

MARTIN LANTACO, SR., ESTEBAN DEL BARRIO, ROSALITO ALAMAG AND BORRROMEO VITALIANO, COMPLAINANTS, VS. CITY JUDGE FRANCISCO R. LLAMAS, RESPONDENT.

Adm. Matter No. 1037-CJ. October 28, 1981

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a verified letter-complaint dated August 7, 1975 addressed to the President of the Philippines (by 1st Indorsement, dated August 25, 1975, this case was referred by the Office of the President to this Court, pursuant to Section 7, Article X of the Constitution), by jeepney drivers Martin Lantaco, Sr., Esteban del Barrio, Rosalito Alamag and Borrromeo Vitaliano, all residents of Pasay City, against City Judge Francisco R. Llamas of the Pasay City Court for "Backsliding and Grave Abuse of Discretion."

On January 8, 1975, an investigating special counsel of the City Fiscal's Office of Pasay City, filed Criminal Cases Nos. 95647, 95648, 95649 and 95650, all for estafa against Ricardo Paredes, an officer of the PASCAMASCON, an association of jeep-ney operators, for "nonremittance of SSS contribution premiums." These cases were assigned to respondent. After the prosecution had rested its case, the defense moved to dismiss all the criminal cases on the ground that the evidence presented by the prosecution is insufficient to convict the accused beyond reasonable doubt. The prosecution opposed the motion. According to the complainants, the respondent set the promulgation of his decision on July 22, 1975, postponed to July 30, 1975 and again to July 31, 1975, when at about 9:45 in the morning, upon respondent's instruction, his clerk of court read the dispositive portion thereof acquitting the accused of all four estafa cases on the ground of reasonable doubt.

According to the herein complainants:

"After the reading of (the) Decision a recess was made by Judge Llamas and we requested Judge Llamas to furnish us a copy of said Decision. Judge Llamas told us that there are no more copy and we told Judge Llamas if there is no more copy we would like to xerox the original and Judge Llamas told us that xerox copy are not permitted and Judge Llamas instructed one of the employees in his office – a steno- typist to type another copy for us and that the typist told us to come back on Monday, August 4, which we did, but, the steno-typist failed to furnish us the copy as agreed by us and told us again to come back next day, August 5. The next morning we went back to the office of Judge Llamas, same we failed to get copy of the Decision.

"On August 6, 1975 at 11:00 A.M. one of the complainants, Esteban del Barrio and Ceferino F. Ginete, the President of our labor union went to Judge Llamas to secure copy of said decision to (sic) the same person - the steno-typist. The steno-typist went inside the room of Judge Llamas and a few minutes the typist went back to us and informed us that he could not type the Decision because the folder is at the house of Judge Llamas and when Mr. Ginete inquire why the said folder of the complainants are at the house of Judge Llamas, the typist reply the Judge making 'CORRECTION.' Mr. Ginete wonder why a correction is being made when the decision has already been rendered and why the delay in furnishing us copy, WHY?"

This Court required the respondent to comment on the complaint by 2nd Indorsement dated September 16, 1975.

This Court also sent by registered mails a follow-up letter dated October 23, 1975 and a tracer letter dated November 25, 1975. The Bureau of Posts in a certification dated November 26, 1975 certified that these follow-up letters were delivered to and received by the office of the respondent.

Finally, on March 8, 1976 this Court received respondent's comment dated December 3, 1975. His brief comment:

"The four related criminal accusations against Mr. Ricardo Paredes, were validly and properly decided by this Court. The motion to dismiss after the prosecution's case was rested, was resolved and said resolution of acquittal is the very decision in this case which was validly promulgated in the presence of the accused, the prosecuting fiscal and Mr. Severino Ginete and all the complaining parties. The records of the decision show that the accused assisted by counsel signed the same on said date and copies thereafter furnished counsel for the accused and the prosecuting fiscal."

