

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. EUSTAQUIO Z. GACOTT, JR., PRESIDING JUDGE, RTC, BRANCH 47, PUERTO PRINCESA CITY, ARNE STROM AND GRACE REYES, RESPONDENTS.

G.R. No. 116049. July 13, 1995

Ponente: REGALADO, J.

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REGALADO, J.:

Rebuffed by this Court through the annulment of his order dismissing Criminal Case No. 11529 of the court a quo, complemented with a reprimand and a fine of P 10,000.00 for gross ignorance of the law, respondent Judge Eustaquio Z. Gacott, Jr. has filed a motion for reconsideration dated April 1, 1995, and a supplemental motion for reconsideration dated April 26, 1995.

For reasons of his own but the purposes of which can easily be deduced, separate copies of the basic motion were furnished the Chief Justice, Judicial and Bar Council, Solicitor General, Bar Confidant, Integrated Bar of the Philippines, Court Administrator and his deputies, Secretary of Justice, and Ombudsman. Copies of the supplemental motion were also furnished by him to the same officials or entities and, additionally, to the individual members of this Court.

In the judgment now sought to be reconsidered, the Second Division of the Court, speaking through Mr. Justice Abdulwahid A. Bidin, specified that the only issue to be resolved in this case was whether or not respondent judge gravely abused his discretion in granting the motion to quash the aforementioned criminal case. We quote the pertinent portions of his ponencia not only for easy reference but to serve as a basis for determining whether the sanctions imposed were commensurate to the administrative offense, to wit:

The error committed by respondent judge in dismissing the case is quite obvious in the light of P.D. No. 1, LOI No. 2 and P.D. No. 1275 aforementioned. The intent to abolish the Anti-Dummy Board could not have been expressed more clearly than in the aforementioned LOI. Even assuming that the City Fiscal of Puerto Princesa failed to cite P.D. No. 1 in his opposition to the Motion to Quash, a mere perusal of the text of LOI No. 2 would have immediately apprised the respondent judge of the fact that LOI No. 2 was issued in implementation of P.D. No. 1.

x x x

x x x

Obviously, respondent judge did not even bother to read the text of the cited LOI; otherwise, he would have readily acknowledged the validity of the argument advanced by the prosecution. As correctly observed by the Solicitor General, Presidential Decrees, such as P.D. No. 1, issued by the former President Marcos under his martial law powers have the same force and effect as the laws enacted by Congress. As held by the Supreme Court in the case of *Aquino vs. Comelec* (62 SCRA 275 [1975]), all proclamations, orders, decrees, instructions and acts promulgated, issued or done by the former President are part of the law of the land, and shall remain valid, legal, binding, and effective, unless modified, revoked or superseded by subsequent proclamations, orders, decrees, instructions, or other acts of the President. LOI No. 2 is one such legal order issued by former President

Marcos in the exercise of his martial law powers to implement P.D. No. 1. Inasmuch as neither P.D. No. 1 nor LOI No. 2 has been expressly or impliedly revoked or repealed, both continue to have the force and effect of law (Rollo, pp. 7-8).

x x x

But even more glaring than respondent judge's utter inexcusable neglect to check the citations of the prosecution is the mistaken belief that the duty to inform the court on the applicable law to a particular case devolves solely upon the prosecution or whoever may be the advocate before the court. Respondent judge should be reminded that courts are duty bound to take judicial notice of all the laws of the land (Sec. 1, Rule 129, Rules of Court). Being the trier of facts, judges are presumed to be well-informed of the existing laws, recent enactments and jurisprudence, in keeping with their sworn duty as members of the bar (and bench) to keep abreast of legal developments. x x x

x x x

The court is fully aware that not every error or mistake of a judge in the performance of his duties is subject to censure. But where, as in the present case, the error could have been entirely avoided were it not for the public respondent's irresponsibility in the performance of his duties, it is but proper that respondent judge be reprimanded and his order of dismissal set aside for grave ignorance of the law. For, respondent judge's error is not a simple error in judgment but one amounting to gross ignorance of the law which could easily undermine the public's perception of the court's competence.

