

FRANCISCO I. PULIDO, COMPLAINANT, VS. JUDGE MAGNO B. PABLO, RESPONDENT.*Adm. Matter No. 1888-CFI. October 30, 1981*

Ponente: MAKASIAR, J.

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This is a verified complaint dated April 6, 1978, filed by Atty. Francisco I. Pulido against Judge Magno B. Pablo of the Court of First Instance of Pangasinan, Branch XIII at Alaminos, for "doing and consenting to the doing of falsehood, falsification of public document, dishonesty, deceit, misrepresentation of facts, abuse of authority, oppression and/or serious misconduct or inefficiency unbecoming (of) a member of the bench and bar" (Complaint, p. 2, rec.). The details of the alleged irregularities are amplified in six specifications which may be summarized as follows:

1. On or about August 25, 1977, the respondent, taking advantage of his official position as CFI Judge in Alaminos, Pangasinan, and exercising undue influence over his personnel and gravely abusing his authority, caused the preparation, the signing and insertion into the record of Criminal Case No. 266-A a false document entitled "Minutes" (Annex A, p. 15, rec.), knowing that such minutes never existed because the true minutes of the May 17, 1974 hearing is found on page 253 of the records of said case (Annex B, p. 16, rec.).
2. The said false minutes contain a false statement of fact to the effect that it was Jaime V. Ariston who acted as stenographer when in truth and in fact it was Carmelita de Castro who was the stenographer during the said hearing, as shown by the affidavit (Annex D, p. 18, rec.) of Elpidio C. Balan, who acted as Inter-preter for the same hearing.
3. Upon receipt of the appealed decision from the Court of Appeals in CA-GR No. 16898-CR [Criminal Case 266-A], the respondent issued a commitment order (Annex E, p. 19, rec.) of the body of the accused Benjamin Bantolino addressed to the Provincial Warden of Pangasinan in which it was made to appear that his imprisonment will commence to run from the "8th day of February, 1977" when in truth and in fact it should commence on January 10, 1977, as shown by another commitment order (Annex F, p. 20, rec.) also signed by the respondent, which is the one attached to the records of the case.
4. The respondent deliberately altered the decision as affirmed and quoted in the Court of Appeal's decision by changing the word "with" to "without" in its dispositive portion, such that the phrase which reads "with subsidiary imprisonment" in the affirmed decision now reads "without subsidiary imprisonment" quoted in the order of commitment (Annexes E and F, pp. 19-20, rec.). A certified xerox copy of the decision of the Court of Appeals is found on pp. 22-30 of the records of this administrative case.
5. The respondent affirmed under oath that the decision of the Court of Appeals in said criminal case contains a typographical error in misstating the word "with" for "without" when in truth and in fact the decision affirmed by the Court of Appeals says "with subsidiary imprisonment", and the "out" is an insertion between the words "with" and "subsidiary."

6. In the reply of Judge Pablo as complainant in Adm. Case No. 1837 (Pablo vs. Pulido), he denied under oath his signature on the commitment paper marked as Annex E hereof, stating that he signed only the other commitment paper [Annex F, with the date of commencement written as 10th of January, 1977, p. 19, rec.]. The Provincial Warden of Panga-sinan, however attests (Annex G, p. 21, rec.) that the original of Annex E was duly signed by the re-spondent and that there is no other commitment paper pertaining to Benjamin Bantolino except that one [same Annex E] which is on file in his office.

In compliance with the requirements of this Court in the Order dated May 12, 1978 (p. 35, rec.), the respondent filed his comment on July 14, 1978 [pp. 39-51, rec.], denying all the charges against him and praying for the dismissal of the case for lack of merit.

On July 19, 1978, the Court referred this case to Associate Justice Milagros German of the Court of Appeals for investigation, report and recommendation (p. 52, rec.). On the same day, before any investi-gation could be conducted, the parties filed a Joint Petition to Dismiss dated July 13, 1978 (pp. 53-54, rec.). The same was denied in the resolution of July 31, 1978 which directed the investigating Justice to conduct the investigation as previously ordered (p. 57, rec.).

Justice German set the case for hearing on September 13, 1978 (p. 65, rec.), which was reset to October 2, 1978 (p. 64, rec.) upon motion of the complainant (p. 59, rec.). On the latter date, only the complainant appeared to ask for another resetting (p. 62, rec.). The same was granted, and a last resetting to October 24, 1978 was made with the warning to the respondent that should he again fail to appear it will be understood that he is waiving his right to present evidence on his behalf (p. 63, rec.).

