

PROSECUTOR JORGE D. BACULI, COMPLAINANT, VS. JUDGE MEDEL ARNALDO B. BELEN, REGIONAL TRIAL COURT, BRANCH 36, CALAMBA CITY, LAGUNA, RESPONDENT.

A.M. No. RTJ-09-2176. April 20, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

Before this Court is a verified Complaint^[1] dated May 8, 2008 of Prosecutor Jorge D. Baculi (complainant) charging Judge Medel Arnaldo B. Belen (respondent), Presiding Judge of the Regional Trial Court (RTC) of Calamba City, Laguna, Branch 36, with Grave Misconduct, Misbehavior, Gross Ignorance of the Law, Disbarment, Grave Abuse of Authority, Harassment, Oppressive and Malicious Conduct, and Violation of: (1) Articles 204 and 206 of the Revised Penal Code; (2) Republic Act (R.A.) No. 6713; (3) Code of Judicial Conduct; (4) Supreme Court (SC) Administrative Circular No. 1-88; (5) The Anti-Graft and Corrupt Practices Act; and (6) Section 1, Article XI of the 1987 Constitution, relative to Criminal Case No. 13240-2005-C entitled *People of the Philippines v. Jay Ballestrinos for Frustrated Homicide*.

The facts, as summarized by the Office of the Court Administrator (OCA), and which we adopt, are as follows:

Complainant Prosecutor Baculi states that he is the Provincial Prosecutor of Zambales detailed in Calamba, Laguna. On 1 April 2005, he filed against the accused Jay Ballestrinos [accused] an information for frustrated homicide docketed as Criminal Case No. 13240-2005-C.

In an Order dated 18 May 2005, respondent Judge Medel Arnaldo B. Belen directed the complainant to submit evidence that the notice of preliminary investigation was duly served and received by the accused. On 23 May 2005, complainant Baculi, through a Joint Manifestation/Comment, informed the court that despite several opportunities given, the accused failed to submit his counter-affidavit.

On 7 February 2006, respondent Judge Belen directed herein complainant Baculi to explain why he should not be cited in contempt of court for making unfounded statements in his pleadings.

In the course of the proceedings, complainant Baculi filed several pleadings (i.e. [1] Motion to Dismiss and/or Cancel Proceedings with Voluntary Inhibition and [2] Urgent Reiterative Motion to Dismiss and/or Hold in Abeyance the Proceedings and/or Resolution of the Citation for Contempt with Voluntary Inhibition and Complaints for Gross Ignorance of the Law, Grave Misconduct, Abuse of Authority and Acts Unbecoming a Lawyer and Member of the Judiciary, Harassment and Oppressive Conduct.)

In an Order dated 11 December 2006, respondent Judge Belen granted complainant Baculi's motion to reschedule the hearing to 8 and 15 February 2007. In a Decision dated 18 December 2006, respondent Judge Belen found complainant Baculi guilty of direct contempt of court for making scurrilous and contumacious statements in the latter's Urgent Reiterative Motion, the pertinent portion of the decision reads:

WHEREFORE, the Court finds respondent Jorge Baculi GUILTY of direct contempt and sentenced him to pay the fine of ONE THOUSAND FIVE HUNDRED (P1,500.00) PESOS and to suffer imprisonment of ONE (1) DAY.

The bail for the provisional liberty of the accused is fixed at P500.00.

SO ORDERED.

In another Decision dated 7 June 2007, complainant Baculi was cited for indirect contempt of court and sentenced to pay a fine of Twenty Thousand Pesos (P20,000.00) and to suffer imprisonment of three (3) days. Complainant Baculi filed a Notice of Appeal with Motion and Manifestation dated 5 July 2007 praying that the execution of the decision finding him guilty of indirect contempt be suspended pending his appeal.

Respondent Judge Belen, in an Order dated 6 August 2007, directed complainant Baculi to post, within two (2) days from receipt thereof, a supersedeas bond of Thirty Five Thousand Pesos (P35,000.00) in order to stay the execution of the Decisions dated 18 December 2006 and 7 June 2007. Complainant Baculi moved for a reduction of the bond but the same was treated as a mere scrap of paper for failure to comply with the notice of hearing under Rule 15 of the Rules of Court.

