

HON. CELESTINO C. JUAN, COMPLAINANT, VS. MUNICIPAL JUDGE FAUSTINO P. ARIAS, CANDELARIA, QUEZON AND ANSELMO NADRES, CLERK, RESPONDENTS.

A.M. No. P-310. August 23, 1976

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

This is a plain case of negligence which constrains the Court to order the suspension from office of a court employee and a municipal judge.

Having delayed for a period of seven (7) years the remand of Criminal Case 1322 of the Municipal Court of Candelaria, province of Quezon, entitled "People vs. Gregorio Balasbas, et al. for Homicide" to the Court of First Instance of Quezon, Municipal Judge Faustino Arias and his clerk, Anselmo Nadres, are hereby found guilty of gross negligence in the performance of their official duties.

The records of this case show that on January 10, 1966, Criminal Case 1322 was filed with the Municipal Court of Candelaria, Quezon against Gregorio Balasbas, Pastor Balasbas and Eleno Punzalan, accusing them of homicide alleged to have been committed on November 13, 1965 at Barrio Bukal Norte, municipality of Candelaria, Quezon, wherein the victim was one Luis M. Dimaculañgan. A pre-liminary investigation was conducted by Municipal Judge Faustino Arias. In the month of January, 1974, a CIS agent appeared in the office of Judge Arias to inquire about the status of said criminal case and this inquiry brought out the fact that the record of the case was still with the municipal court and had not been transmitted to the Court of First Instance.[1] Whereupon, Judge Arias forwarded the record of Criminal Case 1322 to the Court of First Instance of Quezon where the case was assigned by raffle to Branch I presided by Honorable Judge Delia P. Medina.[2] To the credit of Judge Medina, upon seeing that there was a seven-year delay in the transmittal of the case, she required Municipal Judge Arias to explain the cause for such delay.[3] The explanation was forwarded to the Executive Judge of Quezon who at the time was Hon. Celestino Juan and upon receipt of said report, Judge Juan directed Judge Arias to conduct a formal investigation of the matter.[4] The report of Judge Arias placed the blame for the delay on his clerk, Anselmo Nadres, who allegedly failed to forward the record of the case after Judge Arias had prepared and signed an Order of transmittal on January 17, 1967.[5]

Upon receipt of the report of Judge Arias, Judge Juan forwarded the same to this Court recommending that Anselmo Nadres be administratively dealt with and penalized with a fine equivalent to two (2) months of his salary.[6]

Not satisfied with the report of Judge Arias and the above-mentioned recommendation of Judge Juan, the Court resolved to include Judge Arias as respondent in this case and required him to comment on his responsibility for the delay.[7] The case was then heard by the Court en banc during which Judge Arias appeared, the other respondent having chosen not to be present at the hearing.[8]

The record of the criminal case filed with the municipal court "People vs. Gregorio Balasbas, et al." which was

ordered brought to the Court for Our examination shows the following: A complaint for homicide against Gregorio Balasbas, Pastor Balasbas and Eleno Punzalan was filed by Sgt. Honorio V. Medrano, and was docketed on January 10, 1966 in the Municipal Court of Candelaria, Quezon, as Criminal Case 1322. Attached to the complaint were affidavits of certain witnesses all dated January 10, 1966. The deceased was Luis M. Dimaculañgan who died on November 13, 1965 of severe hemorrhage due to multiple stab wounds. The warrant of arrest was issued by the Municipal Judge on January 10, 1966. On January 21, 1966, Pastor Balasbas and Eleno Punzalan filed a property bond of P20,000.00 each and an order of release was issued. The other accused Gregorio Balasbas filed his bond on March 14, 1966 and the order for his release was issued on the same date. The preliminary investigation of the case was terminated on November 11, 1966. On December 2, 1966, the three accused filed a waiver of the second stage of the preliminary investigation.

Municipal Judge Arias now explains that: on January 17, 1967, he prepared and signed an order transmitting the records of aforesaid case to the Court of First Instance of Quezon, and he gave this order to his clerk, Anselmo Nadres, whose duty it was to forward the record of the case to the court of first instance, and believing that his clerk had so complied, he did not do anything further on the matter, not until a CIS agent came to his office to inquire about the case and it was only then that he discovered that the record of the case was not properly forwarded; having found in the record his order of January 17, 1967, what he did was to cross the year "1967" and superimpose on it the year "1974".[9]

Respondent Nadres on his part admits responsibility for the delay in forwarding the record of Criminal Case 1322 to the Court of First Instance but claims that it was occasioned by pressure of work as he was the only employee in the court and he had to act as stenographer, messenger and janitor. Believing that he had already transmitted the record, he invariably assured Judge Arias whenever the latter made inquiries, that the transmittal had been effected.[10]

The explanation of both respondents are lame excuses which will not serve to exculpate them from liability for gross negligence in the performance of their duties.

