

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. HON. JOSE T. BARTOLOME, RTC JUDGE, BRANCH 5, DINALUPIHAN, BATAAN, RESPONDENT.

Adm. Matter No. RTJ-90-446. November 07, 1991

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PER CURIAM:

The Hon. Jose T. Bartolome, presiding Judge of Branch 5, Regional Trial Court, Dinalupihan, Bataan, is the respondent in these five administrative cases for gross misconduct:

In his column "On Target", columnist Ramon Tulfo of the Philippine Daily Inquirer, a newspaper of general circulation (November 15, 1989), referred to "a regional trial court in Bataan... extorting money from persons who have pending cases in his sala." [1] "The amount ranges," he wrote subsequently, "from P50 up to how much a litigant can afford . . ." and that in addition, "the judge encashes checks for bail bonds and spends the amount for himself." [2]

On January 18, 1990, as a consequence of Mr. Tulfo's information, the Court issued a Resolution directing the Court Administrator to conduct an investigation of the matter.

On January 25, 1990, then Court Administrator Meynardo Tiro filed a Complaint in which he alleged:

2. The person alluded is herein respondent Judge of the Regional Trial Court, Branch 5, Dinalupihan, Bataan, where he maybe served with summons and other court processes;
3. Criminal Cases Nos. DH-044-88, DH Nos. 035-88 and DH-047-87 are pending before respondent's court;
4. In the aforesated Criminal Cases, respondent issued an Order dated July 18, 1989 directing his Deputy Sheriff to receive for and in behalf of the court any cash or check as payment for the confiscated bonds; if however the payment is in the form of a check, the same must be in the sheriff's name for encashment;
5. The above-mentioned allegations were affirmed by Deputy Sheriff Leaño;
6. A perusal of the letter dated November 15, 1989 to Ramon Tulfo also denounced the actuations of respondent of accepting bribes from party litigants; [3]

At the same time, the Court Administrator addressed a request to the National Bureau of Investigation for further investigation.

On January 30, 1990, the Court issued a Resolution directing Judge Bartolome to answer the Complaint.

On March 12, 1990, Judge Bartolome filed an Answer, admitting having issued two orders in connection with Criminal Cases Nos. DH-039-87, DH-047-87, and DH-044-88, both authorizing the branch sheriff Antonio Leaño, to accept certain bail payments of P13,200.00 and P14,000.00 in his (Leaño's) name, subject to "full responsibility and accountability" [4] thereof. That recourse was necessary, according to him, because of the alleged insolvent condition of the bondsman and in order to insure future payment, if warranted. He also claimed

that he later issued an order directing Leaño to turn over the sum of P13,200.00 to the Clerk of Court. He denied, however, having received by himself or through Leaño (in spite of his order) the other sum of P14,000.00. As to the letter addressed to Tulfo (Tulfo's source apparently), accusing him of extorting money from litigants, he denied the veracity thereof and challenged the credibility of Tulfo himself.

Meanwhile, the National Bureau of Investigation, on May 9, 1990, forwarded its report, stating:

"03. Investigation disclosed that there is truth to the allegation about the corrupt and nefarious practices of Subject RTC Judge. Thus, in an agrarian case pending before his sala entitled *Agustin v. Jarin* docketed as Civil Case No. DH-04987, plaintiff SALVADOR AGUSTIN of Hermosa, Bataan filed an ejectment case against his leasehold tenant ALFONSO JARIN for not paying his leasehold rental. Plaintiff SALVADOR AGUSTIN was able to secure a favorable discussion (sic) from Subject Judge. However, AGUSTIN has to pay the Judge the total amount of P10,000.00, aside from the goods that the Judge would ask from plaintiff almost every hearing of the case, like sugpo, and alimango and sometimes P1,000 to P2,000.00.

04. In the case of *Francisco dela Cruz v. Pedro Valencia* a civil case for ejectment, Judge BARTOLOME, in his decision, ordered defendant PEDRO VALENCIA to pay the sum of P75,000.00 to plaintiff FRANCISCO DELA CRUZ as rental for the fishpond located at Abucay, Bataan. Reliable information had it that out of the P75,000, Judge BARTOLOME pocketed P50,000; P20,000 was given to the lawyer of FRANCISCO DELA CRUZ as attorney's fee and only the remaining P5,000 was given to plaintiff FRANCISCO DELA CRUZ.

