

**PORFERIO DALMAN, JR., AND VICTOR PAO, COMPLAINANTS, VS.
HONORABLE DOROTEO DE GUZMAN, CFI JUDGE, BRANCH II,
ZAMBOANGA DEL NORTE, DIPOLOG CITY, RESPONDENT.**

Adm. Case No. 273-J. October 26, 1973

Ponente: FERNANDO, J.

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FERNANDO, J.:

This administrative case against Judge Doroteo de Guzman of the Court of First Instance of Zamboanga del Norte would impute to him ignorance of the law, partiality, abuse of discretion and harassment. The specification was that on February 18, 1972, due to his "lack of knowledge of law, [and] with deliberate intent, [he] did then and there wilfully, feloniously accepted Criminal Case No. 642 for 'Estafa', filed by Rodolfo T. Mata, 3rd Asst. Provincial Fiscal, without taking the necessary precaution as a judge should do before accepting cases filed within his court, knowing very well that there was no preliminary investigation conducted by Fiscal Mata * * *." [1] As a result thereof, complainants Porferio Dalman, Jr. and Victor Pao "suffered nine (9) days imprisonment in the city jail of Dipolog City, without due process of law, * * *." [2] It was then set forth that only upon a habeas corpus petition being filed were they set at liberty. As far as harassment was concerned, respondent Judge, allegedly with abuse of discretion, entertained a criminal case for estafa against complainants and saw to the transfer to his sala of another such case again with them as accused, without taking into consideration that at most only one charge should be filed, resulting in their being arraigned on those two cases notwithstanding their vehement objection and their being convicted thereof due to his partiality. Mention was likewise made of a civil case for annulment of contract, with damages, with complainants being declared in default. [3] Upon his being required to answer by this Court, respondent Judge would justify the issuance of a warrant of arrest based on a certification of the fiscal that he conducted a preliminary investigation and that at any rate, upon complainants filing a petition for habeas corpus, they were ordered immediately released. It was also mentioned that complainants were charged in several other estafa cases, imputing to them a certain degree of notoriety as undesirable characters. [4] He sought the dismissal of the complaint for lack of merit.

This Court, in a resolution dated April 13, 1973, referred the matter to Justice Emilio A. Gancayco. He did conduct the probe with both parties presenting their evidence. With complainant Porferio Dalman, Jr. suffering from mental ailment being confined in a hospital at Davao City, it was his father, Porferio Dalman, Sr., who appeared in his behalf and testified. Justice Gancayco's report submitted on July 6, 1973 recommended the dismissal of the charges. [5]

It started with the following antecedents: "A careful scrutiny of the records shows that on or about February 18, 1972, the complainants were detained for investigation by the police department of Dipolog City due to a complaint for estafa filed by one Guillermo Bajamunde (Records, 19). On the same day Assistant Provincial Fiscal Rodolfo Mata filed an information for estafa against the complainants, docketed as Criminal Case No. 642, which was assigned to the sala presided by the respondent (Exhibit 1). On the basis of the certification of the fiscal that he conducted the preliminary examination in accordance with Secs. 1 and 15 of Rule 112, Rules of

Court, and that the complainants refused to waive their right under Article 125 of the Revised Penal Code, and of a motion to admit the information and issue warrant of arrest also filed by the same fiscal (Exh. 1-B), the respondent Judge issued the order of arrest on February 19, 1972, (Exh. 1-C)."[6]

