

EDUARDO SAN MIGUEL, COMPLAINANT, VS. JUDGE BONIFACIO SANZ MACEDA, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 275, LAS PIÑAS CITY, RESPONDENT.

A.M. NO. RTJ-03-1749 (FORMERLY OCA IPI-01-1342-RTJ). April 04, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is the Complaint-Affidavit[1] dated November 28, 2001 of Eduardo M. San Miguel (complainant) charging Judge Bonifacio Sanz Maceda (respondent), Presiding Judge, Regional Trial Court (RTC), Branch 275, Las Piñas City with Gross Ignorance of the Law, Manifest Partiality, Gross Misconduct, Grave Abuse of Authority, Evident Bad Faith and Gross Inexcusable Negligence, relative to Criminal Case No. 00-0736, entitled "People of the Philippines v. Eduardo M. San Miguel and Socorro B. Osorio," for Violation of Section 15, Article III, Republic Act (R.A.) No. 6425.[2]

Complainant was arrested for illegal sale, dispensation, distribution and delivery of .50 grams of methamphetamine hydrochloride, punishable by prision correccional. He jumped bail. On May 10, 2001, then Judge Florentino Alumbres issued a bench warrant and canceled his bail bond in the amount of P60,000.00 and fixed a new bail bond in the amount of P120,000.00. Complainant was arrested on September 8, 2001. On September 12, 2001, the state prosecutor filed a Motion to Cancel Recommended Bail on the ground of reasonable belief and indications pointing to the probability that accused is seriously considering flight from prosecution. The Motion was set for hearing on September 19, 2001. On September 17, 2001, complainant filed an Opposition to the Motion. On the same day, or two (2) days before the scheduled hearing, respondent issued an Order granting the Motion. During the hearing of September 19, 2001, respondent opted to consider complainant's Opposition as a motion for reconsideration and merely ordered the prosecutor to file a reply thereto. On November 21, 2001, respondent issued an Order clarifying his Order of September 17, 2001.

Complainant comes to this Court alleging that his right to procedural due process was gravely violated when respondent issued the September 17, 2001 Order without giving him the opportunity to comment on the same. The issuance of the September 17, 2001 Order shows respondent's gross ignorance of the law as the offense charged is neither a capital offense nor punishable by reclusion perpetua. His right to bail is not a mere privilege but a constitutionally guaranteed right that cannot be defeated by any order. Clearly, the intendment of the September 17, 2001 Order was to deny him of his constitutional right to bail. The issuance of the November 21, 2001 Order that only the bail recommended by the prosecutor was considered withdrawn did not relieve the respondent of any liability.

In his Comment[3] dated March 8, 2002, respondent explained that the motion to cancel the prosecutor's recommended bail in Crim. Case No. 00-0736 did not need any hearing because the court could act upon it without prejudicing the rights of the adverse party. When he canceled the bail, the cancellation referred to the P60,000.00 and not the P120,000.00 bail fixed by Judge Alumbres. The September 17, 2001 Order canceling the

bail does not speak of the cancellation of the P120,000.00 bail and the same was reaffirmed in a subsequent Order on November 21, 2001. The right of complainant to be heard in the motion to withdraw bail was never violated nor his right to bail impaired. Complainant could have posted the P120,000.00 bail fixed by Judge Alumbres or could have seasonably moved for the lifting of the warrant, but he did not. The Order of cancellation is dated September 17, 2001 while the Information for murder was filed against complainant on September 14, 2001 or three days earlier. Thus, the cancellation was in due course because complainant was already detained for the non-bailable offense of murder three days before the cancellation was ordered.

In the Agenda Report[4] dated September 17, 2002, the Office of the Court Administrator (OCA) submitted its evaluation and recommendation, to wit:

EVALUATION: The complaint is meritorious.

