

**SINAL BANTUAS, YUSOP BANTUAS, SAIDALAWI BANTUAS AND
MONORA B. MADCASIM, COMPLAINANTS, VS. JUDGE YUSOPH K.
PANGADAPUN AND JUDGE SANTOS B. ADIONG, RESPONDENTS.**

A.M. No. RTJ-98-1407. July 20, 1998

Ponente: MARTINEZ, J.

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MARTINEZ, J.:

In a verified complaint dated October 17, 1995[1] Judge Yusoph K. Pangadapun, Regional Trial Court, Branch 10, Marawi City in his capacity as Acting Presiding Judge, RTC, Branch 11, Malabang, Lanao del Sur and Judge Santos B. Adiong, RTC, Branch 8, Marawi City were charged with alleged gross misconduct relative to the granting of bail to the accused in Criminal Case No. 11-340 entitled “People vs. Nixon Macapado et. al.” for Murder.

The complainants herein are relatives of the late Bohare Bantuas, who was shot to death allegedly by the accused in Criminal Case No. 11-340 filed before the sala of respondent Judge Pangadapun. By virtue of the warrant of arrest issued against the accused in the above-mentioned case, accused Nixon Macapado was arrested and detained on August 21, 1994. Complainants allege that after the arrest of the accused, the subject criminal case was not heard and no notice of hearing nor subpoenas were issued in connection therewith. They claim that the accused was allowed to post bail without the benefit of a hearing in the amount of P40,000.00 as fixed by respondent judge Yusoph K. Pangadapun in his Order dated April 7, 1995[2] granting the Urgent Motion to Fix Bail[3] filed by accused’s counsel.

They further asseverate that in order to rectify his unprocedural and unjustified act of fixing bail in a capital offense without a hearing, respondent Judge Pangadapun revoked and set aside the questionable order above-cited by issuing on July 29, 1995 another order to that effect.[4] The case was calendared for hearing twice, but nothing was done about the case because the accused had already been released on bail.

Complainants likewise implicate respondent Judge Adiong in this alleged anomalous granting of bail to the accused. According to the complainants, Judge Adiong ordered the release of accused Nixon Macapado on July 18, 1995[5] on the basis of a defective property bond posted by bondsman Hadji Mohammad Mangondacan.

Upon verification from the office of the Register of Deeds, complainants found out that the property bond which was approved and accepted by respondent Judge Adiong, was not filed and duly registered in accordance with the prescribed form and there was no description of the area, no TCT number and no current assessed value of the real property involved. In addition, the property bond was not filed with the Register of Deeds for proper annotation. Complainants further discovered that the property was already subject of and used as bond in Civil case No. RTC-292-90, Regional Trial Court, Branch 10, Marawi City, Lanao del Sur.

In his Comment dated March 14, 1996,[6] respondent Judge Yusoph K. Pangadapun admitted that he issued the order dated April 7, 1995 granting the Urgent Motion to Fix Bail filed by accused Nixon Macapado through counsel without any hearing, on the strength of the representation of Provincial Prosecutor Pacaambung

Macabando, who allegedly did not offer any objection in so far as Nixon Macapado was concerned.

He explained, however, that said order was timely revoked by another order which he issued on July 19, 1995, before the accused was actually released from detention on July 29, 1995 as certified[7] by Carum Mamarinta Mauna, Warden of the Marawi City Jail where accused was detained. He added that his revocatory order was made while accused Nixon Macapado was still under detention at the City Jail, before the order of release of respondent Judge Adiong on July 28, 1995 and also before the accused's actual release on July 29, 1995.

Respondent Judge Santos B. Adiong, in his Comment,[8] admitted to having acted on the bail bond papers of accused in his capacity as Vice Executive Judge and in the absence of Executive Judge Yusoph K. Pangadapun who was out of town at that time. He claimed that, on the basis of the Order dated April 7, 1995 of Judge Pangadapun fixing the bail at P40,000.00 and considering that the supporting papers presented to him appeared to be in order, he approved the bail bond in his Order dated July 18, 1995.[9] Afterwards, he forwarded the bailbond papers to the RTC, Branch 11, Malabang, Lanao del Sur.

This Court has time and again reiterated that a hearing is mandatory before bail can be granted to an accused who is charged with a capital offense.[10] The circumstances obtaining herein situate the cause squarely within the ambit of the aforementioned procedural requirement.

As clearly establish by the facts of the case, accused Nixon Macapado was charged with Murder which is a capital offense. This notwithstanding, respondent Judge Pangadapun undertook to dispense with the requisite hearing on the basis of the non-objection thereto of the Provincial Prosecutor, in contravention of the rules and applicable jurisprudence.

True, the determination of the grant of bail is a matter of judicial discretion where the offense charged involves a capital offense.[11] However, the discretion of the court to grant bail in cases involving capital offenses lies not in the determination of whether or not a hearing should be held, but in the appreciation and evaluation of the weight of the prosecution's evidence of guilt against the accused.[12] Furthermore, admission to bail as a matter of discretion presupposes the exercise thereof in accordance with law and guided by the applicable legal principles.[13]

Although the Provincial Prosecutor had interposed no objection to the grant of bail to the accused, respondent judge should have set the petition for bail for hearing.[14] If the prosecution refuses to adduce evidence or fails to interpose an objection to the motion for bail, it is still mandatory for the court to conduct a hearing or ask searching and clarificatory questions.[15] For even the failure of the prosecution to interpose an objection to the grant of bail to the accused will not justify such grant without hearing.[16]

Respondent Judge Pangadapun's explanation that his unwarranted and unprocedural grant of bail was timely remedied by his subsequent issuance of an order revoking and setting aside the former cannot be countenanced. It is well worth noting that the revocatory order was made only on July 19, 1995 or three months after the initially erroneous order of April 7, 1995 which was sought to be corrected. That he realized his fallacious granting of bail only after the lapse of three months is unfathomable. Fundamental knowledge of the law and a reasonable understanding of recent jurisprudence ought to have guarded respondent judge against the precipitate and unjustified granting of bail or should have at least prompted him to invalidate the same immediately thereafter.

