

JAIME C. TARAN, COMPLAINANT, vs. JUDGE JOSE S. JACINTO, JR., RESPONDENT.

A.M. No. MTJ-02-1436. April 03, 2003

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

In a sworn letter complaint^[1] dated May 15, 2000 addressed to the Court Administrator, Jaime C. Taran charged Judge Jose S. Jacinto, Jr., Acting Presiding Judge of the Municipal Circuit Trial Court (MCTC) of Lubang-Looc, Occidental Mindoro, with gross ignorance of the law and violation of human rights.

Complainant alleged that he is the father of Eugene Taran, one of the accused in Criminal Case No. 2641, “People of the Philippines v. Dennis Villaluz and Eugene Taran,” for direct assault upon a person in authority, pending before the sala of respondent judge. Even without the required Certification to File Action from the Barangay Chairman of Bagong Sikat, Lubong, Occidental Mindoro, respondent judge gave due course to the complaint and conducted the preliminary examination without notice to the accused. On April 4, 2000, respondent issued an alias warrant of arrest against the accused without giving him prior opportunity to file a counter-affidavit. Moreover, respondent refused to accept surety bond and demanded money from litigants. When the accused posted a cash bail for his provisional liberty, no official receipt was issued to him.

Complainant further alleged that respondent judge when outside the court, issues orders and subpoenas by phone which were then reduced in writing by his personnel. Then they would stamp thereon “original signed”. In fact, the order directing the release of the accused dated April 14, 2000 bears “original signed” although respondent was not in court that day.

In his comment,^[2] respondent judge explained that the Certification To File Action issued by the Barangay Chairman of Bagong Sikat, Lubang Occidental Mindoro was attached to the complaint in Criminal Case No. 2641. Also, his Clerk of Court issued the corresponding receipt to accused Eugene Taran when he posted the cash bail and attached it to the records of the case.

Respondent claimed that as a judge-designate at the MCTC, Lubang-Looc, Occidental Mindoro, he holds office there only every third week of each month. Thus, he instructed the Clerk of Court and other court personnel to inform him promptly of any pleading or motion requiring immediate action to enable him to act thereon expeditiously by dictating his order over the phone. With such procedure, he was able to administer justice speedily. In fact, the order for the release of accused Taran was by telephone.

According to respondent, he has served the government for fifteen (15) years and has maintained an unblemished reputation, performing his duties efficiently and with utmost dedication.

On April 1, 2002, Court Administrator Presbitero J. Velasco, Jr. filed his Report, recommending that this case be re-docketed as an administrative matter and that respondent judge be held liable for failure to supervise his personnel closely and for issuing orders relayed over the telephone; that a fine of P5,000.00 be imposed upon him

with a warning that a repetition of the same or similar offense shall be dealt with more severely. His findings read as follows:

“Documentary evidence show that the complaint filed in court was supported by a barangay certification to file action, and that the accused’s payment of the required cash bond was properly receipted. The original copies of the receipts were retained by the court and were attached to the case record. No explanation was offered why the originals of the receipts were not released to the payor.

“In Circular No. 26-97 issued on May 5, 1997, the Court Administrator directed Judges and Clerks of Courts to comply with the provisions of Sections 61 (Kinds of accountable forms) and 113 (Issuance of official receipt), Article VI of the Auditing and Accounting Manual for the purpose of eradicating the practice of some clerks of court of retaining the original copy of the official receipt issued in acknowledgment of payment for file with the record of the case instead of issuing the same to the payor. On the basis of the said Circular, the official receipts should have been released to the payor as demanded by the complainant. It was incumbent upon respondent Jacinto as presiding judge designate of the MCTC of Lubang-Looc, Mindoro Occidental, to supervise properly court personnel to ensure that they comply with the provisions of issuances of the Supreme Court and the Office of the Court Administrator on general administration and court management.

“The complainant’s contention that the conduct of the preliminary examination and the issuance of the warrant of arrest were procedurally defective since they were done without the knowledge of the accused and therefore deprived the latter of the right to due process has no leg to stand on. Preliminary examination is not an essential part of due process of law and may be conducted by the municipal judge prior to the issuance of the warrant of arrest, either in the presence or in the absence of the accused (*Luna vs. Plaza*, 26 SCRA 310). Perusal of the records show that prior to the issuance of the warrant of arrest, respondent Jacinto conducted a personal examination of the complainant and his witness under oath and such examination was reduced to writing in the form of searching questions and answers. Moreover, there is no right to preliminary investigation in cases triable by the inferior courts.

