

FIRST DIVISION

[A.M. No. RTJ-18-2523 (Formerly OCA I.P.I No. 14-4353-RTJ), June 06, 2018]

**EXTRA EXCEL INTERNATIONAL PHILIPPINES, INC.,
REPRESENTED BY ATTY. ROMMEL V. OLIVA, COMPLAINANT, V.
HON. AFABLE E. CAJIGAL, PRESIDING JUDGE, REGIONAL TRIAL
COURT, BRANCH 96, QUEZON CITY, RESPONDENT.**

D E C I S I O N

DEL CASTILLO, J.:

This is an administrative complaint^[1] for gross ignorance of the law, gross inefficiency, grave abuse of authority, and evident partiality filed by complainant Extra Excel International Philippines, Inc., through its representative Atty. Rommel V. Oliva (Atty. Oliva), against respondent Judge Afable E. Cajigal, relative to Criminal Case No. R-QZN-13-00488-CR (*People of the Philippines v. Ike R. Katipunan*).

Complainant narrated that an Information^[2] for qualified theft was filed against Ike R. Katipunan, complainant's former Inventory Control Service Assistant. The case was raffled to Branch 96 of the Regional Trial Court of Quezon City with respondent as Presiding Judge. Complainant alleged that, after the filing of the Information, respondent Judge did not set the case for arraignment nor issue a warrant of arrest; instead, he granted the accused's Motion for Preliminary Investigation and Motion to Defer Further Proceedings. Incidentally, in its May 30, 2014 Decision^[3] in CA-G.R SP No. 132989, the Court of Appeals found grave abuse of discretion on the part of respondent Judge in granting the accused's motion for preliminary investigation.

Meanwhile, there being no resolution on the preliminary investigation despite the lapse of the 60-day period, and pursuant to A.M. No. 11-6-10-SC which mandates the accused's arraignment upon the lapse of the 60-day period, complainant filed a Motion to Set Case for Arraignment. Upon comment of the accused, respondent Judge ordered the City Prosecution Office of Quezon City to conclude the on-going re-investigation. Thereafter, the City Prosecution Office resolved to affirm the earlier finding of probable cause.

On March 24, 2014, complainant filed a Motion for Issuance of Hold Departure Order, which motion remains unresolved. Meanwhile, the accused filed on March 28, 2014 an Omnibus Motion for Judicial Determination of Probable Cause, Recall of Warrant of Arrest, and Deferment of Proceedings, thereby prompting complainant to file a Comment/Opposition and a Motion for Inhibition.

Respondent Judge eventually arraigned the accused on June 9, 2014. However, instead of ordering the accused's commitment, and despite the offense being nonbailable, respondent Judge allowed the accused to go home. On June 13, 2014, the accused filed a Petition for Bail. During the bail hearing on June 24, 2014,

respondent Judge found the filing thereof premature and issued a warrant of arrest against the accused. However, instead of committing the accused at the Quezon City Jail, he was instead detained at the Criminal Investigation and Detention Unit of Central Police District, Camp Karingal, Quezon City. Thereafter, respondent Judge scheduled the bail hearing on June 30, 2014 despite manifestation by complainant's counsel of his unavailability on said date.

During the June 30, 2014 bail hearing, respondent Judge declared the Petition for Bail submitted for resolution due to the absence complainant's counsel. On even date, respondent Judge issued an Order granting the bail petition and denying the motion for inhibition.

Finally, complainant claimed that respondent Judge attempted to fast-track the proceedings in the criminal case by re-scheduling the redirect examination of the prosecution's witness from February 17, 2015, as earlier agreed by the parties, to December 17, 18 and 22, 2014, in view of his impending retirement on December 29, 2014.

According to the complainant, the foregoing events clearly showed respondent Judge's gross inefficiency, incompetence, gross ignorance of the law, grave abuse of authority and evident partiality. Complainant argued that respondent Judge was guilty (1) of undue delay in resolving motions when he failed to resolve the motion for issuance of hold departure order within 90-days or despite lapse of nine months; (2) of gross ignorance of the law when he granted the accused's motion for preliminary investigation in violation of A.M. No. 11-6-10-SC since the accused was not a subject of a warrantless arrest or inquest proceedings; (3) of grave abuse of authority when he allowed the accused to go home after his arraignment for a nonbailable offense; (4) of gross ignorance of the law and evident partiality in granting the petition for bail despite complainant's pending motion for reconsideration and/or motion to set the hearing to another date; and, (5) of evident partiality when he failed to inhibit himself from further handling the case in view of his bias towards the accused.

