

**BERNIE G. MIAQUE, NOEL R. CABOBOS, RODOLFO H. DIVINAGRACIA
AND PETER G. JIMENEA, COMPLAINANTS, VS. JUDGE NILO P.
PAMONAG, IN HIS CAPACITY AS ACTING JUDGE OF THE MUNICIPAL
CIRCUIT...**

A.M. No. MTJ-02-1412. March 28, 2003

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Ignorance of the law, which everyone is bound to know, excuses no one – certainly not judges. Ignorantia juris quod quisque scire tenetur non excusat. The provisions of Article 360 of the Revised Penal Code, as amended by R.A. No. 4363, on the persons authorized to conduct preliminary investigation in libel cases is so elementary, not to know it constitutes gross ignorance of the law.[1]

On August 27, 1998, complainants, who are connected with the Daily Informer, a widely circulated newspaper in the Western Visayas, were charged before the Municipal Circuit Trial Court of Pototan-Mina, Iloilo, Branch 008, presided by respondent Judge Nilo P. Pamonag, with the crime of libel in Criminal Case No. C-4493, entitled “Fraulen Cordero, et al., v. Bernie Miraque, et al.”[2]

Acting thereon, the respondent Judge conducted a preliminary investigation and thereafter issued on September 2, 1998 warrants for the arrest of the herein complainants, fixing the bail at P10,000.00 each.[3] Consequently, on September 8, 1998, the latter filed a petition for prohibition with prayer for the issuance of a temporary restraining order and/or preliminary injunction seeking to enjoin the respondent judge or any other officer from enforcing the assailed warrants of arrest.[4]

On October 11, 1999, complainants filed an administrative case against the respondent Judge for “gross ignorance of the law, grave abuse of judicial functions and authority and issuing patently illegal orders.”[5] Complainants contended that under Article 360 of the Revised Penal Code, as amended by R.A. No. 4363, the respondent Judge neither has the authority to conduct a preliminary investigation nor to issue warrants for their arrest.

In his Comment dated December 23, 1999,[6] the respondent Judge admitted his mistake and explained that the same was his first libel case and that he issued the challenged warrants in good faith. He said that he erroneously relied on a pamphlet of the Revised Penal Code quoting Article 360 which consisted only of four (4) paragraphs, without any word on the conduct of a preliminary investigation.[7] He also expressed that had his attention been earlier called by the parties, he could have easily rectified the mistake by recalling the warrants of arrest. He added that he had been sufficiently chastised in several issues of the Daily Informer which publicized his blunder. Respondent likewise stressed that except for this single honest mistake, he had never brought dishonor to his family and to the court. For his lapse, he promised to keep himself updated on laws, as well as on jurisprudence and circulars of the Supreme Court.[8]

In its report, dated January 15, 2002, the Office of the Court Administrator (OCA) found the respondent guilty of

gross ignorance of the law and recommended that the case be re-docketed as a regular administrative matter and that respondent Judge be fined in an amount equivalent to one (1) month salary with stern warning that repetition of the same act will be dealt with more severely.[9]

Meanwhile, in a Resolution dated April 10, 2002, the First Division docketed the case as a regular administrative matter and required the respondent to file Comment.[10]

In respondent's Comment dated September 12, 2002,[11] he repleaded his comment of December 23, 1999, and attached therein newspaper articles on the ruling of the RTC in the prohibition case which declared as void the preliminary investigation he conducted and the warrants of arrest he issued.[12]

On November 11, 2002, the case was referred for evaluation, report and recommendation to the OCA.[13] On January 27, 2003, a memorandum was issued by the OCA reiterating its recommendation that respondent Judge be ordered to pay a fine in an amount equivalent to one (1) month salary with stern warning that repetition of similar act will be dealt with more severely.

We agree with the finding of the Office of the Court Administrator that the respondent Judge is guilty of gross ignorance of the law.

Under Article 360 of the Revised Penal Code, as amended by Republic Act No. 4363, which took effect on June 19, 1965,[14] jurisdiction to conduct preliminary investigation in libel cases is indeed lodged with the provincial or city prosecutor of the province or city or with the municipal court of the city or capital of the province. Moreover, as early as April 5, 1967 the Department of Justice issued a circular relative to the provisions of Article 360 of the Revised Penal Code as amended by R.A. No. 4363. Pertinent portion thereof reads:

It should be noted from these provisions that a complaint or information for libel may be filed only in the Court of First Instance. The preliminary investigation of the criminal case may, however, be conducted by the city court of the city or the municipal court of the capital of the province where the case is filed.[15]

Thus, in *Quizon v. Baltazar, Jr.*,[16] *Fajota v. Balonso*,[17] and in the recent case of *Guyud v. Pine*,[18] the Court found the respondent Judges therein who were neither judges of the municipal court of the city or capital of the province, guilty of gross ignorance of law for conducting a preliminary investigation in libel cases, contrary to the provisions of Article 360 of the Revised Penal Code, as amended by Republic Act No. 4363.

In the case at bar, the Municipal Circuit Trial Court of Pototan-Mina, Iloilo, Branch 008, over which respondent Judge presided in an acting capacity, is not a court in the cities of Iloilo province (Iloilo City and Passi City), nor a court in Iloilo City, the capital of the province of Iloilo. He therefore had no authority to conduct a preliminary investigation and to issue the corresponding warrants of arrest in the said libel case.