Section 12, Rule 112, Rules of Court provides:

"SEC. 12. Transmission of record. - Upon the conclusion of the preliminary investigation, the judge or corresponding officer shall transmit without delay to the clerk of the Court of First Instance having jurisdiction of the offense the record of the case, including (a) the warrant, if the arrest was by virtue of a warrant, and the written testimony in support of the same; (b) an abstract of the testimony of the witnesses at the preliminary investigation; (c) the undertaking or bail of the accused; (d) the person of the accused if not on bail; and (e) his findings from the preliminary investigation." (Italics Supplied)

The obligation to forward immediately the record of Criminal Case 1322 to the Court of First Instance devolved upon respondent Judge. Even if we were to accept as true that said respondent prepared a transmittal order on January 17, 1967, his responsibility did not cease there for it was still incumbent upon him to see to it that his order was actually complied with. There was no evidence presented by him to show that the cases pending in his court in 1967 which demanded his attention were so numerous for us to consider his failure to check if the record of Criminal Case 1322 had been forwarded, quite understandable. That case, being one of homicide where the victim died of multiple stab wounds and where more than one person stood as accused of the crime, could not just be ignored or overlooked; rather, its grave nature warranted more than the ordinary attention of respondent Judge, and a deep sense of responsibility on his part - which he sadly lacked - would have kept him constantly aware of the need of verifying the final disposition of the case in his court.

The functions of a trial judge are not simply confined to holding trials and preliminary investigations, writing

decisions, orders, and so forth; they also include the maintenance of order in the keeping of court records and enforcement of discipline and efficiency among the court personnel in the latter's discharge of their duties.

To achieve close personal supervision over the records of the court, it is necessary that a physical inventory of the records be regularly made for it is only by this that the judge can keep himself abreast of the status of the pending cases and informed that everything is in order in his court. Had respondent Judge made such an inventory or examination in one, two, or three years after he allegedly issued his transmittal order of January 17, 1967, he would have surely discovered within a shorter period of time that Case 1322 was lying dormant and gathering dust in his court.

The administrative liability for this seven-year delay is necessarily to be shared by respondent clerk Anselmo Nadres who admits that he received the order of January 17, 1967, of Judge Arias but that because of his multifarious duties as clerk, stenographer, messenger and janitor - all in one - he simply forgot about Criminal Case 1322. We are not impressed by the claim that respondent Nadres was laden with work. Nadres' defense loses much of its force if we consider the fact as shown from the records of this Court, that in 1967, more particularly in the month of January, there were only 123 pending cases in the Municipal Court of Candelaria, 69 of which were criminal cases, and that for that whole year the number of cases never reached the figure of 150.[11] The caseload of that court is undoubtedly manageable. Moreover, as in the case of respondent Judge, respondent Nadres had likewise the obligation of regularly inspecting the records of each and every case to check if there was something which needed action, and that he failed to do.

In *Macabasa vs Banaag*, respondent Municipal Judge Tomas P. Banaag of Jasaan, Misamis Oriental, was held by the Court guilty of "negligence and dereliction of duty" for having failed to appear promptly at 8:30 o'clock in the morning in his court for the scheduled continuation of the trial of a criminal case and arriving only at around 12:00 o'clock noon, keeping the parties and witnesses waiting. He was penalized with a fine equivalent to two (2) months salary for his act demonstrated, in the words of the writer of the decision, now Acting Chief Justice Enrique M. Fernando, "lack of diligence, care, and seriousness on his part in the performance of his duties and scant regard for the rights of the parties. . ."[12]

In *Denila vs. Panes*, the clerk of court Jose V. Panes, deputy clerk of court Francisco F. Villodres, and clerk, Briccio Necor, of the Court of First Instance of South Cotabato, were found guilty of "negligence and inexcusable lack of precaution in the performance of their respective duties" for transmitting the record of Criminal Case No. 1728, entitled "People vs. Ernesto Cabatingan" to the Court of Appeals only after a lapse of almost four (4) years from the perfection of the appeal, in violation of Sec. 8, Rule 122 of the Rules of Court. Clerk of Court Panes was found administratively responsible for the delay as he was duty bound to keep close supervision over the performance by his subordinates of their duties, and was thus ordered suspended for one (1) month, and so was the respondent clerk Necor whose duty was to transmit the records of appealed cases, whereas, deputy clerk of court Francisco Villodres was ordered suspended for two (2) months for his failure to inform his superior, the clerk of court, about the alleged loss of the appeal bond which led to the non-transmittal of the record of the criminal case to the Court of Appeals.[13]

In the case of public officials, there is negligence when there is a breach of duty, or failure to perform an obligation, and there is gross negligence when a breach of duty is flagrant and palpable.[14]