Respondent Judge Belen, in an Order dated 20 August 2007, directed the clerk of court to issue the Writ of Execution and a Warrant of Arrest to implement the decision of 18 December 2006 and 7 June 2007. Said order also directed the Philippine National Police to assist the branch sheriff in the enforcement of the Warrant.

On 5 October 2007, complainant Baculi filed an Ex-Parte Motion to Resolve Motions (i.e. [1] Manifestation/Motion and Notice of Appeal with Motion/Manifestation both dated 5 July 2007 and Motion for Reconsideration dated 21 August 2007) which motion was considered *functus officio* in an Order dated 9 October 2007 considering that the subject motions were already resolved in the Order of 6 August 2007.

Complainant Baculi, on 24 October 2007, moved that the Order dated 20 August 2007 be set aside. On 26 October 2007, he again filed a Manifestation with Motion arguing that his motion for reconsideration dated 21 August 2007 complied with the rules on notice of hearing.

In his twin Orders of 24 March 2008, respondent Judge Belen declared that the Decisions dated 18 December 2006 and 7 June 2007 are final and executory.

On 28 April 2008, complainant Baculi filed a Motion for Reconsideration and to Set Aside Decisions of December 18, 2006 and June 7, 2007 and all Orders of March 24, 2008.

Thereafter, complainant filed the instant Complaint, asseverating, among others, that respondent violated Section 7, Rule 71 of the Rules of Court and prevailing jurisprudence in holding him liable for indirect contempt because the use of contemptuous language in a pleading, if submitted before the same judge, would constitute only direct contempt of court; that complainant's conviction had no basis because the pleadings in question did not contain any vulgar, vile or unethical statements that would be an affront to the dignity of the court; that the supersedeas bond of P35,000.00 fixed by the court to stay the execution was excessive, confiscatory and unconscionable; and that respondent was induced by revenge and ill motive, since it was complainant who indicted respondent in a libel case filed by one Prosecutor Ma. Victoria Sunega-Lagman, docketed as Criminal Case No. 15332-SP, now pending before the RTC, Branch 32, San Pablo City. Thus, complainant charges respondent with abuse of the court's power to cite persons for contempt.

Moreover, complainant claims that respondent is suffering from "power complex" and other psychiatric, emotional and mental disorders because the latter has an inordinate feeling of superiority and shows no remorse for his wrongdoings. Complainant also posits that respondent incurred delay when the latter failed to resolve his Manifestations/Motions dated October 23 and 24, 2007 within the reglementary period. Lastly, complainant argues that the twin Orders of March 24, 2008, which declared the Decisions dated December 12, 2006 and June 7, 2007 final and executory, were procedurally infirm considering that his Manifestations/Motions dated October

23 and 24, 2007 are still pending resolution before the court.

In his Comment[2] dated June 11, 2008, respondent denies that the contempt proceedings against complainant were motivated by revenge. He asserts that he would not have initiated the same, had complainant not filed pleadings that were contemptuous in nature. Respondent presupposes that since complainant did not appeal the Decisions dated December 18, 2006 and June 7, 2007 to the Court of Appeals, the decisions already became final and executory. Respondent claims that he issued the said decisions and orders strictly in the performance of his judicial functions, and cannot be held administratively liable in the absence of a declaration from a competent tribunal that those decisions and orders suffered from legal infirmities or were tainted with grave abuse of authority. Respondent argues that, pursuant to prevailing jurisprudence, complainant should first exhaust judicial remedies before coming to the OCA by way of an administrative complaint.

We fully agree with the submission of the OCA that in the absence of fraud, bad faith, evil intention or corrupt motive, the complainant may not be allowed to question the judiciousness of the decisions rendered and orders issued by the respondent, since the same may only be assailed through the appropriate judicial remedies under the Rules of Court and not through an administrative complaint. In this case, complainant did not exhaust available judicial remedies to challenge the decisions and orders. Moreover, the OCA found that the complainant failed to prove that respondent was guilty of delay in the resolution of pending incidents. Settled is the rule that in administrative proceedings, the burden of showing that the respondent committed the acts complained of devolves on the complainant. In fact, if the complainant, upon whom rests the burden of proving his cause of action, fails to show in a satisfactory manner the facts upon which he bases his claim, the respondent is under no obligation to prove his exception or defense.[3]

However, we also agree with the OCA's finding that respondent is guilty of gross ignorance of the law for citing complainant for indirect contempt.

