

JOEY CUARESMA AND ABRAHAM CUARESMA, COMPLAINANTS, VS. JUDGE RESTITUTO AGUILAR, RESPONDENT.*A.C. No. RTJ-92-845. September 03, 1993*

Ponente: PUNO, J.

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The facts show that in an Information dated November 15, 1991, the Provincial Prosecutor of Occidental Mindoro, Gorgonio D. Olarte, charged Florencio Banite with the murder of Daniel Acosta, a relative of herein complainants. The Information, which carried no recommendation for bail, was docketed as Criminal Case No. 2-648 in Branch 44 of the RTC of Mamburao, Occidental Mindoro presided over by the Honorable Venancio M. Tarriela.

The accused Banite was arraigned on January 3, 1992 where he pleaded not guilty. His case was set for pre-trial and trial on February 24, 25 and 26, 1992. It appears, however, that on January 28, 1992, Prosecutor Olarte amended the Information against Banite to Homicide and recommended a bail of P20,000.00, without leave of court. Judge Tarriela ordered Prosecutor Olarte to explain his action considering that the accused Acosta had already been arraigned.

On February 4, 1992, Mrs. Agripina Agbayari Zubiri, Supervising Steno-Reporter IV at the Office of the Provincial Prosecutor, San Jose, Occidental Mindoro, went to see the respondent judge, the Hon. Restituto L. Aguilar, in his chambers. Respondent judge is the Executive and Presiding Judge of Branch 45, RTC, San Jose, Occidental Mindoro. Mrs. Zubiri informed the respondent judge that she was sent by Prosecutor Olarte to request for the release of accused Banite on a bail of P20,000.00. All pertinent papers, including the Property Bail Bond, the Order approving the bond and directing the release of the accused, etc., were already prepared for the signature of the respondent judge. On the same day, respondent judge signed and issued the Order dated February 4, 1992 approving the property bond, and the Order directing the annotation of said undertaking as lien with the Register of Deeds.

On the strength of the above Orders, accused Banite was released.

Complainants, Joey and Abraham Cuaresma, charged respondent judge with grave abuse of authority. They claim that respondent judge has no right to order the release of Banite since the latter's case was being tried in the sala of Judge Tarriela. They also aver that the release of Banite has endangered their lives. Respondent judge justifies his action under Section 14(a), Rule 114 of the Rules of Court. He also invokes good faith.

We find merit in the complaint.

The reliance of respondent judge on Section 14(a), Rule 114 is misplaced. We quote said section:

"Bail in the amount fixed may be filed with the court where the case is pending, or, in the absence or unavailability of the judge thereof, with another branch of the same court within the province or city. If the accused is arrested in a province, city or municipality other than where the case is pending, bail may be filed

also with any regional trial court of said place, or if no judge thereof is available, with any metropolitan trial judge, municipal trial judge or municipal circuit trial judge therein."

The case against accused Banite was filed in Branch 44, presided over by Judge Tarriela. Respondent judge who presides in Branch 45, had no power to act on the request to release on bail accused Banite. The record does not show that at the time respondent judge ordered Banite's release, Judge Tarriela was absent or unavailable and could not have acted on the request. It was also irregular for respondent judge to entertain the request considering that it did not appear that a formal motion had been filed by the accused to that effect. Indeed, respondent judge did not even examine the records of the case as he merely signed the Orders allegedly prepared by Prosecutor Olarte. His indifference to duty prevented him from discovering that at the time he ordered the release of accused Banite, the Information charging the latter with Murder with no recommendation for bail had not been properly amended.

This Court has not been wanting in its warnings that judges should endeavor to maintain at all times the confidence and high respect accorded to those who wield the gavel of justice. Circular No. 13, dated July 1, 1987, enjoins judges "to conduct themselves strictly in accordance with the mandate of existing laws and the Code of Judicial Conduct that they be exemplars in their communities and the living personification of justice and the Rule of Law." In *Ramirez vs. Corpus-Macandog* (Adm. Matter No. R-359-RTJ, September 26, 1986, 144 SCRA 462), this court stressed:

"Judges are required to observe due care in the performance of their official duties. They are likewise charged with the knowledge of internal rules and procedures, especially those which relate to the scope of their authority. They are duty bound to observe and abide by these rules and procedures, designed as they are, primarily to ensure the orderly administration of justice."

Respondent judge's action shows such lack of familiarity with our laws, rules and regulations as to undermine the public confidence in the integrity of our courts.

PREMISES CONSIDERED, respondent Judge Restituto Aguilar, Executive Judge and Presiding Judge of the Regional Trial Court, Branch 45, San Jose, Occidental Mindoro, is hereby ordered to pay a fine of two thousand pesos (P2,000.00). Further, he is admonished to exercise greater care and prudence in the performance of his official duties for repetition of the same or similar act or omission in the future shall be dealt with more severely by this Court.

SO ORDERED.

Narvasa, C.J. Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Quiason, and Vitug, JJ., concur.

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