By ordinary standards, the omission of which respondents in the case now before Us are guilty constitutes gross negligence which justifies the penalty of suspension for a much longer period than that imposed by this Court in *Denila*. A seven-year delay in the transmittal of the records to the Court with jurisdiction to hear and try a criminal case meant that for seven years no trial could be held, during which period anything which might result

in the failure of justice could have happened. Witnesses could die or disappear, evidences could be lost or destroyed, or the culprits could escape. It is fortunate that in the criminal case in question (CFI Case No. 708) the crime committed was eventually vindicated and justice subserved, and this fact mitigates the liability of respondents. Trial was held with respect to accused Gregorio Balasbas and Pastor Balasbas and a decision was rendered on March 2, 1975, finding them guilty of homicide and sentencing them to an indeterminate penalty of six years and one day of prision mayor to fourteen years, eight months and one day of reclusion temporal. The other accused, Eleno Punsalan, has not been tried however due to serious ailment.[15]

We stress the fact that since this Court assumed administrative supervision over courts and the personnel thereof pursuant to Section 6, Article X of the 1973 Constitution, it has pursued its mission with a firm and even hand with a measure of humane understanding to preserve and maintain the highest traditions of an efficient and impartial administration of justice in this Republic, imposing when circumstances so warrant administrative sanctions ranging from admonition,[16] censure and reprimand,[17] fine,[18] suspension,[19] to dismissal from office,[20] even to the extent of forfeiture of retirement benefits when the re-spondent Judge had left the government service.[21]

PREMISES CONSIDERED , We find respondent Judge Faustino Arias and clerk Anselmo Nadres guilty of gross negligence in the performance of their official duties, and We order the suspension of Judge Arias from office for a period of ONE YEAR and the suspension of Anselmo Nadres for SIX MONTHS to be immediately executory upon notice hereof.

SO ORDERED.

Teehankee, Barredo, Antonio, Aquino, Concepcion, Jr., and Martin, JJ., concur.

Fernando, Acting C.J., in the result.

Makasiar, J., reserves his vote.

[1] p. 9, t.s.n., Hearing of May 15, 1975, Adm. Mat. P-310

[2] p. 1, rollo

[3] p. 25, *ibid.*

[4] p. 22, *ibid.*

[5] p. 9, *ibid.*

[6] p. 1, *ibid.*

[7] Resolution dated Nov. 4, 1975, p. 106 rollo; see also p. 30 *ibid.*

[8] p. 40 *ibid.*

[9] see pp. 25-27, *ibid.*

[10] pp. 19-21, 29, *ibid.*

[11] p. 122, *ibid.*

[12] Adm. Matter No. 280-MJ, June 28, 1974, En Banc, 57 SCRA 465, 467.

[13] Adm. Matter No. P-222, Jan. 31, 1975, Makalintal, C.J., ponente.

[14] In *Camus vs. Civil Service Board of Appeals*, L-13685 May 31, 1961, 2 SCRA 370, 375, the word "gross" in relation to "misconduct" has been held to mean "flagrant; shameful," whereas an act done in good faith resulting in an error of judgment would constitute only simple negligence. In *Caunan vs. Compania General de Tabacos*, 56 Phil. 542, 547, Justice Malcolm in his dissenting Opinion defined "gross negligence" in connection with the Workmen's Compensation Act as "want of any or slight care."

[15] see Decision, CFI Criminal Case No. 708, pp. 65-104, rollo.

[16] *Bendesula vs. Laya*, Adm. Matter No. 144-CFI, July 18, 1974, En Banc, per Esguerra, J.

[17] *Selanova vs. Mendoza*, Adm. Matter No. 804-CJ, May 19, 1975, Second Division, per Aquino, J.

Agdeppa vs. Judge Sy Javier, Adm. Matter No. 196-MJ, April 30, 1975, Second Division, per Fernando, J.

[18] *Lim Jr., et al. vs. Judge Vacante*, Adm. Matter No. 268-MJ, Feb. 27, 1976, Second Division, per Antonio, J.

Sarmiento vs. Cruz, Adm. Matter No. 306-MJ, July 25, 1975, Second Division, per Antonio, J.

[19] *Quizon, et al. vs. Judge Baltazar Jr.*, Adm. Case No. 532-MJ, July 25, 1975, Second Division, per Concepcion Jr., J.

Castillo vs. Barsana, Adm. Matter No. 77-MJ, April 18, 1975, Second Division, per Antonio, J.

[20] *Tadiar vs. Judge Caces*, Adm. Matter No. 89-MJ and Adm. Case No. 1192, October 21, 1974, En Banc, per Aquino, J.

De la Paz vs. Mun. Judge Inutan, Adm. Matter No. 201-MJ, June 30, 1975, En Banc, per Martin, J.

Serafin vs. Judge Lindayag, Adm. Matter No. 297-MJ, Sept. 30, 1975, En Banc, per Teehankee, J.

Siasico vs. Sales, Adm. Matter No. 687-MJ and Adm. Matter No. 703-MJ; *Bandivas vs. Sales*, Adm. Matter No. 132-MJ, May 31, 1976, En Banc, per Muñoz Palma, J.

[21] *Perez vs. Judge Abiera*, Adm. Case No. 223-J, June 11, 1975, En Banc, per Muñoz Palma, J.

Raval vs. Romero, Adm. Case No. 129-J and *Cortes vs. Romero*, Adm. Case No. 243-J, July 30, 1976, per Barredo, J.

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