When on October 24, 1978, neither of the parties appeared despite notice, the investigating Justice took it as a reiteration of their desire to have the case dismissed. Nevertheless, Justice German proceeded to evaluate the evidence already in the records. She submitted her report on the investigation and recom-mendation on November 6, 1978 with a finding that "there appears to be a strong prima facie case against respondent Judge Pablo for the offense of falsification of public and official documents on three (3) counts, as defined and penalized under Article 171 of the Revised Penal Code" (p. 73, rec.). Hence, while she was constrained to recommend the dismissal of this case in view of the complainant's failure to substantiate his complaint, she also recommended that the case be forwarded to the Department of Justice for the State Prosecutor to prosecute the respondent for having evidently falsified the following:

1. The decision as affirmed by the Court of Appeals, by changing the word "with" to "without" subsi-diary imprisonment;
2. The minutes of the hearing on May 17, 1974 in Criminal Case No. 266-A; and
3. The commitment paper in the same criminal case by making it appear that the time of imprison-ment of accused Benjamin Bantolino will commence to run on February 8, 1977 instead of January 10, 1977.

The charges against the respondent are fully substantiated by official records, even if the com-plainant did not appear at a formal hearing which was reset several times. The respondent was given all the chances to present evidence in his behalf, which chances he chose to ignore (p. 67, rec.) and therefore waived. Such waiver shows that the re-spondent did not have any evidence to support his avowed innocence and his denial of the charges. Such denial cannot stand against the positive docu-mentary evidence attached to the complaint.

A perusal of the records shows that this case is an offshoot of Criminal Case No. 266-A filed in the sala of respondent Judge against Benjamin Bantolino for homicide thru reckless imprudence. After trial, respondent Judge found the accused guilty as charged, and rendered judgment the dispositive portion of which reads as

follows:

"WHEREFORE, finding that the prosecution had sufficiently established the guilt of the accused of the crime of reckless imprudence resulting in homicide charged in the information beyond reasonable doubt, the accused is hereby sentenced to suffer imprisonment, according to Art. 365, par. 2, of the Revised Penal Code, and the indeterminate sentence law, of one (1) year and one (1) day of prison correccional in its minimum period to three (3) years, six (6) months and twenty-one (21) days of prison correccional in its medium period. The accused is also ordered to reimburse the heirs of Ludovico Cabarlo the medical and funeral expenses in the amount of P1,000.00, and to indemnify the heirs of the victim Ludovico Cabarlo the amount of P12,000.00 with subsidiary imprisonment as provided in Art. 39, R.P.C., and with cost.

However, in view of the absence of the respondent Judge who was on vacation leave for the period from May 16 to 31, 1974, it was Judge Gregorio A. Legaspi, the vacation Judge, who promulgated the decision on May 17, 1974 (p. 17, rec.). The case was elevated to the Court of Appeals on appeal, which affirmed the judgment of conviction in its decision of May 13, 1976 (p. 30, rec.).

Meanwhile, several administrative cases emanated from said criminal case. The first one was filed by the accused Benjamin Bantolino on May 24, 1974 against respondent Judge Pablo (A.M. No. 733-CFI) for incompetence, or ignorance of the law or deliberate violation of the law. This was dismissed by this Court for lack of merit on July 14, 1977 (pp. 33-34, A.M. 733-CFI rec.). The second case [A.M. No. 1837] was filed by respondent Judge Pablo against Atty. Francisco Pulido, the defense counsel in the said criminal case, in compliance with the directive of this Court and for the said lawyer's alleged refusal to surrender his copy of the decision for correction. This case appears to have been abandoned by the complaining Judge (respondent herein) when he jointly filed a petition to dismiss with Atty. Pulido in respect to that case [Adm. M. No. 1837] and the instant case. In any case, the findings herein will have a direct bearing on the merits or lack of merit of the second case.

This is now the third related case that is traceable to Criminal Case No. 266-A. As earlier shown, the Court denied the joint petition to dismiss, and Justice German was directed to proceed with her investigation, following a time-honored principle that the complainant's loss of interest in prosecuting the case does not warrant the dismissal of an administrative case (*Beduya vs. Alpuerto*, 96 SCRA 673, 675 [1980]; *Bais vs. Tuagaoen*, 89 SCRA 101, 109 [1979]; *Vasquez vs. Malvar*, 85 SCRA 10, 26 [1978]).

