, where administrative sanctions are imposed on them for rendering judgments of acquittal based on reasonable doubt or on difficult questions of law, they would be inclined, and not without practical reason, to hand down verdicts of conviction, in case of doubt. For that course would be safer for them to pursue since, after all, erroneous convictions may still be corrected on appeal. But that would be disregarding the true concept and judicial implication of "reasonable doubt" in criminal cases, under which judges are directed according to the Rules of Court to render a judgment of acquittal.[8] Reasonable doubt is -

x x x that state of the case which, after full consideration of all the evidence, leaves the minds of the jurors in such a condition that they cannot say that they feel an abiding conviction, to a moral certainty, of the truth of the charge. Every person is presumed to be innocent until he is proved guilty. If, upon such proof, there is reasonable doubt remaining, the defendant is entitled to the benefit of it by acquittal. It is not sufficient to

establish a probability, though a strong one, that the fact charged is more likely to be true than otherwise, but the evidence must establish the truth of the fact to a reasonable and moral certainty, a certainty that convinces and directs the understanding, and satisfies the reason and judgment of those who are bound to act conscientiously upon it, and, in order to find the defendant guilty, the evidence must be such as to exclude every single reasonable hypothesis, except that of the guilt of the defendant. In other words, all of the facts proved must be consistent with, and point to, the guilt of the defendant, not only, but the facts must be inconsistent with her innocence. It matters not how clearly the circumstances point to guilt, still, if they are reasonably explainable on a theory which excludes guilt, then it cannot be said that the facts in the case are sufficient to satisfy the jury, beyond a reasonable doubt, of the guilt of the defendant, and in that event she should be acquitted. If, after consideration of the whole case, any one of the jury should entertain a reasonable doubt of the guilt of the defendant, it is the duty of such juror not to vote for a verdict of guilty, and if after a consideration of the whole case, fully, carefully, and honestly made after comparison, still one of the jury should entertain a reasonable doubt of the guilt of the defendant, it would then be the duty of such juror not to vote for a verdict of guilty.[9]

If for every error of a judge - although we do not find any in the case of respondent - he should be punished, then perhaps no judge, however good, competent and dedicated he may be, can ever hope to retire from the judicial service without a tarnished image. Somehow along the way he may commit mistakes, however honest. This does not exclude members of appellate courts who are not always in agreement in their views. Any one belonging to the minority opinion may generally be considered in error, and yet, he is not punished because each one is entitled to express himself. This privilege should extend to trial judges so long as the error is not motivated by fraud, dishonesty, corruption,[10] or any other evil motive.

Ordinarily, the act of a man in touching and stroking the private parts of a woman is, by itself, lewd for no hand of a man would wander or venture near her *manzanas prohibidas* if not for a lascivious motivation. But even if the accused stroked and touched the girls on their *montes veneris*,[11] respondent nevertheless absolved the accused of criminal liability on the theory that the complained acts may no longer be considered lascivious in view of the directives and implementing rules and guidelines of the then Ministry (now Department) of Education, Culture and Sports which imposed on the coaches of boys' and girls' volleyball teams the responsibility of excluding overaged players from their teams using as one of the criteria the presence of pubic hair. In other words, since the complained acts may be considered lawful under MECS orders, rules and guidelines, respondent Judge may have had reason to conclude that lewdness could no longer be merely presumed.

Although we are not supposed to pass upon the merits of the case, a cursory discussion thereon is deemed necessary for the purpose of establishing that respondent, in rendering a judgment of acquittal, did not disregard, much less violate, any law or known jurisprudence. In *People v. Balbar*[12] we ruled that the presence or absence of lewd designs is inferred from the nature of the acts themselves and the environmental circumstances. This supports our conviction that in the case at bench the accused did not have a criminal mind at all, hence, his acquittal by the respondent. After all, in the face of two plausible self-sustaining theories, albeit contradictory, one for conviction and the other for acquittal, the latter prevails under the constitutional presumption of innocence, applying as our parameter the test spelled out in the preceding paragraphs.