We could stop here, since the rehashed arguments raised by respondent judge in his aforesaid original and supplemental motions are completely refuted by the foregoing discussion demonstrative not only of his adjudicatory error but also of judicial incompetence. In fact, just to cite a few representative cases, it may be worthwhile for respondent judge to ponder upon the Court's observations in *Aducayan vs. Flores, et al.*, [1] *Ajeno vs. Inserto*, [2] *Libarios vs. Dabalos*, [3] and *Estoya, et al. vs. Singson, et al.*, [4] which would put his asseverations at rest.

Respondent judge, however, would want this Court to pass upon his other supplications, arguments, and even his insinuations for that matter, which although born more of fecundity in formulation and less of bases in law, we have decided to anatomize even with some expense of prolixity.

Respondent judge prefaces his remedial approach with the assurance that "(t)he only purpose of (h)is motion is to plead with bended knees and with all humility for the kind reconsideration" of the decision in this case, specifically the findings that he is "grossly ignorant of the law and as such, (he) was reprimanded and fined in the amount of P10,000.00; and that the aforesaid decision is to be spread on (his) personal records." [5]

He adverts to his good conduct as a person and as a judge, reiterates that the error primarily stemmed from the shortcomings of the public prosecutor and, on a personal note, he expresses this concern: "x x x I am again begging with humility that the spreading of the aforesaid Decision on my personal records be reconsidered because doing so will foreclose any chance for me to aspire for promotion in the judiciary in the future. This is very painful. I will agonize up to my last day and my last breath in life." [6]

The Court assures respondent judge that it has taken all the aforesaid matters into consideration and is not insensitive thereto, including his argumentum ad misericordiam. It feels, however, that there is more than ample substantiation for the findings of the ponente in the main case, and compelling legal warrant for the administrative penalties imposed which are even milder than those meted by it under similar and comparable situations.

The spreading of the decision on the personal record of a respondent is an official procedure and requirement which, incredibly, respondent judge would want this very Court to violate and forego, in suppression of facts which must appear in official documents. His further argument that -

The spreading of such decision on my personal records will not only open criticisms on my private qualifications as a minister in the temple of justice but will open more comments on my official acts, competence and credibility as a judge that might undermine the people's faith in the judicial system in the Province of Palawan, in Puerto Princesa City and in the entire country because it is always difficult to disassociate my private credential from that of my public qualifications.[7]

is, to put it mildly, a mite too exaggerated and a tad too melodramatic. The Court regrets that respondent judge appears unaware that he is actually the recipient of uncommon sympathetic consideration in this case.

Administrative penalties do not play the final strains of the valkyrian chant to a public career, judicial or otherwise. It is for respondent judge, by subsequently demonstrating his true worth through observance of judicial standards, to vindicate himself from a misjudgment which is the heritage of the heedless and to rise to higher levels which is the destiny of the deserving. Besides, it is a curious fact that assuming as valid his meticulousness on the confidential nature of disciplinary cases, he nevertheless sent copies of his motions to all the persons enumerated at the start of this resolution. It is elementary that copies of such motions are merely filed with the court and furnished only to the adverse party. Here, he wants us to keep sub rosa what he himself publicizes.

From his initial exhibition of humility and penitential pose, respondent judge then goes into a critical second gear by rhetorically wondering aloud in this fashion:

On July 27, 1994, the Third Division of the Honorable Supreme Court required me to comment on the above-entitled petition. On August 23, 1994 I filed my comment thereto and on October 24, 1994, in a Resolution the Third Division of the Supreme Court resolved to note my Comment. When the Third Division of the Honorable Court required me to comment in G.R. No. 116049, the supposition is that a valid raffle of said case to that Division had already been made. That was my thinking and impression for, why would the case go to that Division except thru a valid raffle. I am now in quandary, however, as to why all of a sudden, G.R. No. 116049 was transferred to the Second Division of the Supreme Court without us or any party being informed by the Honorable Supreme Court about it. In our level at the Regional Trial Court in Palawan, we observe the raffle of cases with solemnity and abide by the result of the raffle faithfully. And the said Second Division meted me out excessive penalties when it was the Third Division that required me to comment. Why did this happen? (Italics supplied.)(8]