Moreover, in the case of *Anguluan vs. Taguba* (93 SCRA 180, 185), We held:

"Although the complainants have asked for the withdrawal of this complaint, the Court cannot overlook the anomalous acts of the respondent judge. The actions of the respondent judge seriously affected the public interest inasmuch as they involve the administration of justice. It is for this reason that the motion to withdraw the complaint filed by the complainants will not justify the dismissal of this administrative case against the respondent. As stated by the Supreme Court in *Vasquez vs. Malvar*, 'x x x Furthermore, to condition administrative actions upon the will of every complainant, who may, for one reason or another, condone a detestable act, is to strip this court of its supervisory power to discipline erring members of the Judiciary.'"

In the case at bar, it appears that the respondent cannot satisfactorily explain the existence and/or authenticity of certain documents relative to Criminal Case No. 266-A, as follows:

I

Minutes of the May 17, 1974 session of CFI of Pangasinan, Branch XIII (Annex A, p. 15, rec.), purportedly signed by the vacation judge, Honorable Gregorio A. Legaspi and the Deputy Clerk of Court, Teofilo C. Chiong.

Annex A is a certified xerox copy of a type-written document which reads as follows:

"REPUBLIC OF THE PHILIPPINES

COURT OF FIRST INSTANCE OF PANGASINAN

THIRD JUDICIAL DISTRICT

BRANCH XIII

"PEOPLE OF THE PHILIPPINES,

Plaintiff,

-versus- CRIM. CASE NO. 266-A

"BENJAMIN BANTOLINO alias

'PABLO' alias 'AMBONG,'

Accused.

X -----
----- X

"MINUTES OF THE SESSION PRESIDED OVER BY HON. GREGORIO A. LEGASPI, VACATION JUDGE OF BRANCH XIII, THIRD JUDICIAL DISTRICT, AT ALAMINOS, PANGASINAN, ON MAY 17, 1974:-

"Session was opened at 8:30 A.M..

"When the above entitled case was called for PROMULGATION OF DECISION rendered by Hon. Magno B. Pablo, Judge of the Court of First Instance, Third Judicial District, Branch XIII, Assistant Provincial Fiscal Romie V. Braga, for the government; and Atty. Francisco Pulido, for the accused, appeared.

"PROMULGATION OF DECISION

"The decision was promulgated find-ing the accused GUILTY of the crime of reckless imprudence resulting in homicide, and the accused was sentenced to suffer an in-determinate penalty of from ONE (1) YEAR and ONE (1) DAY of Prision correccional to THREE (3) YEARS, SIX (6) MONTHS and TWENTY-ONE (21) DAYS of prision correccional. The accused was ordered to reimburse the heirs of Ludovico Cabarlo the medical and funeral expenses in the amount of P1,000.00 and to indemnify the heirs of the victim in the amount of P12,000.00 without subsidiary imprisonment.

"Session was adjourned at 12:00 Noon.

"Mr. Jaime V. Ariston, acted as Stenographer and Mr. Leniente B. Ranoy as Interpreter.

"TO WHICH I CERTIFY:

(SGD.) TEOFILO C. CHIONG

Deputy Clerk of Court

"APPROVED:

(SGD.) GREGORIO A. LEGASPI

Vacation Judge

"A CERTIFIED XEROX COPY:

(SGD.) BERNABE ODERO

CFI, Clerk of Court

Alaminos, Pangasinan

August 29, 1977."

According to the complainant, the true minutes is the original of Annex B. Annex B is also a certified xerox copy of what appears to be an official printed form for minutes of court sessions in Branch III, on the face of which may be read the following:

"REPUBLIC OF THE PHILIPPINES

COURT OF FIRST INSTANCE OF PANGASINAN

THIRD JUDICIAL DISTRICT

BRANCH XIII

"The People of the Philippines,

Plaintiff,

-versus- CRIM. Case No. 266-A

"BENJAMIN BANTOLINO,

Accused.

x ----- x

"MINUTES OF THE PROCEEDINGS HELD IN CONNEC-TION WITH THE ABOVE ENTITLED CASE
THIS 17th DAY OF May, 1974.

"HON. MAGNO B. PABLO - Presiding Judge

"Atty. Teofilo C. Chiong - Deputy Clerk of Court

Mr. Leniente B. Ranoy - Court Interpreter

Mrs. Carmelita de Castro - Stenographer

"Session opened at 8:30 A.M.

"Appearances: Atty. Fiscal Romie V. Braga, for the gov't.

Atty. Francisco I. Pulido, for the accused.

"Remarks:

"The decision rendered by the Hon. Court in this case was duly promulgated in open court, the accused being present and assisted by his counsel in court.