The complainant is correct in saying that the order dated September 17, 2001 of respondent denied him his right to bail. This order was issued upon motion of the prosecution which motion was quite explicit of what was sought to be cancelled. The motion in part reads:

x x x

- In the said warrant of arrest the Honorable Court recommended bail in the amount of P120,000.00 to secure the provisional release of the accused. Undersigned most respectfully moves for the cancellation of this recommended bail amount due to the actuations of both accused towards the authority of this Honorable Court.

x x x

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed that the allowance for bail granted to the accused to secure their provisional liberty provided in the Warrant of Arrest dated May 10, 2001 be CANCELLED as there is reasonable ground to believe and all indication, point to the probability, that both accused are seriously considering flight from the prosecution of the instant case. x x x

It is thus clear that what the prosecution prayed for was the cancellation of the bail of P120,000.00 set by Judge Alumbres in his Warrant of Arrest dated May 10, 2001. This necessarily meant that the prosecution wanted complainant to remain in jail without bail. Hence, when respondent granted the motion in his order dated September 17, 2001, he in effect denied complainant his right to bail. It can not be denied that since complainant was charged with an offense not punishable by death, reclusion perpetua and life imprisonment and since he has not yet been convicted, bail in his case is still a matter of right. (Section 4, Rule 114, Rules of Court) This is true notwithstanding the fact that he previously jumped bail. In such a case, respondent should have increased the amount of bail or set certain conditions to ensure complainant's presence during the trial, but he can not deny altogether complainant's right to bail.

x x x

In order to prove his point that he never intended to deny respondent his right to bail, respondent used as example Socorro Osorio, the other co-accused, who was able to gain her provisional liberty by posting a bail of P120,000.00. This is untenable. Ms. Osorio was able to post bail only on November 26, 2001 (Rollo, p. 5) or five (5) days after respondent issued his clarificatory order of November 21, 2001. It is important to recall that the first order of respondent, that dated September 17, 2001, gave the clear impression that bail has been cancelled and from that date up to the time he issued the order dated November 21, 2001 clarifying his position, or a period of two (2) months, complainant stayed in jail because he has lost his right to bail as a result of the patently erroneous and illegal order of respondent Judge. Hence, respondent is liable for gross ignorance of the law for having denied

complainant's right to bail in a case where bail was a matter of right. Besides, the prosecution's motion was granted two (2) days before the scheduled date of hearing thereby depriving the accused of his right to due process.

RECOMMENDATION: Respectfully submitted for the consideration of the Honorable Court our recommendations that the instant complaint be RE-DOCKETED as a regular administrative matter and respondent be FINED in the amount of P5,000.00 with a WARNING that commission of a similar offense in the future shall be dealt with more severely.[5]

In the Resolution of November 27, 2002, the Court required the parties to manifest if they were willing to submit the case for resolution on the basis of the pleadings. Difficulties were encountered in notifying the parties.

Finally, on September 18, 2006, respondent manifested his willingness to submit the case for resolution based on the pleadings.

In its undated Letter-Reply,[6] the Postmaster of Las Piñas informed the Court that the letter addressed to complainant under Registry No. 59265 dated June 23, 2005 was returned unserved with the notation "RTS-Deceased."

Thus, in the Resolution of January 29, 2007, the Court deemed the case submitted for resolution.

The Court agrees with the findings and recommendations of the OCA.

Section 13, Article III of the 1987 Constitution provides:

All persons, except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of habeas corpus is suspended. Excessive bail shall not be required.

Section 4, Rule 114 of the Revised Rules of Criminal Procedure provides that before conviction by the Regional Trial Court of an offense not punishable by death, reclusion perpetua, or life imprisonment, all persons in custody shall be admitted to bail as a matter of right.

Records show that complainant was charged with violation of Section 15, Article III of R.A. No. 6425 which is punishable by prision correccional. Following the provisions of the Constitution and the Revised Rules of Criminal Procedure, complainant is entitled to bail as a matter of right.

Records show that the prosecutor's Motion to Cancel Recommended Bail was very precise in its prayer, i.e., that the allowance for bail granted to the accused to secure his provisional liberty provided in the Warrant of Arrest dated May 10, 2001 be canceled as there is reasonable ground to believe and all indications point to the probability that accused is seriously considering flight from the prosecution of the case.

Two days before the scheduled date of hearing of the prosecutor's Motion, respondent issued the Order dated September 17, 2001, to wit:

ORDER

Considering the allegations in the Motion to Cancel Recommended Bail filed by the State Prosecutor that both accused are considering flight, especially accused San Miguel who is facing a number of grave criminal charges, and the probability of the accused jumping bail is very high to warrant the cancellation of the recommended bail, and it appearing that the accused x x x jumped bail on May 10, 2001, the x x x motion is GRANTED. The bail recommended xxx is considered withdrawn.

