

MAIMONA MANONGGIRING, COMPLAINANT, VS. JUDGE AMER R. IBRAHIM, RESPONDENT.

A.M. No. RTJ-01-1663. November 15, 2002

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

For granting bail to an accused charged with a crime punishable by reclusion perpetua to death in a case pending before another sala, this Court finds respondent Judge Amer R. Ibrahim guilty of gross ignorance of the law and imposes upon him a fine of P20,000.00.

On January 17, 1995, Provincial Prosecutor Paca-ambung C. Macabando filed before the RTC of Lanao del Sur an information charging six (6) persons with “violation of Article 321 (1) of the Revised Penal Code, as amended by Sec. 3 (2) of Presidential Decree No. 1613” (the criminal case) as follows:

The undersigned Provincial Prosecutor accuses, PO3 Aragasi Badron, Macloling Mustapha, Solaiman Mangorsi, Gandawali Ampatua, Lininding Pangadapun and Pangalian Hadji Azis, of the crime of ARSON, committed as follows:

That on or about December 18, 1994 at around 4:30 O’clock in the afternoon at the Barangay Cormatan Municipality of Mulondo, Province of Lanao Del Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with assorted high powered firearms, conspiring, confederating and mutually helping each other, and motivated by spite, anger, and hatred, did then and there willfully, unlawfully, feloniously and deliberately burn and set to fire the inhabited house owned and used as dwelling house of Ex-mayor Manongiring Lumano, said accused knowing the house or building to be occupied at the time by then and there pouring and spreading gasoline over the said house and setting it to fire and to the damage and prejudice of the said owner Manongiring Lumano.

Contrary to and in violation of Article 321 (1) of the Revised Penal Code as amended by Sec. 3 (2) of Presidential Decree No. 1613.[1] (Underscoring supplied.)

Typewritten beneath Prosecutor Macabando’s signature in the information were the words “Bail Recommended: No Bail.” The “No Bail” entry was, however, crossed out and above it was handwritten by Prosecutor Macabando the amount “P120,000.00.”

The criminal case, docketed as Criminal Case No. 2052-95, was raffled to Branch 10 of the RTC of Lanao del Sur.

On September 4, 1996, the prosecution filed an amended information against the same accused, for “violation of Section 10 of Republic Act No. 7659,” reading as follows:

The undersigned Provincial Prosecutor accuses PO3 ARAGASI BADRON, MACALOLING MUSTAPHA, SOLAIMAN MANGORSI, GANDAWALI AMPATUA, LININDING PANGADAPUN and PANGALIAN HADJI AZIS, of the crime of ARSON, committed as follows:

That on or about December 18, 1994 at around 4:30 o'clock in the afternoon at Barangay Cormatan, Municipality of Mulondo, Province of Lanao Del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused armed with assorted high powered firearms conspiring, confederating and mutually helping each other, and motivated by spite, anger, and hatred did then and there willfully, unlawfully, feloniously and deliberately burn and set to fire the inhabited house owned and used as dwelling house of Ex-Mayor Manongiring Lumano, said accused knowing the house or building to be occupied at the time by then and there pouring and spreading gasoline over the said house and setting it to fire and to the damage and prejudice of the said owner Manongiring Lumano.

CONTRARY TO and in violation of Section 10 of Republic Act No. 7659.[2] (Underscoring supplied.)

Prosecutor Macabando recommended "NO BAIL."

In view of the amendment of the information, the prosecution, on September 17, 1996, filed a motion for the cancellation of the bail bond earlier posted by accused PO3 Aragasi Badron under the original information. The RTC, Branch 10 granted the prosecution's motion by Order of November 14, 1996.

A warrant for the arrest of, among other accused, Macaloling Mustapha was issued in November 1996 by the RTC, Branch 10.

Sometime in February 1999, accused Mustapha applied for bail, which herein respondent Presiding Judge of the RTC, Branch 9, by Order of February 15, 1999, granted.

Alleging that respondent had no authority to grant Mustapha bail since the criminal case is pending before another branch of the court and for an offense punishable by reclusion perpetua to death, the private complainant, Maimona Manonggiring, filed the present administrative complaint against respondent for Gross Misconduct and Gross Ignorance of the Law.

Required to comment, respondent, denying that there was any irregularity attendant to his questioned act, contends that under Section 17, Rule 114 of the 1985 Revised Rules on Criminal Procedure, as amended, bail may be allowed by a judge in a branch different from that where the case is pending; that he was guided by the warrant of arrest issued against the accused in 1995 recommending bail of P120,000.00 as well as by the original information stating that the act complained of was "contrary to and in violation of Act. 321 (1) of the Revised Penal Code as Amended by Sec. 3 (2) of Presidential Decree No. 1613;" and that on his instruction, the sheriff who is assigned to his sala went to verify from Branch 10 of the RTC and found out that the offense for which Mustapha was charged was bailable and no amended information was on file.