We reiterate that "mere errors in the appreciation of evidence, unless so gross and patent as to produce an inference of ignorance or bad faith, or that the judge knowingly rendered an unjust decision, are irrelevant and immaterial in an administrative proceeding against him." [13] In *Ad Hoc Committee Report re Judge Silverio S. Tayao, RTC, Branch 143, Makati, and Morada v. Judge Tayao*, [14] this Court through Mr. Justice Feliciano incisively and appropriately explained -

x x x x By its nature, judicial discretion involves the exercise of judgment on the part of the judge. The judge

must be allowed a reasonable latitude for the operation of his own individual view of the case, his appreciation of the facts, and his understanding of the applicable law on the matter. Judicial discretion is, of course, not unlimited; it must be guided and controlled by well-known rules and principles x x x x

If Judge Tayao committed any error at all, it was an error of judgment and it is important to recall the firmly established principle that a judge may not be administratively charged for mere errors of judgment, in the absence of a showing of any bad faith, malice or corrupt purpose:

‘A Judge cannot be held to account or answer, criminally, civilly, or administratively, for an erroneous decision rendered by him in good faith (In re: Petition for the Dismissal from Service and/or Disbarment of Judge Baltazar R. Dizon, 173 SCRA 719 [1989]).

As a matter of public policy, in the absence of fraud, dishonesty, or corruption, the acts of a judge in his judicial capacity are not subject to disciplinary action, even though such acts are erroneous (Revita vs. Rimando, 98 SCRA 619 [1980]; Ubongon vs. Mayo, 99 SCRA 30 [1980]; Ramirez vs. Corpuz-Macandog, 144 SCRA 462 [1986]; Abad vs. Bleza, 145 SCRA 1 [1986]; Heirs of Julio Rosas vs. Reyes, 188 SCRA 236 [1990]; Pilipinas Bank vs. Tirona-Liwag, 190 SCRA 834 [1990]).

Mere errors in the appreciation of such evidence, unless so gross and patent as to produce an inference of ignorance or bad faith, or that the judge knowingly rendered an unjust decision, are irrelevant and immaterial in an administrative proceeding against him. No one, called upon to try facts or interpret the law in the process of administering justice, can be infallible in his judgment. All that is expected of him is that he follow the rules prescribed to ensure a fair and impartial hearing, assess the different factors that emerge therefrom and bear on the issues presented, and on the basis of the conclusions he finds established, with only his conscience and knowledge of the law to guide him, adjudicate the case accordingly (Vda. de Zabala vs. Pamaran, 39 SCRA 430 [1971]).’

Pertinently, it may be mentioned that on 26 February 1992, or almost a year before respondent Judge handed down his subject decision on 8 January 1993, then Judge Narciso T. Atienza of the Regional Trial Court of Malolos, Bulacan, Branch 16, likewise acquitted the same accused on a similar charge of acts of lasciviousness committed on one Sarah Jane Lapuz, an aspirant to the track and field team coached by the accused. His decision was never questioned. Incidentally, Judge Atienza was later elevated to the Sandiganbayan.

WHEREFORE, the administrative charges of gross ignorance of the law and knowingly rendering an unjust judgment against respondent JUDGE CRISANTO C. CONCEPCION of the Regional Trial Court of Malolos, Bulacan, Branch 12, are DISMISSED for lack of merit.

SO ORDERED.

Narvasa, C.J., Feliciano, Bidin, Davide, Jr., Melo, Quiason, Puno, Kapunan, and Mendoza, JJ., concur.

Padilla, Regalado, and Vitug, JJ., in the result.

Cruz, J., on leave.

Romero, J., dissenting opinion.

[1] Originally a dissenting opinion.

[2] Crim. Cases Nos. 614-M-89, 615-M-89, 616-M-89 and 617-M-89, respectively.

[3] Adm. Matter No. 1439-MJ, 22 July 1980, 98 SCRA 619, 624.

[4] Reyes, Luis B., The Revised Penal Code (1977), Bk. II, p. 340.