Respondent also averred:

"It is respectfully submitted that on the details of the proceedings and the evidence presented, no better answer could be made by the undersigned except by submitting a copy of said decision promulgated July 31, 1975 and marked as Annex 'A' of this comment. In the same breath, the matter of the advisability as suggested that this finding by this Court be reviewed by the Military may best be answered by a thorough reading of the decision."

After a careful examination of the records before this Court, We found that respondent committed grave abuse of authority in refusing to give the complainants a copy of his decision in Criminal Cases Nos. 95647--95650. The complainants were understandably interested in securing a copy of the decision as they were the complaining witnesses in these four criminal cases. The request was made during office hours. It was relayed personally to the respondent. The decision in question was already promulgated. Copies were already furnished the counsel for the prosecution and the defense. It was already part of the public record which the citizen has a right to scrutinize. And if there was "no more copy," the complainants were amenable to have a xerox copy of the original on file, copies of which, as part of court records, are allowed to be given to interested parties upon request, duly certified as a true copy of the original on file. What aggravates the situation, as seen from the sequence of events narrated by the complainants which were never denied or rebutted by the respondent, is that respondent, without just cause, denied complainants access to public records and gave the complainants the run-around, which is oppressive as it is arbitrary. In *Baldoza vs. Honorable Judge Rodolfo B. Dimaano* (A.M. No. 112-MJ, May 5, 1976), WE emphasized the importance of access to public records, predicated as it is on the right of the people to acquire information on matters of public concern in which the public has a legitimate interest. While the public officers in custody or control of public records have the discretion to regulate the manner in which such records may be inspected, examined or copied by interested persons, such discretion does not carry with it the authority to prohibit such access, inspection, examination or copying.

Continuing, said this Court:

"The New Constitution now expressly recognizes that the people are entitled to information on matters of public concern and thus are expressly granted access to official records, as well as documents of official acts, or transactions, or decisions, subject to such limitations imposed by law (Article IV, Section 6, New Constitution). The incorporation of this right in the Constitution is a recognition of the fundamental role of free exchange of information in a democracy. There can be no realistic perception by the public of the nation's problems, nor a meaningful democratic decision-making if they are denied access to information of general interest. Information is needed to enable the members of society to cope with the exigencies of the times. As has been aptly observed: 'Maintaining the flow of such information depends on protection for both its acquisition and its dissemination since, if either process is interrupted, the flow inevitably ceases.' (87 Harvard Law Review 1505)" [*Baldoza vs. Hon. Judge Rodolfo B. Dimaano*, A.M. No. 112-MJ, May 5, 1976].

The herein complainants prayed that respondent's decision be reviewed "to obviate any miscarriage of justice considering the adverse effects to the thousands of jeepney drivers and to prevent the other jeepney operators in using (sic) the Decision x x x for their own benefits." The respondent commented that "no better answer could be made x x except by submitting a copy of the decision" and the complaint "may best be answered by a thorough reading of the decision."

OUR "review" in administrative cases of this nature as defined in *Vda. de Zabala vs. Pamaran* (A.C. No. 200-J, June 10, 1971, 39 SCRA 430, 433), is limited to the text of the decision and respondent's articulations on the law and the evidence submitted. WE do not review the decision to reverse it or to set it aside as if it were brought to this Court on regular appeal; for this is beyond the objective of an administrative proceedings to protect the public service, to secure the faithful and efficient performance of official functions, and to rid the public service of incompetent, corrupt and unworthy public servants.

WE have carefully read, examined and analyzed the decision submitted by the respondent. WE found that in sustaining the motion to dismiss on the ground of insufficiency of evidence after the prosecution rested its case, respondent committed several errors bordering on gross ignorance of the law.

I. Respondent erred in concluding that the prosecution failed to prove that the accused, despite repeated demands, refused and still refuses to remit the alleged collected premium contributions and that "if no demand was ever made x x, then a criminal prosecution for estafa x x x could not prosper."