"After promulgation of the decision, the accused, thru counsel had signified his in-tention to appeal the decision. The appeal bond, upon recommendation of the fiscal and approved by the court, was fixed at P6,000.00 and pending the perfection of the appeal, on motion of the attorney of the accused, said accused was ordered confined in the municipal jail of Burgos, Pangasinan, and the Chief of Police there-at is authorized to keep him in custody until further orders from this court.

"CERTIFIED XEROX COPY:

(SGD.) BERNABE ODERO

Clerk of Court

CFI Alaminos, Pang.

Aug. 22, 1977

August 23, 1977

"Session was adjourned at 12:00 noon.

"I HEREBY CERTIFY to the correctness of the statements made above and that they have been checked to conform with the steno-graphic notes taken.

"FOR THE CLERK OF COURT:

TEOFILO C. CHIONG

Deputy Clerk of Court

"APPROVED:

J u d g e

[Note: All underlined portions were written by hand].

Complainant further alleges that the entries in Annex B coincides with the Order (Annex C) given in open court on the same date, as follows:

"The accused, thru counsel, having signified his intention to appeal the decision promul-gated this morning in this case, the appeal bond, upon recommenda-tion by the fiscal and approved by this Court, is hereby fixed at P6,000.00. In the meanwhile, pending the perfection of the appeal, upon motion by counsel for the accused, said accused is hereby ordered confined in the municipal jail of Burgos, this province, and the Chief of Police thereat is authorized to keep him in custody until further orders from this Court.

"SO ORDERED.

(SGD.) GREGORIO A. LEGASPI

Vacation Judge"

The lengthy explanations of the respondent about this may be summarized as follows: that Annex A is not false, having been signed by the Vacation Judge and the Deputy Clerk of Court; that he only relied on the certifications of these two officials because he was on leave; that the minutes marked as Annex B was not signed by these court officials; that the two minutes (Annexes A and B) do not necessarily contradict each other, in fact they complement each other and give a true picture of what happened on May 17, 1974; that there is an existing original of said Annex A, as in fact he was able to get a copy thereof as early as June 14, 1974 when he attached it as annex "1" to his comment in Adm. Case No. 733-CFI; and that although Annex A has no page number, it is still part of the records even though it was not attached to the records of Criminal Case No. 266-A when the same was forwarded to the Court of Appeals.

From this explanation it is obvious that Annex A is neither authentic nor part of the records of Criminal Case No.

266-A, as the same was not assigned a folio or page number nor attached to the records elevated to the Court of Appeals. More-over, since he never denied the genuineness of the Minutes marked as Annex B and found on page 253 of the records of the same criminal case, there could be no other conclusion than that the certification/minutes as he calls Annex A was a mere accommodation on the part of vacation Judge Gregorio Legaspi and the deputy clerk of court Teofilo Chiong to enable him to attach it to his comments for his defense in A.M. No. 733-CFI.

Moreover, a perusal of the original records of Criminal Case No. 266-A reveals that the original of Annex A is not found therein. On the other hand, the original of Annex B is not only found properly paged and sewn on page 253 of the same records, but also appears to be on the same official form as all other minutes of hearings in the sala of respondent Judge.

II

Dispositive portion of the decision where the phrase "with subsidiary imprisonment" has been changed to "without subsidiary imprisonment" as quoted in the commitment paper of accused Benjamin Bantolino (Annexes E, F and L).

The respondent explains that the word "with" in the dispositive portion of said decision was a typographical error and was then and there corrected to "without"; that the correction was made even before the records were forwarded to the Court of Appeals; and that the reason why the brief of the Solicitor General as well as the decision of the Court of Appeals in CA-GR No. 16898-CR quoted the dispositive portion without the correction ("with subsidiary imprisonment"), is because the Appellant's Brief used the uncorrected copy of Atty. Pulido who refused to surrender the same for correction, such that both the Solicitor General and the Court of Appeals were misled by it.

This is a very flimsy excuse, considering that both the Court of Appeals and the Office of the Solicitor General rely on the original records of the case and not on the brief filed by a private lawyer.

The decision dated May 13, 1976, of the Court of Appeals (pp. 270-276, rec. of CA-GR No. 16898-R) in the same case quoted the dispositive portion of the appealed decision as follows:

"WHEREFORE, finding that the prosecution had sufficiently established the guilt of the accused of the crime of reckless imprudence resulting in homicide charged in the information beyond reasonable doubt, the accused is hereby sentenced to suffer imprisonment, according to Art. 365, par. no. 2 of the Revised Penal Code, and the indeterminate sentence law, of one (1) year and one (1) day of prision correccional in its minimum period to three (3) years, six (6) months and twenty-one (21) days of prision correccional in its medium period. The accused is also ordered to reimburse the heirs of Ludovico Cabarlo the medical and funeral expenses in the amount of P1,000.00, and to indemnify the heirs of the victim Ludovico Cabarlo the amount of P12,000.00 with subsidiary imprisonment as provided in Art. 39, R.P.C., and with cost" (pp. 270-271, rec. of CA-GR No. 16898-CR; underscoring supplied).