In his Comment,^[4] respondent Judge countered that he should not be sanctioned for acts done in the performance of his functions as a judge. He claimed that the allegations against him are unfounded, malicious, and intended solely to harass and embarrass him, and to cause undue delay in the release of his retirement benefits. In particular, he adverted to A.M. No. 03-10-01-SC,^[5] which bars the filing of an administrative complaint "within six months before the compulsory retirement of a Justice or Judge."^[6] According to respondent Judge, the administrative complaint was filed barely a week before his compulsory retirement on December 29, 2014.^[7]

Respondent Judge justified his failure to resolve the motion for issuance of hold departure order on the fact that the accused had already filed an omnibus motion for the judicial determination of probable cause, recall of warrant of arrest and deferment of proceedings. According to respondent Judge, he set for hearing the motion for issuance of hold departure order alongside the accused's omnibus motion in order to accord both the prosecution and the defense ample opportunity to exercise their right to due process.^[8]

As regards his alleged failure to order the commitment of the accused after his

arraignment and allowing him instead to go home, respondent Judge explained that there was yet no warrant issued for the arrest of the accused; moreover, a petition for bail had been filed; hence, there was no reason to detain the accused.

With respect to the order granting bail to the accused, respondent Judge claimed that the same was not at all objected to by the public prosecutor during trial.^[9]

As to the Order setting the re-direct examination of the prosecution witness to a date earlier than previously scheduled, respondent Judge claimed that he did so with the end in view of enabling the prosecution to finish the presentation of its evidence prior to his impending retirement; and that said Order was in line with the Constitutional right of the accused to a speedy trial.^[10]

Finally, respondent Judge posited that Atty. Oliva had no personality to file this administrative complaint considering that it was Atty. Elmar Malapitan (Atty. Malapitan) who represented the complainant in the qualified theft case.

In sum, respondent prayed for the dismissal of the complaint.

Report and Recommendation of the Office of the Court Administrator (OCA)

In a Report^[11] dated September 18, 2015, the OCA made the following evaluation:

On the charge of gross inefficiency, records show that there [was] delay in resolving the motion for issuance of the hold departure order. The motion was filed on 24 March 2014, however, respondent Judge had yet to resolve it. He rationalized his inaction by stating that, in his opinion, there was no need to issue a hold departure order since accused had filed an omnibus motion on 28 March 2014 and both motions were set for hearing to give the parties a chance to comment. The rules and jurisprudence are clear on the matter of delay. Failure to resolve cases and other matters within the reglementary period constitutes gross inefficiency and warrants the imposition of administrative sanction against the erring magistrate. x x x

On the charge that respondent Judge committed gross ignorance of the law when he granted the motion for preliminary investigation x x x, the records are bereft of evidence to show that respondent Judge, assuming that he erred, was motivated by bad faith, fraud, corruption, dishonesty in granting the motion. To constitute gross ignorance of the law, it is not enough that the decision, order or actuation of the judge in the performance of his official duties is contrary to existing law and jurisprudence. It must be established that he was moved by bad faith, fraud, dishonesty or corruption or had committed an error so egregious that it amounted to bad faith. Moreover, complainant already availed of a judicial remedy when it filed a Petition for Certiorari before the Court of Appeals x x x seeking to annul and set aside the resolution directing the Office of the City Prosecutor to conduct a preliminary investigation, which the Court of Appeals favorably acted upon. While the assailed Resolution was set aside, this is not enough to render respondent Judge liable for

gross ignorance [of the law]. Jurisprudence is replete with pronouncements that not every error or mistake of a judge in the performance of his official duties renders him liable. As a matter of policy, in the absence of fraud, dishonesty or corruption, the acts of a judge in his judicial capacity are not subject to disciplinary action even though such acts are erroneous.