In Re: Conviction of Judge Adoracion G. Angeles, RTC, Br. 121, Caloocan City in Crim. Cases Q-97-69655 to 56 for Child Abuse,[4] we held:

Contempt of court is a defiance of the authority, justice or dignity of the court, such conduct as tends to bring the authority and administration of the law into disrespect or to interfere with or prejudice parties, litigant or their witnesses during litigation.

There are two kinds of contempt punishable by law: direct contempt and indirect contempt. Direct contempt is committed when a person is guilty of misbehavior in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, including disrespect toward the court, offensive personalities toward others, or refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when lawfully required to do so. Indirect contempt or constructive contempt is that which is committed out of the presence of the court. Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice would constitute indirect contempt.[5]

A pleading containing derogatory, offensive or malicious statements submitted before a court or judge where the proceedings are pending constitutes direct contempt, because it is equivalent to misbehavior committed in the presence of or so near a court or judge as to interrupt the administration of justice.[6] In this regard, respondent committed a serious blunder when he cited complainant for indirect contempt.

Compounding this blunder, even if we assume that complainant's unfounded and contumacious statements in his pleadings translate to indirect contempt as respondent mistakenly believed, respondent failed to follow the proper procedure therefor[7] under Section 4 of Rule 71 of the Revised Rules of Civil Procedure, which particularly provides:

SEC. 4. How proceedings commenced. -- Proceedings for indirect contempt may be initiated motu proprio by the court against which the contempt was committed by an order or any other formal charge requiring the respondent to show cause why he should not be punished for contempt.

In all other cases, charges for indirect contempt shall be commenced by a verified petition with supporting particulars and certified true copies of documents or papers involved therein, and upon full compliance with the requirements for filing initiatory pleadings for civil actions in the court concerned. If the contempt charges arose out of or are related to a principal action pending in the court, the petition for contempt shall allege that fact but said petition shall be docketed, heard and decided separately, unless the court in its discretion orders the consolidation of the contempt charge and the principal action for joint hearing and decision. (Emphasis supplied.)

As correctly observed by the OCA, there was no order issued by respondent for the charge of indirect contempt against complainant to be docketed separately; neither was there an order that the said charge be consolidated with the principal action. In sum, respondent simply incorporated or integrated the proceedings for indirect contempt with the principal case. This fortifies the OCA's finding that respondent is grossly ignorant of basic procedure.[8] When the law is so elementary, such as the provisions of the Rules of Court, not to know, or to act as if one does not know the same, constitutes gross ignorance of the law.

Correlatively, respondent failed to conform to the high standards of competence required of judges under the Code of Judicial Conduct, which mandates that:

Rule 1.01. -- A judge should be the embodiment of competence, integrity, and independence.

Rule 3.01 -- A judge shall x x x maintain professional competence.

Time and again, we have held that competence is the mark of a good judge.[9] When a judge displays an utter lack of familiarity with the rules, he erodes the public's confidence in the competence of the courts. Such is gross ignorance of the law. Having accepted the exalted position of a judge, he owes the public and the court the duty to be proficient in the law. Unfamiliarity with the Rules of Court is a sign of incompetence. Basic procedural rules must be at the palm of his hands. A judge must be acquainted with legal norms and precepts as well as with procedural rules. Thus, this Court has been consistent in ruling that when the law is so elementary, for a judge not to be aware of it constitutes gross ignorance of the law. Verily, failure to follow basic legal commands embodied in the law and the rules constitutes gross ignorance of the law, from which no one is excused, and surely not a judge like respondent.[10]

It is well settled that the power to punish a person in contempt of court is inherent in all courts to preserve order in judicial proceedings and to uphold the orderly administration of justice. However, judges are enjoined to exercise the power judiciously and sparingly, with utmost restraint, and with the end in view of utilizing the same for correction and preservation of the dignity of the court, and not for retaliation or vindictiveness.[11] It bears stressing that the power to declare a person in contempt of court must be exercised on the preservative, not the vindictive, principle; and on the corrective, not the retaliatory, idea of punishment.[12] Thus, in *Nazareno v. Hon. Barnes, etc., et al.*, [13] we held:

A judge, as a public servant, should not be so thin-skinned or sensitive as to feel hurt or offended if a citizen expresses an honest opinion about him which may not altogether be flattering to him. After all, what matters is that a judge performs his duties in accordance with the dictates of his conscience and the light that God has given him. A judge should never allow himself to be moved by pride, prejudice, passion, or pettiness in the performance of his duties. He should always bear in mind that the power of the court to punish for contempt should be exercised for purposes that are impersonal, because that power is intended as a safeguard not for the judges as persons but for the functions that they exercise.