Since this was obviously spoken with the ascriptive courage of the uninformed, we assure His Honor that the Supreme Court also conducts "a valid raffle," observes such raffle of its cases "with solemnity," and abides by the result thereof "faithfully." This case was validly and solemnly raffled to Mr. Justice Bidin who was then with the Third Division of the Court. On January 23, 1995, he was transferred to the Second Division where he served as working chairman until his retirement on April 7, 1995. In accordance with the internal rules of the Court, this case remained with him as the original ponente and he accordingly penned the decision therein for and as a member of the Second Division. There is no rule in the Court that the parties be informed that a case has been transferred to another division, as respondent judge would want or expect. To do so would easily be revelatory of the identity of the ponente which is precisely what some litigants used to, and still, watch for and speculate upon.

In anticipation of a similar insinuation, respondent judge is further informed that because of the retirement of Mr. Justice Bidin and the uncertainty of the date when his replacement could act upon his unfinished cases and the subsequent proceedings therein, after its summer session and working recess the Court en banc, after due

deliberation on respondent judge's successive motions, decided to assign the preparation of this resolution to the present writer thereof, he having been and still is with the Second Division. Respondent judge, with his claim of extensive magisterial experience, should have verified all the foregoing facts from the records of this Court, instead of proceeding upon speculations.

Finally, shifting to what he obviously fancies to be high gear on a constitutional basis, respondent judge questions the competence of the Second Division of this Court to administratively discipline him. Exordially, a mere *allegatio nudus* does not create a constitutional issue as to require the referral of this case, or at least the disciplinary aspect thereof, to the Court en banc. The disposition of that matter merely involves a clarification of the misconception of respondent judge thereon, presumably because of his unfamiliarity with circulars adopted and followed by this Court, some of them being on internal procedure. Be that as it may, since all the members of this Court are aware of the submissions of respondent judge on this point through the copies of the motions which he furnished them, and he insistently harps on constitutional grounds therein, the Court en banc resolved to accept this aspect of the case from the Second Division.

His Honor relies on the second sentence of Section 11, Article VIII of the present Constitution which reads: "The Supreme Court en banc shall have the power to discipline judges of lower courts, or order their dismissal by a vote of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon." This provision is an expansion of and was taken from the second sentence of Section 7, Article X of the 1973 Constitution which provided: "The Supreme Court shall have the power to discipline judges of inferior courts and, by a vote of at least eight Members, order their dismissal."

Stress is apparently laid by respondent judge on the inclusion of the adverbial phrase "en banc" in referring to this Court in the quoted provision of the 1987 Constitution and, from this, he argues that it is only the full Court, not a division thereof, that can administratively punish him.

Fortuitously, the writer of this resolution, as a member of the Committee on the Judiciary of the 1986 Constitutional Commission, had the opportunity to take up that precise matter with the committee chairman, retired Chief Justice Roberto Concepcion, by pointing out the equivalent provision in the 1973 Constitution, hereinbefore quoted, which merely referred to the "Court," without qualification. It was accordingly explained and agreed that insofar as the power to discipline is concerned, the qualification was not intended to make a difference, as a reference to the Court by itself necessarily means the Court en banc. It was only decided to state "en banc" there because all internal procedural and administrative matters, as well as ceremonial functions, are always decided by or conducted in the Court en banc. On the other hand, where the reference is to the Court acting through its divisions, it would necessarily be so specified. For lack of transcription of the proceedings of the committees of said Commission, the writer has perforce to rely on his recollection and notes, but he assures this Court of the foregoing facts as they transpired.