Although judges cannot be held to account or answer criminally, civilly or administratively for every erroneous judgment or decision rendered by him in good faith, it is imperative that they should have basic knowledge of the law. To be able to render justice and to maintain public confidence in the legal system, judges must keep abreast of the laws and jurisprudence. Rule 1.01, Canon 1 of the Code of Judicial Conduct provides that judges must be the embodiment of competence, integrity and independence. Obviously, they cannot live up to this expectation if they act in a case without jurisdiction through ignorance.[19]

While we believe that the reliance of the respondent on the provisions of Article 360 of the Revised Penal Code, prior to its amendment by Republic Act No. 4363, was an honest mistake, we cannot, however condone his failure to keep himself updated with the amendments and latest jurisprudence on the said statute. Judges are expected to exhibit more than just cursory acquaintance with statutes and procedural rules. They must know the laws and apply them properly in all good faith. Judicial competence requires no less.[20]

In *Osumo v. Serrano*,^[21] the respondent Judge was fined P5,000.00 for misapplying the fundamental rules on demurrer to evidence by setting the case for reception of evidence for the defense after denying the demurrer to evidence it filed without prior leave of court. In *Vileña v. Mapaye*,^[22] the erring Judge was ordered to pay a fine of P5,000.00 for his apparent unawareness of or unfamiliarity with the application of the Indeterminate Sentence Law and the duration and graduation of penalties. Likewise, in *Mutilan v. Adiong*^[23] the Court imposed a fine of P5,000.00 on the respondent Judge for granting a motion to declare the respondents therein in default, as well as the joint motion for garnishment without giving the opposing party the opportunity to be heard in violation of the provisions of Rule 15, Sections 4 and 6, of the Revised Rules of Court on notice of hearing.

In the similar case *Guyud v. Pine*,^[24] involving the provisions of Article 360 of the Revised Penal Code on the conduct of preliminary investigation in libel cases, the Court appreciated as attenuating circumstances the absence of bad faith on the part of the respondent Judge as well as his candor in admitting his blunder. In the said case, the Court imposed the penalty of fine in the amount of P5,000.00.

Considering the good faith and candid admission by the respondent judge of his mistake, we find the recommended penalty of fine in an amount equivalent to one month salary too harsh and excessive.

WHEREFORE, in view of all the foregoing, respondent Judge Nilo P. Pamonag is ordered to pay a FINE in the amount of Five Thousand Pesos (P5,000.00) and STERNLY WARNED that a repetition of the same or similar acts shall be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Vitug, Carpio, and Azcuna, JJ., concur.

[1] *Ualat v. Ramos*, 333 Phil. 175, 189 (1996); citing *Aurillo, Jr. v. Francisco*, A.M. No. RTJ-93-1079, 12 August 1994, 235 SCRA 283; *Agcaoili v. Ramos*, A.M. No. MTJ-92-6-251, 7 February 1994, 229 SCRA 705; *Santos v. Judge Isidro*, A.M. No. MTJ-89-300, 16 August 1991, 200 SCRA 597.

[2] Rollo, p. 7.

[3] Rollo, p. 22.

[4] Rollo, p. 21.

[5] Rollo, p. 1.

[6] Rollo, p. 16.

[7] A copy of the portion of the pamphlet (Annex “A”) referred to by the respondent shows that he relied on the provisions of Article 360 of the Revised Penal Code (as amended by RA. No. 1289, approved on June 15, 1955), prior to its amendment by R.A. No. 4363, which took effect on June 19, 1965 (See Rollo, p. 19).

[8] Rollo, p. 16.

[9] Rollo, p. 54.

[10] Rollo, p. 56.

[11] Rollo, p. 61.

[12] Annexes “C” to “G”, Rollo, p. 66.

[13] Resolution, p. 67.

[14] Article 360. Persons responsible. — x x x

Preliminary investigation of criminal actions for written defamations as provided for in this chapter shall be conducted by the provincial or city fiscal of the province or city, or by the municipal court of the city or capital of the province where such actions may be instituted in accordance with the provisions of this article. x x x

[15] Quizon v. Baltazar, Jr., A.C. No. 532-MJ, 25 July 1975, 65 SCRA 294, 295-296; citing Circular No. 27 dated April 5, 1965.

[16] Supra.

[17] 192 Phil. 307 (1981).

[18] A.M. No. MTJ-03-1469, 13 January 2003.

[19] Guyud v. Pine, supra, citing Dumo v. Perez, 379 Phil. 588, 601-602 (2000).

[20] Cortes v. Agcaoili, 355 Phil. 848, 882-883 (1998); citing Agcaoili v. Ramos, supra; Santos v. Judge Isidro, supra; Cortes v. Judge Catral, 344 Phil. 415, 431 (1997); Cui v. Madayag, 314 Phil. 846, 860-861 (1995).

[21] A.M. No. RTJ-00-1607, 3 April 2002.

[22] A.M. No. MTJ-02-1424, 24 April 2002.

[23] A.M. No. RTJ-00-1581, 2 July 2002.

[24] Supra.

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