

**ATTY. ALBERTO P. QUINTO, COMPLAINANT, VS. JUDGE GREGORIO S. VIOS, MUNICIPAL TRIAL COURT, KAPATAGAN, LANA DEL NORTE, RESPONDENT.**

*A.M. No. MTJ-04-1551. May 21, 2004*

Ponente: CALLEJO, SR., J.

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**CALLEJO, SR., J.:**

The instant administrative complaint arose when Atty. Alberto P. Quinto charged Judge Gregorio S. Vios, Municipal Trial Court, Lanao del Norte, with grave abuse of authority and ignorance of the law relative to Criminal Case No. 2713 entitled *People of the Philippines v. Andres Bolando and John Doe* for grave threats.

The complainant was the defense counsel in the said case. In his verified Complaint<sup>[1]</sup> dated December 19, 2001, he alleged that during the trial, the prosecution presented two witnesses whose testimonies were based on the accounts of another eyewitness; hence, hearsay. On cross-examination, Prosecutor Jaime Umpa stipulated and admitted that both witnesses did not actually hear the accused utter the threatening words. After the prosecution rested its case, the defense filed a Motion for Leave of Court to File Demurrer to Evidence, which, however, the respondent denied.

During the hearing of August 15, 2001, the complainant manifested that he was waiving the presentation of his evidence. The respondent then allegedly got angry, shouted and scolded the complainant, stating that the defense had no right to waive the presentation of evidence. The complainant could hardly finish his every manifestation as he was repeatedly cut short by the respondent. The respondent did not listen to the complainant's explanation and, thereafter, compelled the latter to withdraw his appearance as counsel of the accused, under pain of contempt. In the presence of the complainant, the respondent appointed a counsel de oficio.

According to the complainant, the actuations of the respondent judge showed his arrogance and ignorance of the law, and that compelling him (the complainant) to withdraw as counsel of the accused under pain of contempt amounted to grave abuse of authority.

In his comment<sup>[2]</sup> the respondent denied the complainant's allegations and explained that what actually transpired during the hearing of Criminal Case No. 2713 was a difference of opinion on the application of the Revised Rules on Summary Procedure in relation to Section 23, Rule 119 of the Revised Rules of Court. The respondent clarified that when the complainant manifested in open court that he was waiving the presentation of evidence for the accused, the respondent merely informed the complainant that he would be violating Sec. 23, Rule 119 of the Revised Rules of Court. Moreover, to do so would be prejudicial to the rights of the accused. The respondent also alleged that he warned the complainant that the accused may be convicted if he would not present evidence on his behalf.

The respondent pointed out that it is for the court to assess and evaluate the evidence. He asserted that the complainant must have lost sight of the provision of Article 282 of the Revised Penal Code and the pronouncement of the Court in several cases that grave threats can be committed indirectly. According to the

respondent, the hearsay evidence rule would not apply in this case, as the testimonies of the witnesses for the prosecution can be considered as independently relevant statements or utterances which are facts in issue or circumstantial evidence of the facts in issue. Even if such opinion is erroneous, the respondent judge maintained that the same cannot be the basis of an administrative action on the ground of abuse of authority or ignorance of the law.

Finally, the respondent claimed that after several exchanges between the complainant, the prosecutor and the court, he and the prosecutor sincerely advised the complainant to withdraw as defense counsel. The complainant readily and voluntarily withdrew his appearance with the consent of the accused and a counsel de oficio was, thereafter, appointed in his stead. The respondent insisted that he did not abuse his authority when he advised the complainant to withdraw as defense counsel because it was made in the exercise of sound judicial discretion, in order to protect the rights of the accused.

In his reply,[3] the complainant insisted that what transpired during the hearing of August 15, 2001 was not a matter of difference in opinion, but a manifestation of grave abuse of authority and ignorance of the law. According to the complainant, the denial of the motion to file demurer to evidence was akin to a denial of the demurrer itself; hence, the accused may adduce evidence in his defense, in accordance with Section 23, Rule 119 of the Revised Rules on Criminal Procedure. As the said Rules are merely directory and permissive, the respondent had no right to compel him (the complainant) to present evidence for the defense, or force him to withdraw as counsel on pain of contempt of court.

The case was assigned to Executive Judge Valerio M. Salazar of the Regional Trial Court of Lanao Del Norte, Branch 6, for investigation, report and recommendation.[4] In his Report dated December 12, 2003, the Executive Judge concluded that the respondent believed that the accused in the criminal case must present evidence to avoid prejudice. When the complainant insisted on waiving this right on behalf of the accused, the respondent repeatedly told complainant to withdraw as the only way to procure the presentation of evidence for the accused. In effect, the respondent virtually compelled the complainant to withdraw as counsel for the accused.