The uniform allegation in all the four informations for estafa that "the accused, despite repeated demands, refused and still refuses to remit x x x," need not anymore be proved by the prosecution; because the Social Security Act of 1954 (R.A. No. 1161, as amended by R.A. No. 1792, No. 2658 and No. 3839, and further amended by Presidential Decrees Nos. 24, 65 and 177), makes it the duty of the employer to remit the contributions without need of any demand therefor by the employee. Section 22(a), (b), (c) and (d) of said Act, governing "Remittance of Contributions" requires as a legal obligation of every employer to remit within the first seven (7) days of the month the contributions of the employee and the employer to the Social Security System, failing which invites the imposition of a penalty of three percent (3%). With this mandate of the law, demand on the part of the employee before the employer remits these contributions to the SSS is not a condition precedent for such remittance. The Social Security System can collect such contributions in the same manner as taxes are made collectible under the National Internal Revenue Code (Sec. 22 [b], Social Security Act). Thus:

"SEC. 22. Remittance of contributions. - (a) The contributions imposed in the preceding sections shall be remitted to the SSS within the first seven days of each calendar month following the month for which they are applicable or within such time as the Commission may prescribe. Every employer required to deduct and to remit such contributions shall be liable for their payment, and if any contribution is not paid to the SSS, as herein prescribed, he shall pay besides the contribution a penalty thereon of three per cent per month from the date the contribution falls due until paid. If deemed expedient and advisable by the Commission, the collection and remittance of contributions shall be made quarterly or semi-annually in advance, the contributions payable by the employees to be advanced by their respective employers: Provided, That upon separation of an employee, any contributions so paid in advance but not due shall be credited or refunded to his employer.

"(b) The contributions payable under this Act in cases where an employer refuses or neglects to pay the same shall be collected by the System in the same manner as taxes are made collectible under the National Internal Revenue Code, as amended. Failure or refusal of the employer to pay or remit the contributions herein prescribed shall not prejudice the right of the covered employee to the benefits of the coverage.

xx xx xx xx

"(e) For purposes of this section, any employer who is delinquent or has not remitted all the monthly

contributions due and payable may within six (6) months from approval of this amendatory act remit said contributions to the SSS and submit the corresponding collection lists therefor without incurring the prescribed three per cent penalty. In case the employer fails to remit to the SSS the said contributions within the six months grace period, the penalty of three per cent shall be imposed from the time the contributions first became due as provided in paragraph (a) of this section: Provided, however, That the Administrator, may in meritorious cases, allow employers who have submitted a payment plan, on or before April 19, 1973, to pay their contributions due and payable up to December 31, 1973 without incurring the prescribed three per cent penalty." (As amended by Rep. Act No. 2658, and by Pres. Decrees Nos. 24 and 177).

To prove remittance, the employer can submit his records thereon or a certification from the SSS as to the fact of remittance of the contributions.

II. Respondent likewise erred in concluding that, in connection with the daily deductions of P0.50 as SSS premium contributions, "this Court is not convinced and could not reasonably believe that there was a forced daily deductions or exaction of P0.50."

Section 18 of the Social Security Act governing employees' contribution, provides that "x x the employer shall deduct and withhold from such employee's monthly salary, wage, compensation or earnings the employee's contribution in an amount corresponding to his salary, wage, compensation or earnings during the month in accordance with the following schedule effective on January 1, 1973 x x." With this legal obligation placed on the employer's shoulder, respondent's reasonable belief that "there was or could be no forced daily deductions or exaction of P0.50" would have no legal basis and support.

III. Respondent again erred in finding "that from the existing relationship between the accused as owner of the utility jeepneys and all the complainants, there is categorically demonstrated no employer-employee relationship in contemplation of the Social Security Act of 1954, as amended by Presidential Decrees Nos. 24, 65 and 177. In other words, if by law there exists no such relationship, then the herein accused truly is not even obligated to collect such amounts; neither is he under obligation to make remittance payments."