- [5] Annotation: Malfeasance and Misfeasance of Judges (Knowingly Rendering Unjust Judgment), 55 SCRA 308, 313-314.
- [6] IV Viada, *Codigo Penal*, 305.
- [7] Decisions of the Supreme Court of Spain, October 1884 and January 10, 1900, cited in Guevarra, *Commentaries on the Revised Penal Code*, p. 418.
- [8] Sec. 2, Rule 133, *The Revised Rules of Court*.
- [9] *Words and Phrases*, v. 36, p. 536, citing *Chadwick v. U.S.* 141 F. 225, 228, 72 C.C.A. 343.
- [10] Same standard was used in *Pilos v. Honrado*, A.M. No. 1230-CFI, 23 November 1981, 109 SCRA 338; *Abad v. Bleza*, A.M. Nos. R--227-RTJ, R-561-RTJ and 5249-Ret, 13 October 1986, 145 SCRA 1; *Libarios v. Dabalos*, A.M. No. RTJ-89-286, 11 July 1991, 199 SCRA 48; *Lim v. Domagas*, A.M. No. RTJ-92-899, 15 October 1993, 227 SCRA 258, 263; *Chan v. Agcaoili*, A.M. No. RTJ-93-1089, 27 June 1994.
- [11] Plural of *mons veneris*, that part of the female genitalia where pubic hair grows after the age of 13.
- [12] Nos. L-20216-17, 29 November 1967, 21 SCRA 1119, 1124.
- [13] *Balayon, Jr. v. Ocampo*, A.M. No. MTJ-91-619, 29 January 1993, 218 SCRA 13, 24-25, citing *Vda. de Zabala v. Pamaran*, Adm. Case No. 200-J, 39 SCRA 430 (1971), which was also cited in *Ramirez v. Corpus-Macandog*, A.M. No. R-351-RTJ, 144 SCRA 462 (1986); see also *Ubungen v. Mayo*, A.M. No. 1255-CTJ, 6 August 1980, 99 SCRA 30, 34, citing *Vda. de Zabala v. Pamaran*, *supra*; *Louis Vuitton, S.A. v. Villanueva*, A.M. No. MTJ-92-643, 27 November 1992, 216 SCRA 121, 131, citing *Miranda v. Manalastas*, A.M. No. MTJ-88-159, 21 December 1989; *Negado v. Autajay*, A.M. No. R-710-RTJ, 21 May 1993, 22 SCRA 295, 298 citing *Ramirez v. Corpus--Macandog*, *supra*.
- [14] A.M. Nos. 93-8-1204-RTC and RTJ-93-978, respectively, 7 February 1994, pp. 9, 15-16.

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SEPARATE DISSENTING OPINION

ROMERO, J.:

I find it difficult to agree with the majority opinion that the charge against respondent judge be dismissed, thereby exonerating him from any administrative liability. I am likewise unable to join the decision of my distinguished colleagues subscribing to the finding of respondent judge that no acts of lasciviousness were committed by the accused Loreto Gaspar Estrella, Jr. alias "Boy Turko" in Criminal Cases 614-M-89, 615-M-89, 616-M-89 and 617-M-89.

The Office of the Court Administrator itself, after some four (4) months of investigation and evaluation, noted in its Report that the "respondent judge in his decision defied human logic because by complying with the supposed DECS order, there was no need to touch and stroke the girls' private parts," especially as it is not disputed that the accused did so with pleasure in his eyes. Considering the moral ascendancy amounting to intimidation which the accused had over the complainants, he may be said to have subdued the free exercise of their will, such dominating compulsion directed against their chastity resulting in their mental anguish and humiliation. The OCA recommended a P20,000.00 fine coupled with a stern warning that a repetition thereof would merit a harsher sanction.

The judge himself, in his decision dated January 8, 1993, admitted that "touching the girls' private parts was a repulsive way of following the silly MEC guideline of determining the age qualification of prospective athletes" for the girls' volleyball team. Indeed, is there no other, and certainly less "repulsive" way of gauging the fitness of an aspiring athlete than the tactile?

Moreover, the respondent judge, in his attempt to disprove any lewd designs on the part of the accused, stated: "Added to this, as already noted, is the fact that he did not touch any of the girls on any other part of her body, like her chest for example, to find out if she already had enlarged breasts." After having invaded the most private, nay, the most sacred part of a girl's body, any other molestation pales into insignificance.

To my mind, any teacher who uses administrative guidelines of the Ministry of Education as an excuse to satisfy his lust and inflict his lecherousness on innocent girls deserves strong condemnation from any judge worth the robe he dons and who is regarded in the community as an upright, moral and just man.

That another case was brought against the accused on a similar charge of acts of lasciviousness on another female aspirant to the track and field team, even if another misguided judge saw fit to deliver a judgment of acquittal, is strongly indicative of the propensity of said accused to take advantage of chaste girls under his charge. Such morally perverse officials from whom the public would expect a higher standard of morality inasmuch as they stand as guardians of young girls in loco parentis in the school premises should have received more than just a figurative slap on the wrist (in this case moral damages), from respondent judge. The latter had the opportunity to mete out a penalty cum a resounding reminder on the accused with respect to his moral responsibilities as a teacher. Sad to say, he passed up this opportunity. Who is to say who is the worse transgressor, the offender himself or the one who by virtue of his position of authority could have induced the former to henceforth tread the path of rectitude? We can only lament the fact that both share the same lax moral standards to the detriment of the present and future crop of prospective virginal athletes. The judiciary would undoubtedly be better off minus one judge of the questionable moral scruples of respondent.

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