Incidentally, the subject criminal case was brought before this Court on a petition for review on certiorari (see G.R. No. L-44185) on July 21, 1976, which was denied on October 6, 1976 (p. 78, L-44185 rec.). Nowhere in the pleadings and papers in the said case do we find the word "without" whenever the dispositive portion of the subject decision is quoted.

III

The commencement of imprisonment of accused Benjamin Bantolino, as likewise found in the commitment paper (Annexes E and L), to make it appear to be February 8, 1977, instead of January 10, 1977.

The respondent at first denied having signed the original of Annex E (p. 19, rec.) where it is stated that "the time of imprisonment will commence to run from the 8th of February, 1977," when he made his reply as complainant in the second case (A.M. No. 1837). Such denial is quoted on page 11 of his comment in the instant case (p. 49, rec.), wherein it is stated that he never signed the commitment paper represented by Annex "9" of the second case (Annex E herein, p. 19, rec.), and that the only commitment he signed was the original of Annex "10" (Annex F herein, p. 20, rec.). Complainant Pulido has, however attached to his complaint a xerox copy (Annex L, p. 34, rec.) of the original of Annex E, together with a certification (Annex G, p. 21, rec.) from the Provincial Warden of Pangasinan that it was the only commitment paper ever received and on file in his office relative to accused Benjamin Bantolino. On the face of these documents, the respondent now has the following explanation:

"The reason why the respondent denied having signed Annex '9' to answer in the second case, is because the same was only a mere duplicate; and the same or a copy thereof was not attached in the record of Criminal Case No. 266-A. Only Annex '10' to complaint in the second case was in the records. Moreover, the records show that the respondent had already issued the commitment marked Annex '10' to the complaint in the second case and so, the respondent presumed that he could not have signed Annex '9' which is in conflict with Annex '10'.

"Complainant Atty. Francisco I. Pulido has now attached the signed commitment (Annex 'L' of the instant case) which states that the imprisonment of Bantolino commenced to run from February 8, 1977 and the other commitment which states that the imprisonment commenced to run from January 10, 1977 also signed by the herein respondent and marked as Annex 'F' of the instant complaint.

"(For clarity, Annex '9' in the second case is identical to Annex 'E' in the instant case, both are unsigned duplicates of Annex 'L' in the instant case; and Annex '10' in the second case and Annex 'F' in the instant case are identical.)

"It is submitted that this respondent signed both commitment papers (Annexes '9' and '10' in the second case or Annexes 'F' and 'L' in the instant case) because both bore the genuine initials of the Deputy Clerk of Court Teofilo C. Chiong, which gave rise to the error."

Obviously, these statements are vain attempts to wash away his guilt, which appear indubitable in the light of the following circumstances:

1. The respondent admittedly signed both commitment papers which bear conflicting dates of the commencement of imprisonment of the accused;
2. Only the original of Annex E (or Annex '9') is attached to the records of the case (pp. 288-290, CA-GR No. L-168-98-CR), while that of Annex "F" [or "10"] is not;
3. Only the original of Annex "F" [or "10"] was sent to the Provincial Warden of Pangasinan.

All the above show that the respondent has committed deliberate acts of falsehood amounting to dishonesty and grave misconduct, and violated the time-honored as well as an express constitutional principle that public office is a public trust. His actuation is a disgrace to the Judiciary, eroding as it does the people's faith in the judicial system.

WHEREFORE, RESPONDENT JUDGE MAGNO B. PABLO IS HEREBY DISMISSED AS JUDGE OF THE COURT OF FIRST INSTANCE WITH FORFEITURE OF RETIREMENT BENEFITS AND WITH

PREJUDICE TO REINSTATEMENT TO ANY BRANCH OF THE GOVERNMENT OR ANY OF ITS AGENCIES OR INSTRUMENTALITIES.

SO ORDERED.

Fernando, C.J., Teehankee, Barredo, Aquino, Concepcion, Jr., Fernandez, Abad Santos, and Melencio-Herrera, JJ., concur.

Guerrero and De Castro, JJ., no part.

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