For, as early as March 23, 1956, in *National Labor Union vs. Benedicto Dinglasan* (L-7945), this Court already ruled that there is employer-employee relation between jeepney owners/operators and jeepney drivers under the boundary system arrangement, and enunciated:

"The main question to determine is whether there exists a relationship of employer-employee between the drivers of the jeeps and the owner thereof. The findings contained in the first order are not disputed by both parties except the last to which the respondent took exception. But in the resolution setting aside the order of 16 February 1954 the Court of Industrial Relations in banc did not state that such finding is not supported by evidence. It merely 'declares that there is no employer-employee relation between respondent, Benedicto Dinglasan, and the driver-complainants in this case.' If the findings to which the respondent took exception is unsupported by the evidence, a pronouncement to that effect would have been made by the Court in banc. In the absence of such pronouncement we are not at liberty to ignore or disregard said finding. The findings of the Court of Industrial Relations with respect to question of fact, if supported by substantial evidence on the record shall be conclusive. Taking into consideration the findings of fact made by the Court of Industrial Relations we find it difficult to uphold the conclusion of the Court set forth in its resolution of 23 June 1954. The drivers did not invest a single centavo in the business and the respondent is the exclusive owner of the jeeps. The management of the business is in the respondent's hands. For even if the drivers of the jeeps take material possession of the jeeps, still the respondent as owner thereof and holder of a certificate of public convenience is entitled to exercise, as he does and under the law he must, supervision over the drivers by seeing to it that they follow the route prescribed by the Public Service Commission and the rules and regulations promulgated by it as regards their operation. And when they pass by the gasoline station of the respondent checking by his employees on the water tank, oil and tire pressure is done. The only features that would make the relationship

of lessor and lessee between the respondent and the drivers, members of the union, as contended by the respondent, are the fact that he does not pay them any fixed wage but their compensation is the excess of the total amount of P7.50 which they agreed to pay to the respondent, the owner of the jeeps, and the fact that the gasoline burned by the jeeps is for the account of the drivers. These two features are not, however, sufficient to withdraw the relationship between them from that of employer-employee, because the estimated earnings for fares must be over and above the amount they agreed to pay to the respondent for a ten-hour shift or ten-hour a day operation of the jeeps. Not having any interest in the business because they did not invest anything in the acquisition of the jeeps and did not participate in the management thereof, their service as drivers of the jeeps being their only contribution to the business, the relationship of lessor and lessee cannot be sustained [In the matter of the Park Floral Company, etc., 19 NLRB 403; Radley et al. vs. Commonwealth, 161 SW (2d) 417; Jones vs. Goodson et al., 121 Fed. Rep. (2d) 176; Mitchel vs. Gibbson et al., 172 Fed. Rep. (2d) 970]. In the lease of chattels the lessor loses complete control over the chattel leased although the lessee cannot make bad use thereof, for he would be responsible for damages to the lessor should he do so. In this case there is a supervision and a sort of control that the owner of the jeeps exercises over the drivers. It is an attempt by ingenious scheme to withdraw the relationship between the owner of the jeeps and the drivers thereof from the operation of the labor laws enacted to promote industrial peace." (98 Phil. 650, 651-53).

On April 30, 1963, this Court reiterated this doctrine in *Magboo, et al. vs. Bernardo* (L-16790, 7 SCRA 952) and stated:

"Appellant assails said decision, assigning three errors which boil down to the question of whether or not an employer-employee relationship exists between a jeepney-owner and a driver under a 'boundary system' arrangement. Appellant contends that the relationship is essentially that of lessor and lessee.

"A similar contention has been rejected by this Court in several cases. In *National Labor Union v. Dinglasan*, 52 O.B., No. 4, 1933, it was held that the features which characterize the 'boundary system' -- namely, the fact that the driver does not receive a fixed wage but gets only the excess of the receipt of fares collected by him over the amount he pays to the jeep-owner and that the gasoline consumed by the jeep is for the account of the driver -- are not sufficient to withdraw the relationship between them from that of employer and employee. The ruling was subsequently cited and applied in *Doce v. Workmen's Compensation Commission*, L-9417, December 22, 1958, which involved the liability of a bus owner for injury compensation to a conductor working under the 'boundary system.' " (7 SCRA 953-54).