05. In that case of *People of the Philippines v. Lazaro Martin, et al.*, docketed as Criminal Case No. DH-03987 for violation of Section 68 of PD No. 705 and the case of *People of the Phils. v. Carina Alma Jose* docketed as Criminal Case No. DH-04787 for Estafa; the Subject Judge ordered his deputy sheriff ANTONIO V. LEAÑO to encash the check of P13,200 of Inter World Assurance Corp.; thereafter, appropriated the same. The said amount represents the payment for the confiscated bond in the said criminal cases. In another criminal case No. DH-04486 for Estafa) the same Judge also directed the Deputy Sheriff ANTONIO LEAÑO to get the cash payment of P14,000 representing the confiscated bond of the said case. Subject Judge, evidently in connivance with the above-named Deputy Sheriff, misappropriated the sum of P14,000." [5]

On September 27, 1990, the respondent Judge filed another Answer denying the allegations of the Bureau specifically: (1) as to *Agustin v. Jarin*, that had "any monkey business" attended its resolution, "the losing party ... would have taken some positive steps against" him, [6] (*Id.*, p. 17) and that on the contrary, his decision was in fact affirmed by this Court; [7] (*Jarin v. Court of Appeals*, G.R. No. 92965) and (2) as to *Francisco v. Valencia*, that he did order the deposit of the sum of P75,000 as unpaid rentals for the leasing of a fishpond, but denied misappropriating the same. He likewise presented a statement of Atty. Dante Ilaya denying having been interviewed by the National Bureau of Investigation.

Subsequently, the Court received two more complaints, one from publishers of certain Bataan newspapers, accusing Judge Bartolome of deliberate violation of Presidential Decree No. 1079 and demanding, through "his Clerk of Court and his Deputy Sheriff, [8] advance commission," [9] and another, proffered by Bataan Governor Leonardo Roman requesting the transfer of the respondent Judge to "another assignment" [10] on the ground of "numerous complaints on nefarious activities." [11] The respondent Judge answered the publishers' complaint, admitting that he did not adopt the raffle system required by Presidential Decree No. 1079 but rather, the "rotation system" which "provides an equal and better chance and opportunity for participating publishers and editors..." [12]

On October 18, 1990, the Court issued a Resolution referring these cases to Justice Oscar Herrera of the Court of Appeals for investigation, report, and recommendation.

On August 26, 1991, Justice Herrera submitted his report, finding Judge Bartolome guilty of gross misconduct.

After going over the records of these cases, we agree with the factual findings of the Investigator, adopt the report of Justice Herrera, and on the basis of our review, mete out the penalty of dismissal from the service against Judge Jose T. Bartolome.

The Court is fully convinced that enough facts have been established to warrant the penalty. First, the issuance of the orders in which Judge Bartolome authorized his sheriff, Antonio Leño, to accept payment of bail bonds was itself improper, because Leño was (is) not a bonded officer to whom checks may be payable in an official capacity. Payment to Leño, unlike payment to the Clerk of court, amounted therefore to payment to Leño in his personal capacity. The Judge's orders therefore allowed Leño, and if he wanted to, the Judge himself, to make use of money belonging to the Government by means intended to pre-erase future liability and to conceal future questions as to legality.

It is no defense that he, Judge Bartolome, did instruct Leño to turn over to the Clerk of Court the sum of P13,200.00 (subject of the first questioned order), because as we said, the very order was unlawful to begin with and second, if the money were payable, after all, to the Clerk of Court, there was no reason to make the bondsman's check payable to Leño, if the Judge did not after all have any "monkey business" (his words) in mind. He could not have mitigated his misconduct vesting on Leño "full responsibility" for possible misdemeanors on Leño's part because Leño had no responsibility to begin with if the bond payments were made payable in his name.

The records show that Judge Bartolome did receive the money notwithstanding his denials; this is a fact that came from the lips of Leño himself.[13]

Apparently, Judge Bartolome had been in the habit of encashing the Government's checks, and as Leño would once more confirm, he, Judge Bartolome had issued similar orders (mga sampu po")[14] before.