SO ORDERED.[7]

However, respondent continued with the hearing on September 19, 2001. He considered the Opposition to the Motion as a motion for reconsideration of the assailed Order granting the withdrawal by the prosecution of the recommended bail.[8] This may have rectified the mistake committed by respondent as the latter took into consideration that the accused has a right to due process as much as the State;[9] but then, no evidence was adduced to prove that complainant was seriously considering flight from prosecution, which was very critical to the granting or denial of the motion of the prosecution to cancel bail.

In his Order dated November 21, 2001, to wit:

ORDER

The question is whether or not the increased bail of P120,000.00 fixed by x x x Hon. Florentino M. Alumbres, in the Warrant of Arrest he issued on May 10, 2001 x x x was also withdrawn by the Order dated September 17, 2001 granting the prosecution's withdrawal of its recommended bail.

The answer is in the negative.

On September 19, 2001 Atty. Sebrio xxx manifested that x x x the bail fixed by Judge Alumbres was not affected by the withdrawal of the prosecution's recommended bail. That is correct. Any of the accused, therefore, could have applied for bail thereunder. They could have even moved for the lifting of the warrant dated May 10. But, they did not.

It is clear from the [September] 17 Order that only the bail recommended by the prosecutor was "considered withdrawn". Such Order does not speak of cancellation of the P120,000.00 bail fixed by the former Presiding Judge x x x.

SO ORDERED.[10]

respondent clarified that the bail fixed by Judge Alumbres was not affected by the withdrawal of the prosecution's recommended bail; only the bail recommended by the prosecutor in the amount of P60,000.00 was considered withdrawn in the Order of September 17, 2001. This belated order cannot exonerate respondent from liability. The bail in the amount of P60,000.00 was already forfeited as a consequence of complainant's jumping bail.[11] How then can respondent claim that he merely canceled the recommended bail of P60,000.00 when the same had already been forfeited? The only recommended bail that remains subject of the Motion of the prosecutor is the increased bail in the amount of P120,000.00. Thus, there remains no other conclusion except that respondent canceled the recommended bail in the increased amount of P120,000.00. The Order of September 17, 2001 effectively deprived complainant of his constitutional right to bail when it was issued two days before the scheduled hearing on September 19, 2001.

The OCA was right in observing that it was a mere afterthought on the part of respondent in issuing the clarificatory Order, for how can the latter cancel the P60,000.00 bail when the same was already forfeited as a consequence of complainant's jumping bail?

And even granting for the sake of argument that complainant was also charged with the crime of murder on September 14, 2001, or three days before the Order of cancellation was issued, respondent failed to consider that what was being prayed for by the prosecutor was the cancellation of the recommended bail for violation of R.A. No. 6425 and not that of the crime of murder.

Respondent's asseveration that the cancellation of the bail without due hearing was justified considering that complainant was already detained for the non-bailable offense of murder three days before the cancellation was

ordered, is misplaced.

As we opined in *Andres v. Beltran*,^[12] it is a misconception that when an accused is charged with the crime of murder, he is not entitled to bail at all or that the crime of murder is non-bailable. The grant of bail to an accused charged with an offense that carries with it the penalty of reclusion perpetua x x x is discretionary on the part of the trial court. In other words, accused is still entitled to bail but no longer "as a matter of right." Instead, it is discretionary and calls for a judicial determination that the evidence of guilt is not strong in order to grant bail. The prosecution is accorded ample opportunity to present evidence because by the very nature of deciding applications for bail, it is on the basis of such evidence that judicial discretion is weighed in determining whether the guilt of the accused is strong.^[13]

As we held in *Sy Guan v. Amparo*,^[14] where bail is a matter of right and prior absconding and forfeiture is not excepted from such right, bail must be allowed irrespective of such circumstance. The existence of a high degree of probability that the defendant will abscond confers upon the court no greater discretion than to increase the bond to such an amount as would reasonably tend to assure the presence of the defendant when it is wanted, such amount to be subject, of course, to the other provision that excessive bail shall not be required.^[15]

Upon review of the TSN of the September 19, 2001 hearing, we find that the prosecutor failed to adduce evidence that there exists a high probability of accused's jumping bail that would warrant the cancellation of the recommended bail bond. Following then the above ratiocination, respondent's only recourse is to fix a higher amount of bail and not cancel the P120,000.00 bail fixed by Judge Alumbres.