At any rate, the very text of the present Section 11 of Article VIII clearly shows that there are actually two situations envisaged therein. The first clause which states that "the Supreme Court en banc shall have the power to discipline judges of lower courts," is a declaration of the grant of that disciplinary power to, and the determination of the procedure in the exercise thereof by, the Court en banc. It was not therein intended that all administrative disciplinary cases should be heard and decided by the whole Court since it would result in an absurdity, as will hereafter be explained.

The second clause, which refers to the second situation contemplated therein and is intentionally separated from the first by a comma, declares on the other hand that the Court en banc can "order their dismissal by a vote of a majority of the Members who actually took part in the deliberations on the issues in the case and voted therein."

Evidently, in this instance, the administrative case must be deliberated upon and decided by the full Court itself.

Pursuant to the first clause which confers administrative disciplinary power to the Court en banc, on February 9, 1993 a Court En Banc resolution was adopted, entitled "Bar Matter No. 209. - In the Matter of the Amendment and/or Clarification of Various Supreme Court Rules and Resolutions," and providing inter alia:

For said purpose, the following are considered en banc cases:

x x x

6. Cases where the penalty to be imposed is the dismissal of a judge, officer or employee of the Judiciary, disbarment of a lawyer, or either the suspension of any of them for a period of more than one (1) year or a fine exceeding P10,000.00, or both.

x x x

This resolution was amended on March 16, 1993 and November 23, 1993, but the aforequoted provision was maintained.

Indeed, to require the entire Court to deliberate upon and participate in all administrative matters or cases regardless of the sanctions, imposable or imposed, would result in a congested docket and undue delay in the adjudication of cases in the Court, especially in administrative matters, since even cases involving the penalty of reprimand would require action by the Court en banc. This would subvert the constitutional injunction for the Court to adopt a systematic plan to expedite the decision or resolution of cases or matters pending in the Supreme Court or the lower courts,[9] and the very purpose of authorizing the Court to sit en banc or in divisions of three, five, or seven members.[10]

Yet, although as thus demonstrated, only cases involving dismissal of judges of lower courts are specifically required to be decided by the Court en banc, in cognizance of the need for a thorough and judicious evaluation of serious charges against members of the judiciary, it is only when the penalty imposed does not exceed suspension of more than one year or a fine of P 10,000.00, or both, that the administrative matter may be decided in division.

It must not also be overlooked that as early as February 7, 1989, the Court promulgated Circular No. 2-89 which clarifies that:

x x x

2. A decision or resolution of a Division of the Court, when concurred in by a majority of its members who actually took part in the deliberations on the issues in a case and voted thereon, and in no case without the concurrence of at least three of such Members, is a decision or resolution of the Supreme Court (Section 4[3], Article VIII, 1987 Constitution).

That guideline or rule in the referral to the Court en banc of cases assigned to a division thereof rests on the same rationale and applies with equal force to confute the antithetical theory of respondent Judge Eustaquio Z. Gacott, Jr. Apropos thereto, it would indeed be desirable for said respondent to hereafter deal with situations like the one subject of this resolution with more perspicacity and circumspection.

WHEREFORE, the basic and supplemental motions for reconsideration of the judgment in the case at bar are hereby DENIED. This resolution is immediately final and executory.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Puno, Vitug, Kapunan, Mendoza, and Francisco, JJ., concur.

[1] G.R. No. L-30370, May 25, 1973, 51 SCRA 78.

[2] A.M. No. 1098-CFI, May 31, 1976, 71 SCRA 166.

[3] A.M. No. RTJ-89-286, July 11, 1991, 199 SCRA 48.

[4] A.M. No. RTJ-91-758, September 26, 1994, 237 SCRA 1.

[5] Rollo, 53-54.

[6] Ibid., 66.

[7] Ibid., 67-68.

[8] Ibid., 66.

[9] Section 12, Article XVIII, 1987 Constitution.

[10] Section 4(1), Article VIII, id.

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