According to the Executive Judge, the respondent's insistence that the accused may not waive the right to present evidence was clearly erroneous. The respondent failed to understand the plain and unmistakable language of Section 23, Rule 119 of the Revised Rules on Criminal Procedure. However, the Executive Judge opined that it was a simple error of interpretation and application of rules, and concluded that the respondent was not moved by malice, dishonesty or corrupt motive. As the respondent did not actually cite the complainant for contempt and eventually acquitted the accused in the criminal case, no grave injury or undue prejudice was caused on any party. It was then recommended that the instant complaint against the respondent judge be dismissed.[5]

#### THE COURT'S RULING

The acts of a judge which pertain to his judicial functions are not subject to disciplinary power unless they are committed with fraud, dishonesty, corruption or bad faith.[6] As we held in the recent case of *Edgardo D. Balsamo v. Judge Suan*: [7]

... [A]s a matter of policy, in the absence of fraud, dishonesty or corruption, the acts of a judge in his judicial capacity are not subject to disciplinary action even though such acts are erroneous. He cannot be subjected to liability – civil, criminal, or administrative – for any of his official acts, no matter how erroneous, as long as he acts in good faith. In such a case, the remedy of the aggrieved party is not to file an administrative complaint against the judge but to elevate the error to the higher court for review and correction. The Court has to be shown acts or conduct of the judge clearly indicative of arbitrariness or prejudice before the latter can be branded the stigma of being biased and partial. Thus, not every error or mistake that a judge commits in the performance of his duties renders him liable, unless he is shown to have acted in bad faith or with deliberate

intent to do an injustice. Good faith and absence of malice, corrupt motives or improper considerations are sufficient defenses in which a judge charged with ignorance of the law can find refuge.[8]

As found by Executive Judge Salazar, the respondent judge honestly believed that the complainant, as counsel for the accused in Criminal Case No. 2713, had no right to waive the presentation of evidence. However erroneous such belief, the same may only be considered as an error of judgment. A judge's failure to interpret the law or to properly appreciate the evidence presented does not necessarily render him administratively liable.[9] To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment.[10]

It must be stressed that an administrative complaint against a judge cannot be pursued simultaneously with the judicial remedies accorded to parties aggrieved by his erroneous order or judgment. Administrative remedies are neither alternative nor cumulative to judicial review where such review is available to the aggrieved parties and the same has not yet been resolved with finality. Until there is a final declaration by the appellate court that the challenged order or judgment is manifestly erroneous, there will be no basis to conclude whether respondent judge is administratively liable.[11]

In the case at bar, if, indeed, the complainant truly believed that the judge's view was erroneous and wanted to protect his client, he should not have allowed the respondent, or anyone for that matter, to influence him to withdraw as counsel for the accused. If he felt prejudiced by the order of the respondent judge, he should have continued with the presentation of evidence for the accused, and, in the event that the respondent rendered an adverse decision, to file an appeal in the appropriate court, and not an administrative complaint against the judge.

However, a perusal of the transcript of the stenographic notes[12] in the August 15, 2001 hearing showed that the respondent, indeed, virtually compelled the latter to withdraw as counsel for the accused. As the Court Administrator opined in its Report dated March 18, 2003:

Respondent judge is liable for misconduct when he threatened to punish complainant for contempt of court if he would refuse to withdraw his appearance, as counsel for the accused, when the latter insisted on waiving the presentation of the evidence for the defense.[13]

The respondent ought to be reprimanded for violating Canon 3 of the Code of Judicial Conduct, which provides that "a judge should perform official duties honestly, and with impartiality and diligence." Rule 3.04 further provides, thus:

Rule 3.04. – A judge should be patient, attentive and courteous to lawyers, especially the inexperienced, to litigants, witnesses, and others appearing before the court. A judge should avoid unconsciously falling into the attitude of mind that the litigants are made for the courts, instead of the courts for the litigants.

The respondent's actuations amount to vulgar and unbecoming conduct, classified as a light charge under Rule 140 of the Rules of Court, as amended by A.M. No. 01-8-10-SC.[14] However, in view of the respondent's retirement on December 24, 2003, this sanction can no longer be meted on him. As opined by the Executive Judge, the instant administrative complaint has "already inflicted upon the respondent the anxiety and apprehension that he might lose his retirement benefits after 41 years in the government service," ten of which were in the judiciary. To allow the respondent to fully enjoy his retirement benefits would be the most prudent course of action for the Court.

WHEREFORE, the Court resolves to DISMISS the complaint against respondent Judge Gregorio S. Vios, Municipal Trial Court, Lanao del Norte.

**SO ORDERED.**

Quisumbing, (Acting Chairman), Austria-Martinez, and Tinga, JJ., concur.  
Puno, (Chairman), J., on official leave.

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[1] Rollo, pp. 1-4.

[2] Id. at 42-47.

[3] Id. at 49-51.

[4] Id. at 57.

[5] Report and Recommendation, pp. 8-9.

[6] P/Supt. Rudy G. Lacadin v. Judge Marvin B. Mangino, A.M. No. MTJ-01-1346, July 9, 2003.

[7] A.M. No. RTJ-01-1656, September 17, 2003.

[8] Id. at 13.

[9] Mina v. Gatdula, 376 SCRA 1 (2002).

[10] Linda M. Sacmar v. Judge Agnes Reyes-Carpio, A.M. No. RTJ-03-1766, March 28, 2003.

[11] Ibid., cited in Julie C. Pitney v. Judge Zeus C. Abrogar, A.M. No. RTJ-03-1748, November 11, 2003.

[12] Annex "G."

[13] Rollo, p. 55.

[14] The amendment took effect on October 1, 2001.

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