On the charge of grave abuse of authority for allowing accused Katipunan to go home after his arraignment instead of committing him directly to the City Jail, the same has no merit. Respondent Judge merely exercised his sound discretion in not immediately issuing the warrant of arrest and in suspending further proceedings pending reinvestigation of the case. x x x It is not obligatory, but merely discretionary, upon the investigating judge to issue a warrant for the arrest of the accused, even after having personally examined the complainant and his witnesses in the form of searching questions and answers, for the determination of whether a probable cause exists and whether it is necessary to arrest the accused in order not to frustrate the ends of justice, is left to his sound judgment or discretion.

On the charge of gross ignorance of the law and evident partiality for granting the petition for bail without conducting a hearing to prove whether the evidence of guilt is strong or not, which will form the basis for granting or denying the petition for bail, we agree with complainant. x x x In this case, when respondent Judge set the hearing for bail on 30 June 2014, the private prosecutor manifested his unavailability on the said date, but this notwithstanding, respondent Judge pushed through with the hearing. Immediately, complainant, through lawyer, filed an urgent motion for reconsideration explaining his absence during the 30 June 2014 hearing. Nonetheless, respondent Judge granted the petition for bail for failure of the private prosecutor and the witnesses to appear and in the absence of any objection from the public prosecutor. The law and settled jurisprudence demand that a hearing be conducted before bail could be fixed for the temporary release of the accused, if bail is at all justified. x x x The absence of any objection from the prosecution in such cases is not a basis for the grant of bail for the judge has no right to presume that the prosecutor knows what he is doing on account of the familiarity with the case. Said reasoning is tantamount to ceding to the prosecutor the duty of exercising judicial discretion to determine whether the guilt of the accused is strong. Judicial discretion is the domain of the judge before whom the petition for provisional liberty will be decided. The mandated duty to exercise discretion has never been reposed upon the prosecutor. There is gross ignorance because the need for hearing before bail is fixed/granted is so basic that respondent Judge ought to know that. So in this instance, good/bad faith is of no moment, unlike in the other instance of gross ignorance exhibited by respondent Judge when he granted the motion for preliminary investigation.

On the charge of evident partiality when respondent Judge failed to inhibit himself, the issue pertains to the second paragraph of Rule 137, Section 1 of the Rules of Court regarding voluntary inhibition of a judge, which states that 'a judge may, in the exercise of his sound discretion,

disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above.' Based on this provision, judges have been given the exclusive prerogative to recuse themselves from hearing cases for reasons other than those pertaining to their pecuniary interest, relation, previous connection, or previous rulings or decisions. The issue of voluntary inhibition in this instance becomes primarily a matter of conscience and sound discretion on the part of the judge.

On the charge of evident partiality when respondent Judge issued an order setting the case for special sessions, the same cannot stand in the absence of substantial evidence to support the same. In administrative proceedings, the complainant has the burden of proving by substantial evidence the allegations in his complaint. In the absence of evidence to the contrary, the presumption that the respondent has regularly performed his duties will prevail.

In sum, we hold that respondent Judge is administratively liable for inefficiency on account of his delay in resolving the motion for the issuance of the hold departure order. Under A.M. No. 01-8-10-SC, undue delay in rendering a decision is classified as a less serious charge punishable either by: (a) suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or (b) a fine of more than Php10,000.00 but not exceeding Php20,000.00.

Respondent Judge is also liable for gross ignorance of the law for granting the petition for bail without the benefit of a hearing. Under A.M. No. 01-8-10-SC, gross ignorance of the law or procedure is classified as a serious charge and should be penalized by (a) dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits; (b) suspension from office without salary and other benefits for more than three [(3)] but not exceeding six (6) months; or (3) a fine of more than Php20,000.00 but not exceeding Php40,000.00.

[12]

Pursuant to Section 50,^[13] Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service, which directs the imposition of the penalty corresponding to the most serious charge in the event the respondent is found guilty of two (2) or more charges or counts, and in view of respondent Judge's retirement on December 29, 2014, the OCA recommended that respondent Judge be meted the penalty of fine in the amount of P40,000.00, for inefficiency on account of delay in resolving the motion for issuance of a hold departure order and gross ignorance of the law in granting the petition for bail without the benefit of a hearing, which amount shall be deducted from his retirement benefits.

Issue