

BUENAVENTURA B. SUNGA, COMPLAINANT, VS. JUDGE CONCEPCION SALUD, MUNICIPAL CIRCUIT COURT, AMULONG-IGUIG, CAGAYAN, RESPONDENT.*Adm. Mat. No. 2205-MJ. November 19, 1981*

Ponente: FERNANDO, C.J.

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It was the imposition of a bail bond in the amount of P18,000.00 for the alleged violation of Presidential Decree No. 583, the penalty for which is prison mayor or a fine ranging from P5,000.00 to P10,000.00 or both, that led to a verified letter-complaint from Buenaventura B. Sunga for grave abuse of authority or, at the very least, ignorance of the law. Complainant was accused in a criminal case for unlawful ejectment. Upon being required to comment, respondent Judge denied such accusation and maintained that considering the penalty of prison mayor, the bail bond which he fixed at P18,000.00 could not be considered excessive. The matter was then referred to Executive Judge Bonifacio Cacdac, Jr. of the Court of First Instance of Cagayan, Branch V at Tuguegarao, for investigation, report and recommendation. He conducted such investigation. In his report, based primarily on a motion to dismiss filed by the complainant himself manifesting lack of interest, he recommended the dismissal of the complaint. He likewise could not find any justification for the charge of excessive bail. Court Administrator Justice Lorenzo Relova, agreeing with the recommendation of Deputy Court Administrator Romeo Mendoza, submitted to the Court his report "that respondent Judge Concepcion Salud be found guilty of grave abuse of authority for which he should be fined equivalent to one (1) month salary, not chargeable to his leave credits and warned that a repetition of such infraction in the future will be dealt with more severely." [1]

This Court pursuant to the mandate that excessive bail should not be required feels that a more severe penalty should be imposed. [2] The members of the Judiciary were reminded in Circular No. 1, [3] dealing with the fixing of the bail bond in criminal cases, of the authoritative doctrine in *Villaseñor v. Abaño*. [4] The following factors are to be considered: "1. Ability of the accused to give bail; 2. Nature of the offense; 3. Penalty for the offense charged; 4. Character and reputation of the accused; 5. Health of the accused; 6. Character and strength of the evidence; 7. Probability of the accused appearing in trial; 8. Forfeiture of other bonds; 9. Whether the accused was a fugitive from justice when arrested; and 10. If the accused is under bond for appearance at trial in other cases." [5]

This Court, in the later case of *De la Camara v. Enage* [6] was equally explicit on the matter. Thus: "Where, however, the right to bail exists, it should not be rendered nugatory by requiring a sum that is excessive. So the Constitution commands. It is understandable why. If there were no such prohibition, the right to bail becomes meaningless. It would have been more forthright if no mention of such a guarantee were found in the fundamental law. It is not to be lost sight of that the United States Constitution limits itself to a prohibition against excessive bail. As construed in the latest American decision, 'the sole permissible function of money bail is to assure the accused's presence at trial, and declared that "bail set at a higher figure than an amount reasonably calculated to fulfill this purpose is excessive under the Eighth Amendment." ' [7] It should be stressed, contrary to the

thinking of Executive Judge Cacdac, that the mere assertion of lack of interest to prosecute is not automatically followed by the matter being considered closed.

WHEREFORE, respondent Judge is fined equivalent to two (2) months salary, not chargeable to his leave credits. He is warned that a repetition of a failure to apply constitutional provisions would result in a much more severe penalty. Let a copy of this resolution be spread on his record.

Teehankee, Barredo, Makasiar, Aquino, Concepcion, Jr., Fernandez, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.

[1] Memorandum of Justice Lorenzo Relova dated November 10, 1981, 2.

[2] According to the last sentence of Article IV, Section 18 of the Constitution: "Excessive bail shall not be required."

[3] Circular No. 1 dated February 9, 1981.

[4] L-23599, September 29, 1967, 21 SCRA 312, per Sanchez, J.

[5] Ibid, 317.

[6] L-32951-2, September 17, 1971, 41 SCRA 1.

[7] Ibid, 8.

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