“The complainant’s allegation that respondent Jacinto did not investigate the background of the case has no merit. As herein discussed, a preliminary examination was conducted by respondent Jacinto.

“Respondent Jacinto had no hand in the service of the arrest warrant. Law enforcement agents effected the same. The complainant’s allegations that irregularities attended the service of the warrant and that the same were attributable to the respondent proceed from mere conjecture and have no basis in fact.

“On the matter of bail, Rule 114 (Bail) of the 1985 Rules of Criminal Procedure and the 1996 Bail Bond Guide for the National Prosecution Service issued by the Department of Justice prescribes the guidelines on bail. Whether or not bail imposed is reasonable or excessive would depend on the circumstances obtaining in the particular case, taking into consideration the standards and criteria particularly mentioned in the 1996 Bail Bond Guide. One cannot therefore say outright that the bond fixed by the judge is unreasonable or excessive.

“The averments that the court refuses to accept property and surety bond and that respondent Jacinto demands money from party litigants are both bereft of sufficient proof. The complainant has not submitted any evidence to substantiate his allegations. Indeed, although in administrative proceedings, the quantum of proof necessary for a finding of guilt is only substantial evidence (*Office of the Court Administrator vs. Sumilang*, 271 SCRA 316), there must be convincing proof apart from bare allegations before any member of the judiciary could be faulted. As in all administrative proceedings, the burden of proof that the respondent committed the acts complained of rests on the complainant. Failing in this, this particular accusation must be dismissed (*Areola vs. Judge Peig, Jr.*, RTJ-98-1398, 24 February 1998).

“Finally, we find respondent’s practice of issuing orders over the telephone irregular. Undoubtedly, the respondent has good intentions. The MCTC of Lubang-Looc is in a remote island and respondent Jacinto, as Judge-designate thereat, can hold office at the said court only every third week of the month, for he also has to

attend to court matters in his regular sala. Nonetheless, respondent's practice still cannot be condoned.

"MCTCs are already courts of record. They are bound to keep a record of their proceedings which must appear in writing. Orders of these courts must be reduced to writing, signed by the judge issuing such orders and then filed with the clerk of court. Even if the order relayed through telephone should be reduced to writing, the same could not be considered as having been officially rendered by the court, for the same has not been signed by the judge. Respondent Jacinto should refrain from such practice.

"All told, respondent Jacinto cannot be held liable for gross ignorance of the law or procedure and violation of human rights. However, he can be declared culpable for lapses in supervision of the court employees, resulting in non-compliance with the provisions of Circular No. 26-97, and for issuing irregularly orders through the telephone.

"Incidentally, respondent Jacinto has been designated by the Court as the Acting Presiding Judge of the Metropolitan Trial Court (Branch 78) at Parañaque City effective 27 March 2001 (Administrative Order No. 30-2001)."[3]

We agree with the findings of Court Administrator Velasco.

Supreme Court Circular No. 26-97 dated May 5, 1997 provides:

"TO: ALL JUDGES AND CLERKS OF COURTS OF REGIONAL TRIAL COURTS, SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURT IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A CIRCUIT COURTS

SUBJECT: LEGAL FEES FORM FOR LOWER COURTS

To eradicate the practice of some clerks of court of retaining the original copy of the official receipt issued in acknowledgment of payment for file with the records of the case instead of issuing the same to payor, JUDGES and CLERKS OF COURT are hereby DIRECTED TO:

1) Compel their collecting officials to strictly comply with the provisions of the AUDITING AND ACCOUNTING MANUAL, Art. VI, Secs. 61 and 113, to wit:
ARTICLE VI - Accountable Forms

Sec. 61. Kinds of Accountable forms -

(a) Official Receipts - For proper accounting and control of collections, collecting officers shall promptly issue official receipts for all monies received by them. These receipts may be in the form of stamps or officially numbered receipts x x x.

Sec. 113. Issuance of official receipt -For proper accounting and control of revenues, no payment of any nature shall be received by a collecting officer without immediately issuing an official receipt in acknowledgment thereof. This receipt may be in the form of stamps x x x or officially numbered receipts, subject to proper custody and accountability.

2) Cause the attachment of the Legal Fees Form for lower courts (Annex "A"), which is to be provided by the Property Division of the Office of the Court Administrator, to the record of the case in lieu of the official receipt.