Well-entrenched is the rule that a party's remedy, if prejudiced by the orders of a judge given in the course of a trial, is the proper reviewing court, and not with the OCA by means of an administrative complaint.^[16] As a matter of 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.^[17] A judge may not be disciplined for error of judgment unless there is proof that the error is made with a conscious and deliberate intent to commit an injustice. Thus, as a matter of public policy, not every error or mistake of a judge in the performance of his official duties makes him liable therefor.^[18] The Court has to be shown acts or conduct of the judge clearly indicative of arbitrariness or prejudice before the latter can be branded the stigma of being biased and partial. To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment.^[19]

For liability to attach for ignorance of the law, the assailed order of a judge must not only be erroneous; more important, it must be motivated by bad faith, dishonesty, hatred or some other similar motive.^[20] Complainant, having failed to present positive evidence to show that respondent judge was so motivated in granting the Motion without hearing, can not be held guilty of gross ignorance of the law.

Anent the allegation that complainant was deprived of his right to due process, we find the same meritorious.

Sec. 1, Article III of the Constitution provides that no person shall be deprived of life, liberty, or property without due process of law.

Respondent's issuance of the September 17, 2001 Order two days prior to the scheduled hearing without considering complainant's Opposition to the Motion, effectively deprived the latter of his constitutional right to due process. As above stated, during the September 19, 2001 hearing, respondent considered the Opposition to the Motion as a motion for reconsideration of the assailed Order, albeit, the prosecutor was merely ordered to file its reply thereto without adducing evidence to prove the high probability that complainant will jump bail.

Respondent's issuance of the assailed Order before the scheduled hearing is premature and is tantamount to

misconduct. Thus, we find respondent guilty of simple misconduct. Misconduct is defined as any unlawful conduct on the part of a person concerned in the administration of justice prejudicial to the rights of parties or to the right determination of the cause.[21] It generally means wrongful, improper or unlawful conduct motivated by a premeditated, obstinate or intentional purpose. Respondent may not be held guilty of gross misconduct because the term "gross" connotes something "out of all measure; beyond allowance; not to be excused; flagrant; shameful." [22] In this case, complainant was not able to post bail because there is no other way for a lay man to interpret the assailed Order except that it effectively canceled the bail bond fixed by Judge Alumbres, thereby depriving him of his right to temporary liberty as a result of respondent's erroneous Order.

WHEREFORE, Judge Bonifacio Sanz Maceda, RTC, Branch 275, Las Piñas City is found GUILTY of simple misconduct and FINED in the amount of P5,000.00 with a WARNING that a repetition of the same or similar acts in the future will be dealt with more severely.

SO ORDERED.

Ynares-Santiago, (Chairperson), Callejo, Sr., Chico-Nazario, and Nachura, JJ., concur.

[1] Rollo, pp. 2-5.

[2] The Dangerous Drugs Act of 1972.

[3] Rollo, pp. 41-48.

[4] Id. at 69-72.

[5] Id. at 70-72.

[6] Id. at 88.

[7] Rollo, p. 13.

[8] Id. at 31.

[9] *People v. Lacson*, 459 Phil. 330, 346-347 (2003).

[10] Rollo, p. 33.

[11] REVISED RULES OF CRIMINAL PROCEDURE, Rule 114, Sec. 21.

[12] 415 Phil. 598 (2001).

[13] *Andres v. Beltran*, supra note 12, at 603-604.

[14] 79 Phil. 670 (1947).

[15] Id. at 671-672.

[16] *Dadula v. Ginete*, A.M. No. MTJ-03-1500, March 18, 2005, 453 SCRA 575, 587.

[17] Id. at 587.

[18] *Pantig v. Daing, Jr.*, A.M. No. RTJ-03-1791, July 8, 2004, 434 SCRA 7, 16.

[19] *Dadula v. Ginete*, supra note 16, at 587.

[20] *Zuño v. Cabebe*, A.M. OCA No. 03-1800-RTJ, November 26, 2004, 444 SCRA 382, 391.

[21] Office of the Court Administrator v. Paderanga, A.M. No. RTJ-01-1660, August 25, 2005, 468 SCRA 21, 35.

[22] Id. at 35-36.

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