Whether the accused was still detained or not at the time the revocatory order was made is of no moment inasmuch as the administrative liability of respondent Judge Pangadapun had already attached when he granted bail to an accused charged with a capital offense. Neither will the seemingly conflicting claims of the parties with respect to the date of respondent Judge Adiong's release order negate the aforesaid culpability of respondent

Judge Pangadapun.

As found by the Office of the Court Administrator (OCA), in its Memorandum dated June 20, 1996,[17] “Judge Pangadapun's action shows lack of familiarity with the law and recent jurisprudence which undermines the public’s confidence in the integrity of the courts.”[18]

To grant an application for bail and fix the amount thereof without a hearing duly called for the purpose of determining whether the evidence of guilt is strong constitutes ignorance or incompetence whose grossness cannot be excused by a claim of good faith or excusable negligence.[19] Furthermore, the Court has held that the failure of the judge to conduct the hearing required prior to the grant of bail in capital offenses is inexcusable and reflects gross ignorance of the law and a cavalier disregard of its requirement.[20]

The explanation of respondent Judge Adiong is likewise dubious and unavailing. His act of approving the bail bond papers of the accused, without verifying pertinent records when he had every opportunity and reasonable time to do so, can be characterized as negligent and imprudent.

Had he thoroughly examined the order of his co-respondent Judge Pangadapun granting the accused’s Motion for Bail, he would have noticed that the motion was approved without the required hearing.

Likewise, he should have taken account of the fact that the same did not contain a summary of prosecutorial evidence. An order granting or refusing bail must contain a summary of the evidence offered by the prosecution.[21] Since the order had no recital of any evidence presented by the prosecution nor a pronouncement that the evidence of guilt of the accused was not strong, hence, the said order should not be sustained or given any semblance of validity.[22]

Unfortunately, he carelessly disregarded the manifest irregularity contained therein and failed to realized that the bail bond should not have been approved in the first place. Indubitably, respondent judge showed poor judgment and gross ignorance of basic legal principles.[23]

Respondent Judge Adiong also did not contravene the allegation that the supporting papers for the bail bond were defective considering that the same were not in the prescribed form. Neither did he refute the allegation that the property offered was also being used as bond in another case. A judge cannot approve a bail bond and order the release of an accused without the submission of a valid bail bond.[24]

Accordingly, we find the respondent judges administratively liable for ignorance of the Law relative to their actuations in the granting of bail to the accused in Criminal Case No. 11-340, RTC, Branch 11, Malabang, Lanao del Norte.

IN VIEW OF THE FOREGOING, Judge Yusoph K. Pangadapun of RTC, Branch 10, Marawi city and Judge Santos B. Adiong of RTC, Branch 8, Marawi City are hereby ordered to pay a FINE of TWENTY THOUSAND PESOS (P20,000.00) each for ignorance of the Law.

SO ORDERED.

Narvasa, C.J., Regalado, Davide Jr., Romero, Melo, Puno, Vitug, Kapunan, Mendoza, Quisumbing, and Purisima, JJ., concur.

Bellosillo, J., no part due to personal relations to one of the parties.

Panganiban, J., no part . Close personal relations with a party.

[1] Rollo, p. 1.

[2] Rollo, Annex “F”, p. 15.

- [3] Rollo, Annex “E”, p. 13.
- [4] Rollo, Annex “H-1”, p.18.
- [5] Rollo, Annex “G”, p. 16.
- [6] Rollo, p. 41.
- [7] Rollo, Annex “5” of Comment, p. 51.
- [8] Rollo, p. 36.
- [9] Rollo, p. 39.
- [10] Aguirre v. Belmonte, 237 SCRA 778.
- [11] Alvarado vs. Loquinadanum, 245 SCRA 501.
- [12] Gimeno vs. Arcueno, Sr., 250 SCRA 376.
- [13] People vs. Nano, 205 SCRA 155; Borinaga vs. Tamin, 226 SCRA 206.
- [14] Tucay vs. Domagas, 242 SCRA 110.
- [15] Baylon vs. Sison, 243 SCRA 284.
- [16] Santos vs. Ofilada, 245 SCRA 56.
- [17] Rollo, pp. 58-60.
- [18] Ibid., p. 59.
- [19] De los Santos-Reyes vs. Montesa Jr., 247 SCRA 85.
- [20] Re: Report of the Judicial Audit and Physical Inventory of the Record of Cases in the Regional Trial Court, Branch 43, Roxas, Mindoro Oriental, 236 SCRA 631.
- [21] People vs. Casingal, 243 SCRA 37.
- [22] Ibid.
- [23] Muñoz vs. Ariño, 241 SCRA 478.
- [24] Mangalindan vs. Court of Appeals, 246 SCRA 105.

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