Under Section 8, Rule 140 of the Revised Rules of Civil Procedure, gross ignorance of the law or procedure is classified as a serious offense, punishable by dismissal from the service, suspension from office without salary and other benefits for more than three but not exceeding six months, or a fine of more than P20,000.00 but not exceeding P40,000.00.[14]

We take note that in *Mane v. Belen*,[15] respondent was reprimanded for having exhibited conduct unbecoming of a judge. In the said case, respondent went out of bounds when he engaged on a supercilious legal and personal discourse.[16] Thus, respondent appears to be undeterred despite the reprimand and the warning previously given that any repetition of similar infractions shall be dealt with more severely. Given the circumstance, suspension from office for six (6) months without salary and benefits is in order.

WHEREFORE, respondent Judge Medel Arnaldo B. Belen, Presiding Judge of the Regional Trial Court of Calamba City, Laguna, Branch 36, is hereby found GUILTY of gross ignorance of the law and is hereby SUSPENDED from office for a period of six (6) months without salary and other benefits. He is STERNLY WARNED that a repetition of the same or similar acts shall merit a more serious penalty.

SO ORDERED.

Ynares-Santiago,(Chairperson), Austria-Martinez, Chico-Nazario, and Peralta, JJ., concur.

[1] Rollo, pp. 1-15.

[2]Id. at 214-217.

[3] *Tam v. Regencia*, A.M. No. MTJ-05-1604, June 27, 2006, 493 SCRA 26, 37-38.

[4] A.M. No. 06-9-545-RTC, January 31, 2008, 543 SCRA 196.

[5] *Re: Conviction of Judge Adoracion G. Angeles, RTC, Br. 121, Caloocan City in Crim. Cases Q-97-69655 to 56 for Child Abuse*, id. at 212, citing *Barredo-Fuentes v. Albarracin*, 456 SCRA 120, 130-131 (2005).

[6] *Tabao v. Gacott, Jr.*, G.R. No. 170720, November 30, 2006, 509 SCRA 470, 479, citing *Dantes v. Caguioa*, 461 SCRA 236, 244 (2005).

[7] *Varcas v. Orola, Jr.*, A.M. No. MTJ-05-1615, February 22, 2006, 483 SCRA 1, 8.

[8] *Balayon, Jr. v. Dinopol*, A.M. No. RTJ-06-1969, June 15, 2006, 490 SCRA 547, 555-556.

[9] *Rockland Construction Co., Inc. v. Singzon, Jr.*, A.M. No. RTJ-06-2002, November 24, 2006, 508 SCRA 1, 9; *Genil v. Rivera*, A.M. No. MTJ-06-1619, January 23, 2006, 479 SCRA 363, 373; *Alcaraz v. Lindo*, A.M. No. MTJ-04-1539, April 14, 2004, 427 SCRA 142, 147; *Vileña v. Judge Mapaye*, 431 Phil. 217, 222 (2002); *Northcastle Properties and Estate Corp. v. Judge Paas*, 375 Phil. 564, 566 (1999).

[10] *Tiongco v. Salao*, A.M. No. RTJ-06-2009, July 27, 2006, 496 SCRA 575, 584-585.

[11] *Ruiz v. Judge How*, 459 Phil. 728, 739 (2003).

[12] *The Senate Blue Ribbon Committee v. Hon. Majaducon*, 455 Phil. 61, 75 (2003).

[13] 220 Phil. 451, 463 (1985), citing *Austria v. Masaquiell*, 20 SCRA 1247, 1260 (1967).

[14] See RULES OF COURT, Rule 140, Sec. 11.

[15] A.M. No. RTJ-08-2119, June 30, 2008, 556 SCRA 555.

[16] *Mane v. Belen*, id. at 568.

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