Indeed, considering that about nineteen (19) years before July 31, 1975, when respondent rendered his decision in the four estafa cases, it was a settled doctrine that an employer-employee relationship exists between jeepney owners/operators and jeepney drivers under the boundary system arrangement, of which rule respondent was obviously ignorant (Section 1, Rule 129, Rules of Court, and in line with *Municipal Board of Manila vs. Agustin*, 65 Phil. 144).

Respondent mistakenly relied on the cases of *Social Security System vs. Court of Appeals and Shriro* (37 SCRA 579) and *Social Security System vs. Court of Appeals and Manila Jockey Club* (30 SCRA 210), which have no bearing on or relevance to the issue posed in the estafa cases filed by the complainants and heard by him. The *Shriro* and the *Manila jockey Club* cases did not involve or resolve the relationship between jeepney owners/operators and jeepney drivers in any manner whatsoever. The *Shriro* case concerned the relationship of "commission sales agents" and *Shriro (Philippines) Inc.*, the exclusive distributor of "Regal" sewing machine. The *Manila Jockey Club, Inc.* case concerned jockeys who are connected with the *Manila Jockey Club, Inc.* and the *Philippine Racing Club, Inc.*

Since an employer-employee relationship subsists between the jeepney owners/operators and jeepney drivers under the boundary system arrangement, SSS coverage "shall be compulsory" (Sec. 9, Social Security Act), the SSS's deduction would follow as a matter of law (Sec. 18, *supra*), and the accused in the four estafa cases, without

previous demand by the jeepney drivers, is under legal obligation to remit the driver's contribution to the SSS.

Decisions of the Supreme Court need not be proved as they are matters of judicial notice (Sec. 1, Rule 129, Rev. Rules of Court; V Moran, Rules of Court, 1970 ed., pp. 38-39). Ignorance of the law excuses no one (Art. 3, New Civil Code) and judicial decisions applying or interpreting the law or the Constitution are part of the legal system (Art. 8, New Civil Code).

In the light of the above discussion, respondent gravely erred in sustaining the motion to dismiss the estafa cases by conveniently relying on the accepted axiom that the prosecution cannot rely on the weakness of the defense to gain conviction, for conviction can only rest upon the strength of the prosecution evidence (*Duran vs. Court of Appeals*, L-39758, May 7, 1976, citing *People vs. Barrera*, 82 Phil. 391), and, as a consequence, material and moral damages had been inflicted on the numerous complaining drivers whose rights to refile the criminal cases for estafa against the accused are now foreclosed by the rule on double jeopardy.

In recapitulation, We find that respondent exhibited gross ignorance of the Social Security Act of 1954, as amended, particularly the sections governing SSS compulsory coverage, employer-employee contributions, deduction of SSS's contributions, and remittance of SSS contributions; and of the settled jurisprudence that the relationship between jeepney owners/operators and jeepney drivers under the boundary system arrangement is that of employer and employee. Or, if respondent was aware of them, he deliberately refrained from applying them, which can never be excused (*Quizon, et al. vs. Judge Jose G. Baltazar, Jr.*, A.C. No. 532-MJ, July 25, 1975) and "is hardly to be condoned" (*Fernando, J.*, concurring opinion, *Quizon, et al. vs. Judge Baltazar, Jr.*, *supra*).

WE, moreover, find that respondent repeatedly ignored this Court's directive to file his comment on the instant complaint within ten (10) days from receipt of our 2nd Indorsement of September 16, 1975, necessitating the sending of two tracer letters dated October 23, 1975 and November 25, 1975. His comment came only on March 8, 1976. His failure to submit the required comment within the period fixed is disrespect to the Court as well as aggravated the delay in the speedy and orderly disposition of this administrative complaint (cf. *Medina, etc., et al. vs. Hon. Valdellon, etc., et al.*, L-38810, March 25, 1975; *Atienza vs. Perez, etc.*, A.M. No. P-216, July 9, 1974).