Then came this portion: "On February 24, 1972, the complainants filed a petition for habeas corpus docketed as Special Proceeding No. R-641 which was assigned to the sala of the respondent (records, 11, 12). On February 26, 1972, the respondent issued an order granting the petition and releasing the complainants from detention."[7] The basis for the report was set forth thus: "From the foregoing set of facts it is obvious that the respondent performed his duty in accordance with law. The complainants were already under detention when the information was filed with the court. The respondent issued the warrant of arrest, by relying on the certification of the fiscal who filed the information and on an accompanying motion that he conducted the preliminary examination in accordance with the requirements of the law."[8] It did go further in the scrutiny of the apparent legal justification why respondent Judge so acted: "Parenthetically, it may be stated that the fiscal must have filed the information in this case in the belief that the complainants fall under the category of persons in custody, the investigation of which should be conducted in accordance with Sec. 15, Rule 112 of the Rules of Court. Under this rule, if the accused refuses to sign a waiver of his rights under the provisions of Art. 125 of the Rev. Penal Code, then such accused is not entitled to a preliminary investigation, and the fiscal may file an information upon satisfying himself on a preliminary examination that there is a prima facie case. Logically, the respondent judge relying on such certification of the fiscal had the authority to issue an order for the arrest of complainants."[9] It was then observed that realizing his mistake, he immediately took the appropriate step: "However, after the complainants filed the petition for habeas corpus the respondent immediately conducted a hearing and when he found that the complainants do not fall under the category of persons in custody as contemplated by Section 15, Rule 112, since 'the alleged crime took place in December, 1971, and the accused were merely brought by the complainant in the police station and detained against their will and consent' (Exh. 2), he promptly granted the petition and ordered the release of the complainants. The charge of ignorance of the law and partiality is thus without merit."[10] The charges of alleged abuse of discretion and partiality were next discussed: "As to the charge of alleged abuse of discretion, it is true that Criminal Case No. 679 was consolidated with Criminal Case 642 in the sala of the respondent, but as admitted by the complainants, the transfer was made by the clerk of court from the sala of Judge Abalos because of the retirement of the said judge. The respondent had no hand in this. The further charge that the respondent dismissed and revived Criminal Cases 642 and 679 is not borne by the records. What appears to us as duly established is the fact that Criminal Case 642 was dismissed and Criminal Case No. 679 was maintained as the subject of both informations appear to be one and the same offense so that the trial of Criminal Case No. 679 proceeded (Exh. C). This charge is without merit."[11] This is what was said as to partiality: "The imputation of partiality in Civil Case 2267 where the complainants were allegedly adjudged in default and an ex parte hearing was conducted after which a judgment was rendered by the respondent against the complainants is likewise without merit. The complainants appealed this case to the Court of Appeals and in a decision rendered by this court it was projected that it was the failure of the complainants to appear at the hearing after due notice that caused respondent to order the reception of the evidence ex parte as a result of which a decision was penned by the respondent. This appeal of the complainants was dismissed by the Court of Appeals in said decision. (Exh. 3)."[12] Justice Gancayco's exhaustive report concluded on this note: "The records of this case reveal that the complainants are co-accused also in Criminal Case No. 828 for estafa and Criminal Case No. 830 for theft, while complainant Dalman, Jr. is also accused for estafa in Criminal Cases Nos. 680 and 580, which are all pending in the Court of First Instance of Zamboanga del Norte. Complainants admitted that there are cases of estafa pending against them in court but they complain that the respondent had been accepting other cases filed against them. Certainly, even if this may be true, the respondent cannot validly refuse to accept a case properly filed and docketed in his court. Indeed on April 4, 1973, the respondent inhibited himself from trying any of the cases

against the complainants and the same are now transferred to the other branches of the court. (Exh. 3)."[13]

It would thus appear that the guilt of respondent judge had not been demonstrated. The recommendation of Justice Gancayco merits acceptance. Nonetheless it would not be amiss to impress on respondent judge, and for that matter on other occupants of the bench, that sensitivity to the claims of liberty is not only expected but required of them by the Constitution. In *De Asis v. Romero*,^[14] Justice Castro made reference to "reported decisions of this Court [with its] fairly excellent catalogue of dissertations on the [precious] position of personal freedom as part of the nation's heritage and the country's political consciousness."^[15]

ACCORDINGLY, the administrative complaint against respondent Judge is dismissed. Let a copy of this resolution be spread on his record. With the disposition of this complaint against him, an administrative charge, dated June 23, 1973, based on the same ground contained in a communication of Porferio Dalman, Sr. addressed to the Executive Department and referred to this Court, is similarly disposed of.

Makalintal, C.J., Zaldivar, Ruiz Castro, Teehankee, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

[1] Complaint, 1.

[2] *Ibid.*

[3] *Ibid.*, 1-2.

[4] Comment of Respondent De Guzman, 1-2.

[5] *Ibid.*, 3.

[6] Report and Recommendation, 3-4.

[7] *Ibid.*, 4.

[8] *Ibid.*

[9] *Ibid.*, 4-5.

[10] *Ibid.*, 5.

[11] *Ibid.*, 5-6.

[12] *Ibid.*, 6.

[13] *Ibid.*, 7.

[14] L-33125, September 30, 1971, 41 SCRA 235.

[15] *Ibid.*, 239. The more specific constitutional provision involved is Art. III, Section 1, par. 3 of the 1935 Constitution: "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated and no warrants shall issue but upon probable cause, to be determined by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, * * *." Such a provision is found in the Revised Constitution with the only modification that in addition to a judge, probable cause may be determined by "such other responsible officer as may be authorized by law, * * *." Art. IV, Section 3.

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