Non-compliance with this CIRCULAR shall be dealt with administrative sanctions." (italics supplied)

As can be gleaned from the above Circular, Judges are required, among others, to compel their collecting officials, such as their Clerks of Court, to promptly issue official receipts for all monies received by them. It is the duty of the Clerks of Court, the custodians of court funds and revenues,[4] to issue receipts for all monies collected by them and deposit them promptly with the authorized government depository bank.[5] On the part of the Judges, it is their duty to see to it that these functions are performed faithfully and well by their Clerks of

Court.

Here, the Clerk of Court did not issue the receipt for the payment of the cash bond posted by the accused. Instead, the original receipt was attached to the records of Criminal Case No. 2641. Respondent should have instructed the Clerk of Court to comply with Circular No. 26-97 quoted above. As aptly stated by Court Administrator Velasco in his Report, “respondent judge can be declared culpable for lapses in supervision of the court employees, resulting in non-compliance with the provisions of Circular No. 26-97.”

On the charge that respondent issued orders by telephone, he should have known that Municipal Circuit Trial Courts are courts of record and that, therefore, their proceedings must be in writing. Also, he should have complied with Section 1, Rule 36 of the 1997 Rules of Civil Procedure, as amended, quoted as follows:

“SECTION 1. Rendition of judgments and final orders. - A judgment or final order determining the merits of the case shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him, and filed with the clerk of court. (1a)”

In *Echaus vs. Court of Appeals*,^[6] we held:

“Time-honored and of constant observance is the principle that no judgment or order, whether final or interlocutory, has juridical existence until and unless it is set down in writing, signed, and promulgated, i.e., delivered by the Judge to the Clerk of Court for filing, release to the parties and implementation (Sec. 6, Rule 120 of the Revised Rules of Court; cf., *Qua v. Republic*, 122 Phil. 1083), and that indeed, even after promulgation, it does not bind the parties until and unless notice thereof is duly served on them by any modes prescribed by law (Secs. 3, 5, 7, Rule 13 of the Revised Rules of Court). This is so even if the order or judgment has in fact been orally pronounced in the presence of the parties, or a draft thereof drawn up and signed and/or copy thereof somehow read or acquired by any party (Sec. 2, Rule 15 of the Revised Rules of Court). x x x.”

We thus find that respondent judge violated this Court Circular No. 26-97 dated May 5, 1997 by failing to compel his Clerk of Court to issue official receipts for all monies received by him, specifically for the cash bail posted by the accused in Criminal Case No. 2641; and Section 1, Rule 36 on the rendition of orders.

It bears stressing that a judge should always be imbued with high sense of duty and responsibility in the discharge of his obligation to promptly administer justice.^[7] As an officer of the court, he is duty-bound to use reasonable skill and diligence in the performance of his duties.^[8] He should have adhered to the highest standards of public accountability lest his action erode the public faith in the judiciary. Indeed, he has fallen short of this standard.

Section 7, Rule 140 of the Revised Rules of Court, as amended, classifies administrative charges as serious, less serious, or light. Under Section 9 (4), violation of Supreme Court rules, directives and circulars is categorized as a less serious offense punishable, under Section 11 (B), by: a) suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or b) a fine of more than P10,000.00 but not exceeding P20,000.00.

WHEREFORE, this Court finds respondent Judge Jose S. Jacinto GUILTY of violation of Circular N 26-9 7 and Section 6, Rule 120 of the Revised Rules of Court and is hereby FINED in the sum of P11,000.00 and warned that a repetition of the same or similar act will be dealt with more severely.

Let a copy of this Decision be attached to his records with this Court.

SO ORDERED.

Puno (Chairman), Panganiban, Corona, and Carpio Morales, JJ., concur.

[1] Rollo at 1-6.

[2] Id. at 35-38.

[3] Id. at 108-111.

[4] Office of the Court Administrator vs. Lucio, P-96-1206, 11 June 1996, 257 SCRA 287.

[5] Report on the Financial Audit in RTC, General Santos City and the RTC and MTC of Polomolok, South Cotabato, A.M. No. 96-1-25-RTC, 8 March 2000, 327 SCRA 414.

[6] G.R. No. 57343, 23 July 1990, 187 SCRA 672.

[7] Amion vs. Chiongson, A.M. No. RTJ-97-1371, 22 January 1999, 301 SCRA 614.

[8] De Castro vs. Santos, A.M. No. P-90-474, 19 June 1991, 198 SCRA 245.

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