WHEREFORE, RESPONDENT FRANCISCO R. LLAMAS IS HEREBY DISMISSED AS CITY JUDGE OF PASAY CITY WITH FORFEITURE OF ALL RETIREMENT PRIVILEGES AND WITH PREJUDICE TO REINSTATEMENT TO ANY POSITION IN THE NATIONAL OR LOCAL GOVERNMENT, INCLUDING GOVERNMENT-OWNED OR -CONTROLLED CORPORATIONS, AGENCIES OR INSTRUMENTALITIES.

SO ORDERED.

Fernando, C.J., Teehankee, Aquino, Concepcion, Jr., Fernandez, Guerrero, and Abad Santos, JJ., concur.
Barredo, and De Castro, JJ., concurs in the opinion of Madame Justice Melencio-Herrera.
Melencio-Herrera, J., see concurring and dissenting opinion.

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CONCURRING AND DISSENTING OPINION

MELENCIO-HERRERA, J.:

Respondent Judge has been charged by the four complainants herein with "backsliding" and "grave abuse of discretion". "Backsliding" for his refusal to give complainants a copy of his Decision acquitting the accused, Ricardo Paredes, in four separate criminal accusations for Estafa filed before the City Court of Pasay, Branch IV. And "grave abuse of discretion" for rendering a verdict of acquittal, on the ground of reasonable doubt, in spite of the "strong evi-dence" against the accused.

The Executive Judge, concurred in by the Court Administrator, recommended dismissal of the charges for lack of merit. The majority has voted for dis-missal from the service on the principal grounds that respondent committed grave abuse of authority in refusing to give complainants a copy of his Decision in the aforesaid criminal cases and because, in acquitting the accused for insufficiency of the prosecution evidence, respondent committed errors bordering on gross ignorance of the law.

I agree that respondent was not justified in refusing to give complainants a copy of his Decision for which he can be held administratively accountable. However, in so far as the verdict of acquittal is concerned, I believe that respondent can only be faulted with error of judgment in appraising the evidence and applying doctrinal jurisprudence, for which he should not be held administratively liable and much less dismissed from the service.

In the case of Pabalan vs. Guevarra (Adm. Matter No. 333-CJ, 74 SCRA 53 [1976]), we held that a judicial officer cannot be called to account in civil or administrative actions for acts done in the exercise of his judicial function, however erroneous. As pointed out by then Justice Fernando, now the Chief Justice, in the cases of Bartolome vs. Hon. Juan de Borja and Grego vs. Hon. Juan de Borja, "even on the assumption that his interpretation was erroneous, still he could not be held accountable for gross ignorance of the law. At the most, he could have been mistaken. That does not render him liable to administrative sanction" (Adm. Matter No. 1096-CFI; Adm. Matter No. 1114-CFI, 71 SCRA 154 [1976]).

No one, called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment (Vda. de Zabala vs. Pamaran (Adm. Case No. 200-J, 39 SCRA 430-431 [1971]). "To hold a Judge administratively accountable for every erroneous ruling or decision he renders, assuming that he has erred, would be nothing short of harrassment and would make his position unbearable." (Barroso vs. Arche (Adm. Case No. 216-CFI, 67 SCRA 161, 162 [1975]).

To hold respondent City Judge administratively liable for ignorance of the law, there must be reliable evidence to show that the judicial acts complained of were ill-motivated, corrupt or inspired by a persistent disregard of well-known rules (Ajeno vs. Inserto, Adm. Matter No.1098-CFI, 71 SCRA 166 [1976]). For a Judge to be culpable in an administrative proceeding, there should be a clear and sufficient evidence of his misconduct (In re Horrieno, 43 Phil. 212, 1922 cited in Fr. Cabillo vs. Mun. Judge Celis, Adm. Matter No. 825-MJ, 83 SCRA 620 [1978]). There is no showing here-in that respondent Judge willfully perverted his position to inflict a deliberate wrong. Absent is the showing of bad faith or improper considerations.

I, therefore, vote to impose suspension for three (3) months. Respondent Judge acted arbitrarily, oppressively and unjustifiedly in refusing to give complainants a copy of his adverse Decision. He had also shown disrespect to this Court when he had repeatedly ignored its directive to submit his comment to the subject complaint.

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