Respondent draws attention to the allegation of the prosecution in its motion to cancel the bail bond of accused PO3 Aragasi Badron, who was, as earlier stated, previously allowed to post bail under the original information, "that said information must have been filed in haste, without careful or complete investigation." The lack of coordination on the part of the prosecution, adds respondent, "misled the parties and the bench." [3]

By Resolution of October 22, 2001, this Court referred the administrative complaint to the Presiding Justice of the Court of Appeals (CA) to be raffled among the associate justices thereof for investigation, report and recommendation.

By his report, CA Associate Justice Candido V. Rivera, to whom the administrative case was raffled, finds merit in the complaint and recommends that this Court fine respondent the amount of "P10,000.00 with a warning that a repetition of the same or similar acts shall be dealt with more severely."

Respondent maintains that Judge Yusoph K. Pangadapun, Presiding Judge of Branch 10 of the RTC where the

criminal case is lodged, was on leave when Mustapha's motion for bail was filed on February 15, 1999 in his sala – Branch 9, in support of which he presented a certified true photocopy of New Judicial Form No. 86 showing that Judge Pangadapun was on vacation/sick leave on February 15-17, 1999;^[4] and that as bail in the criminal case was a matter of right, he acted in accordance with Section 17 (a), Rule 114 of the Revised Rules on Criminal Procedure which provides:

SEC. 17. Bail, where filed. – (a) 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. x x x. (Underscoring supplied.)

Complainant argues, however, that Mustapha and his co-accused were charged with an offense punishable by reclusion perpetua to death, hence, grant of bail is discretionary and only the court where the case is pending may act on the application for bail pursuant to Section 17 (b) of the Rule 114.

Complainant's argument is well taken.

Why respondent did not himself verify the records of the criminal case and instead just sent his sheriff for the purpose, he has not proffered any explanation. And why the sheriff verified the records of the criminal case not from Branch 10, but from the Office of the Clerk of Court, neither has respondent proffered any explanation. Had respondent himself done the verification, he could have known that the original information was amended whereon no bail was recommended.

But even if there was failure to discover the existence of the amended information, he could have gathered from the recital of facts in the body of the original information, which determines the real nature of the criminal charge,^[5] that the accused are liable under Article 320 of the Revised Penal Code, as amended by R.A. No. 7656^[6] which took effect on December 31, 1993.^[7] Thus, as amended by R.A. No. 7659, Article 320 of the Revised Penal Code reads:

Article 320. Destructive Arson. – The penalty of reclusion perpetua to death shall be imposed upon any person who shall burn:

1. One (1) or more buildings or edifices consequent to one single act of burning, or as a result of simultaneous burning, or committed on several or different occasions.

x x x

Irrespective of the application of the above enumerated qualifying circumstances, the penalty of reclusion perpetua to death shall likewise be imposed when the arson is perpetrated or committed by two (2) or more persons or by a group of persons, regardless of whether their purpose is merely to burn or destroy the building or the burning merely constitutes an overt act in the commission of another violation of law. (Underscoring supplied).

The original information filed on January 17, 1995 charged the six accused of having conspired with one another in "burn[ing] and set[ting] to fire an inhabited house." The incident clearly falls within the coverage of the above-quoted Article 320 of the Revised Penal Code, as amended by R. A. No. 7656, which prescribes the penalty of reclusion perpetua to death. Accordingly, bail is a matter of discretion, not of right. Section 7, Rule 114 of the Revised Rules on Criminal Procedure so provides:

SEC. 7. Capital offense or an offense punishable by reclusion perpetua or life imprisonment, not bailable. – No person charged with a capital offense, or an offense punishable by reclusion perpetua or life imprisonment, when evidence of guilt is strong, shall be admitted to bail regardless of the stage of the criminal prosecution.

Section 17 (b), of Rule 114, not Section 17 (a) of the same Rule under which respondent justifies his questioned

grant of bail to Mustapha, therefore, applies. As Section 17 (b) of Rule 114 provides:

(b) Whenever the grant of bail is a matter of discretion, or the accused seeks to be released on recognizance, the application therefor may be filed only in the particular court where the case is pending, whether for preliminary investigation, trial, or on appeal. (Underscoring supplied), only Branch 10 of the RTC where the criminal case is pending may act on the application for bail.

But even if respondent was ignorant of R. A. No. 7659, he would have, had he been a tad diligent, been put on notice that under the offense for which the accused were charged in the original information, bail is still not a matter of right. For Section 3 (2) of P.D. No. 1613[8] reads:

SEC. 3. Other Cases of Arson. – The penalty of Reclusion Temporal to Reclusion Perpetua shall be imposed if the property burned is any of the following:

x x x

2. Any inhabited house or dwelling

x x x.