What aggravates the misconduct is that the respondent Judge,[15] in an effort to exonerate himself and to cover up for his misconduct after the affair had blown up, began a pattern of falsifying evidence, first by making his clerk, Marissa Bondoc, prepare (in vain) an antedated receipt evidencing supposedly the fact that he turned over to the court the money covering the encashed checks;[16] and second, by making Leño sign a prepared Sinumpaang Salaysay in which he, Leño, allegedly attempted to remit to the Clerk of Court who allegedly refused to accept it.[17]

Obviously, Judge Bartolome was in a hurry, most important, to exculpate himself and no less significant, to find a scapegoat -- Leño who he had, in the first place, sought to carry the responsibility (he "has full responsibility and accountability") when obviously, as judge, the responsibility was his and his alone. True to his designs, he orchestrated a charge against Leño arising from the loss of money, intended for no other purpose than to consummate a coverup.

The Court agrees with the Investigator that Leño was a reliable witness -- and the events indeed speak for themselves -- and quite to the contrary, the Court can not say the same thing for the respondent Judge's own witnesses.

The Court does not find Judge Eliseo Peñaflor, who purportedly notarized the Sinumpaang Salaysay in question, as well as court stenographer Marilyn Olavides, who allegedly took down "Leño's statement", to be worthy witnesses. The Court can not believe that Judge Peñaflor merely neglected to read the same before affixing his signature thereon when as Judge, he should be the first person expected to be meticulous and scrupulous. Evidently, he too was seeking to relieve himself from liability for notarizing a falsified document. As the Investigator found his explanation to be none but a "poor excuse,"[18] so we find it to be a lame attempt to

mislead the investigating officer. Marilyn Olavides in fact contradicted him, when she testified that she brought the paper to him for signature, but that he refused initially, to sign it, meaning that he, Judge Peñaflor, was aware of what it was all about.[19]

Justice Herrera was also correct in denying credence to the testimony of Jose Palera, Judge Bartolome's aide and driver, whom Justice Herrera noted, was "a bodyguard...ready to die for [his] employer." [20]

The fact of the matter is that Judge Bartolome's acts, as earlier stated, speak for themselves: (1) his orders authorizing Leaño to accept money were by themselves in contravention of law; Leaño, a Deputy Sheriff (branch sheriff) had no authority to receive money in his name, for the court; (2) his orders facilitated, as they were meant to facilitate, the turnover of legitimate court money into private hands (without the Judge being responsible ostensibly; (3) his behavior after the matter reached the attention of the Court--making Leaño sign a prepared (false) statement absolving him and indirectly inculcating Leaño; (4) engineering a "drive" to cleanse his name by way of a spurious petition[21] although he, Judge Bartolome, had not yet been found guilty. These events impress the Court fully that the facts speak for themselves and no explanation is possible to extract any meaning from them other than the meaning they in fact convey.

The Court turns to the publisher's charges.

Under Presidential Decree No. 1079, we quote:

"SEC. 2. The executive judge of the court of first instance shall designate a regular working day and a definite time each week during which the said judicial notices or advertisements shall be distributed personally by him for publication to qualified newspapers or periodicals as defined in the preceding section, which distribution shall be done by raffle: Provided, That should the circumstances require that another day be set for the purpose, he shall notify in writing the editors, and publishers concerned at least three (3) days in advance of the designated date: Provided, further, That the distribution of the said notices by raffle shall be dispensed with in case only one newspaper or periodical is in operation in a particular province or city.[22]

the raffle system is indispensable not only because it is the decree of the law but in order to avoid favoritism--a rung away from the ladder of graft and corruption--by judges.

The respondent Judge's "rotation system" is plainly, in violation of the Decree.

The court can not accept the respondent's attempt to justify the "rotation system" because of his alleged concern for equitable division of work, as it were, among Bataan's various periodicals. First, save in those cases where only one periodical is circulated in the province or city, the law provides for no exemption. Second, there can be no more equitable method than the raffle system. Third it is too easy to justify an unlawful act with "good intentions."

The respondent Judge was wrong in entrusting publications to Roberto Rubiano, the court interpreter, when under Presidential Decree No. 1879, it was his duty to notify in writing the editors and publishers.

The National Bureau of Investigation's finding is that the respondent Judge misappropriated money belonging to one of the parties. Justice Herrera found no conclusive evidence that the Judge indeed "pocketed" the sum of P75,000.00 (representing judicial deposit of unpaid rentals in connection with a pending case). However, it is indeed peculiar: (1) why the money should have been delivered to the Judge himself rather than to the clerk of court[23] or arguably, the party himself to whom it was payable and (2) why it was necessary for the Judge to accept the money so that he, the Judge could deliver it to the party.

The Court finds it strange, that it was necessary for the ceremony where the Judge accepted the money and the Judge delivered the money to the owner--and why the Judge took extra pains to have the record reflect it. We can

speculate on motivations for a long time. The fact remains that judges, fairly or unfairly, are not ordinary employees -- they should not place themselves in a position leading to speculations of misbehavior.

The judge's office is an exalted office, so we have repeatedly held,[24] and the judge himself should be beyond suspicion.[25]

While the charge of demanding bribes has not been proven, the Court is just as concerned about the poor reputation that Judge Jose Bartolome has developed in Bataan. A Judge anywhere should be the last person to be perceived as no better than a mulcting traffic cop or a corrupt bureaucrat out to make money at every turn. The reputation of the respondent unfortunately appears to have preceded him, and while situations are possible where a judge is unfairly ruined by well-orchestrated attempts of disgruntled litigants or power blocks or influential members of the community whose interests are threatened by a judge's zeal and integrity, Judge Bartolome has in this case shown not one shred of evidence that the mounting complaints against him are the byproducts of similar maneuvers. At any rate, the thing itself has spoken, and it has spoken eloquently.

The Court finds this occasion proper to remind our brethren everywhere that judges are the epitome of moral rectitude in society -- even if nobody else is. Judges are not common men and women, whose errors men and women forgive and time forgets. Judges sit as the embodiment of the people's sense of justice, their last recourse where all other institutions have failed. As such, they bring stability to society, especially where society is under stress. They should prove that the system, after all, works, even if the system has, after all, its built in weaknesses.

The Code of Judicial Conduct prescribes an awesome responsibility for judges, among them, to "avoid impropriety and the appearance of impropriety in all activities." [26] It is an "unfair" responsibility, to be sure, in a regime that honor merits beyond appearances of demerits. Yet it underscores a judge's exalted position, that above his individual merits, he too appears meritorious.

Judge Jose Bartolome has clearly betrayed his robes and if the perception of the inhabitants of Bataan has not been kind to him, he probably deserves it; the damage which his misconduct has rubbed off on the judiciary in particular and the solemn institutions of our constitutional democracy in general, is not deserved by his honest and hardworking fellow workers in government.

WHEREFORE, Judge Jose T. Bartolome, is hereby DISMISSED from the service with prejudice to his reinstatement or appointment to any public office including government-owned or controlled corporations and his retirement benefits, if any, are ordered forfeited. Let a copy of this resolution be included in his record and served on all courts throughout the land.

SO ORDERED.

Fernan, C.J., Narvasa, Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., and Romero, JJ., concur.

Melencio-Herrera, J., on leave.

[1] Rollo, Adm. Matter No. 90-1-021-RTC, 8.

[2] Id., 7.

[3] Rollo, Adm. Matter No. RTJ-90-446, 1-2.

[4] Id., 14.

[5] Rollo, Adm. Matter No. RTJ-90-504, 2-3.

[6] Id., 17

[7] Jaring v. Court of Appeals, G.R. No. 92965.

[8] Rollo, Adm. Matter No. RTJ-90-494, 1.

[9] Id.

[10] Rollo, Adm. Matter No. 90-8-1909-RTC.

[11] Id.

[12] Id., Adm. Matter No. RTJ-90-494, 8.

[13] REPORT, August 26, 1991, 48-49.

[14] Id., 47.

[15] Id., 49.

[16] See id., 50-54

[17] Id., 54-55

[18] Id., 80.

[19] See id., 82.

[20] Id., 84.

[21] See rollo, Adm. Matter No. RTJ-90-446

[22] Pres. Decree No. 1079, sec. 2.

[23] RULES OF COURT, Rule 141, sec. 7(k)

[24] Villa v. Amonoy, Adm. Matter No. RTJ-88-935, February 13, 1991, 197 SCRA 48; Office of the Court Administrator v. Estacion, Jr., A.M. No. RTJ-87-104, January 11, 1990, 181 SCRA 33.

[25] Jereos, Jr. v. Reblando, Sr., Adm. Matter No. P-141, May 31, 1976.

[26] CODE OF JUDICIAL CONDUCT, Canon 2.

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