(Underscoring supplied.)

Moreover, Section 4 of the same P. D. provides:

SEC. 4. Special Aggravating Circumstances in Arson. – The penalty in any case of arson shall be imposed in its maximum period:

x x x

3. If the offender is motivated by spite or hatred towards the owner or occupant of the property burned;

4. If committed by a syndicate.

The offense is committed by a syndicate if it is planned or carried out by a group of three (3) or more persons. (Underscoring supplied).

These special aggravating circumstances are all alleged in the original information, hence, the maximum penalty prescribed by Section 3 (2) still of the same P.D., i.e., reclusion perpetua, is imposable upon the accused.

That respondent was, by his virtual admission, misled by the prosecution's specification of the provision of law violated compounds, rather than excuses, his ignorance. For the determination of the nature of the crime charged in the information is purely a legal question which is within the judge's exclusive province. As this Court stressed in *U.S. vs. Lim San*, [9] "That is the duty of the courts . . . to which and to which alone the sovereignty has delegated the right to denominate crime from facts alleged...." For a judge to rely blindly on the prosecutor's say-so is for him to abdicate his judicial functions in favor of the prosecutor.

Thus, in a case[10] where the judge, swayed by the defense counsel's argument that the 1996 Bail Bond Guide prevails over the Revised Penal Code, granted bail without hearing to an accused charged with two counts of rape, this Court found the judge guilty of gross ignorance of the law.

x x x. Any self-respecting member of the bench or bar knows, or should know with little effort, that simple rape is punishable with reclusion perpetua as provided in Art. 335 of the Revised Penal Code. Likewise, as lucidly provided in Sec. 7, Rule 114 of the Revised Rules on Criminal Procedure, no person charged with such an offense, when evidence of guilt is strong, shall be admitted to bail regardless of the stage of the criminal prosecution. Hence a litany of cases emphasizes that bail is discretionary and not a matter of right on the part

of the accused. x x x.

Thus, when a judge grants bail to a person charged with a capital offense, or an offense punishable by reclusion perpetua or life imprisonment without conducting the required hearing, he is considered guilty of ignorance or incompetence the gravity of which cannot be excused by a claim of good faith or excusable negligence. This is because members of the judiciary are supposed to exhibit more than just a cursory acquaintance with the statutes and procedural rules, more so with legal principles and rules so elementary and basic that not to know them, or to act as if one does not know them, constitutes gross ignorance of the law.

In the instant case, respondent Judge does not deny that he granted bail without a hearing to a person accused of two (2) counts of rape. He attempts to excuse himself by saying that he was misled by the “1996 Bail Bond Guide” of the Department of Justice which provides that simple rape is punishable by reclusion temporal and bailable at P200,000.00. However, as already stated, ignorance of this type cannot be excused by a claim of good faith or excusable negligence. Besides the fact that he was even misguided only manifests his weakness and reinforces his gross ignorance. x x x. (Citations omitted.)

That accused Mustapha died on August 1, 1999, a victim of homicide, as manifested in the Comment of respondent, does not extinguish respondent’s administrative liability. Administrative cases involving misconduct, nonfeasance, misfeasance, or malfeasance in the judiciary are of paramount public interest as the respondents are involved in the administration of justice, a sacred and solemn task.[11]

In line with jurisprudence, respondent is fined the amount of P20,000.00.[12]

WHEREFORE, the Court finds Judge Amer R. Ibrahim GUILTY of gross ignorance of the law and orders him to pay a FINE of P20,000.00. He is WARNED that the commission of the same or similar acts in the future shall be dealt with more severely.

SO ORDERED.

Puno, (Chairman), Panganiban, Sandoval-Gutierrez, and Corona, JJ., concur.

[1] Rollo, p. 13.

[2] Id., at 16.

[3] Id., at 29-32.

[4] Annex “I,” Comment (Rollo, p. 32).

[5] *People vs. Madraga*, 344 SCRA 628 (2000).

[6] An Act to Impose the Death Penalty on Certain Heinous Crimes.

[7] *People vs. Simon*, 234 SCRA 555 (1994).

[8] Amending the Law on Arson.

[9] 17 Phil. 273 (1910).

[10] *Almeron vs. Sandido*, 281 SCRA 415 (1997).

[11] *Florendo vs. Enrile*, 239 SCRA 22 (1994).

[12] *Rasmia U. Tabao vs. Acting Presiding Judge Acmad T. Batrataman*, MTCC, Branch 1, Marawi City, A.M. No. MTJ-01-1384, April 11, 2002, citing *Comia vs. Antona*, 337 SCRA 656 (2000).

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