

FIRST DIVISION

[A.M. No. RTJ-11-2262 [Formerly OCA I.P.I. No. 08-3056-RTJ], February 09, 2011]

GAUDENCIO B. PANTILO III, COMPLAINANT, VS. JUDGE VICTOR A. CANOY, RESPONDENT.

D E C I S I O N

VELASCO JR., J.:

This administrative complaint against Judge Victor A. Canoy (Judge Canoy) of the Regional Trial Court (RTC), Branch 29 in Surigao City stems from a complaint filed by Gaudencio Pantilo III (Pantilo), charging Judge Canoy with several counts of gross ignorance of the law and/or procedures, grave abuse of authority, and appearance of impropriety (Canon 2, Code of Judicial Conduct). Pantilo prays for Judge Canoy's disbarment in relation to Criminal Case No. 8072 for Reckless Imprudence Resulting in Homicide entitled *People of the Philippines v. Leonardo Luzon Melgazo*.

The facts of the case, as gathered from the records, are as follows:

The complainant, Pantilo, the brother of the homicide victim in the above-mentioned criminal case, recounts in his letter-complaint that, on September 3, 2008, at around 5 o'clock in the afternoon, he, along with police officers Ronald C. Perocho (Perocho) and Santiago B. Lamanilao, Jr. (Lamanilao), acting as escorts of Leonardo Luzon Melgazo (Melgazo), the accused in Criminal Case No. 8072, went to the City Prosecutor's Office, Surigao City, to attend the inquest proceedings.^[1] Later, at around 8 o'clock in the evening, Pantilo was informed by Perocho that Melgazo had been released from detention.^[2]

The following day, September 4, 2008, Pantilo went to the Surigao City Police Station to verify the information. Upon arriving there, Custodial Officer Anecito T. Undangan told him that Melgazo had indeed been released at around 6:30 p.m. on September 3, 2008, as shown in the Police Logbook of Detention Prisoners and as authorized by Chief of Police Supt. Ramer Perlito P. Perlas.^[3] Further, the logbook showed that Melgazo was temporarily released upon the order of Judge Canoy after he posted bail in the amount of thirty thousand pesos (PhP 30,000), as evidenced by O.R. No. 0291794 dated September 3, 2008.^[4]

Pantilo proceeded to the Office of the Clerk of Court to request a copy of the Information, only to find out that none had yet been filed by the Surigao City Prosecutor's Office.^[5] Puzzled, he inquired from the City Prosecutor's Office the details surrounding the release of Melgazo. He learned that no Information had yet been filed in Court that would serve as the basis for the approval of the bail. Likewise, he also learned from the City Police Station that no written Order of

Release had been issued but only a verbal order directing the police officers to release Melgazo from his detention cell.^[6] One of the police officers even said that Judge Canoy assured him that a written Order of Release would be available the following day or on September 4, 2008 after the Information is filed in Court.

On September 5, 2008, Melgazo filed a Motion for the Release of his impounded vehicle as physical evidence pending the trial of the case.^[7] The motion was received by the Office of the Clerk of Court at 8:30 a.m. that day and was subsequently raffled in the afternoon. In the Notice of Hearing of the said motion, Melgazo prayed that it be heard on September 5, 2008 at 8:30 a.m. According to Pantilo, this clearly violated the rules which require that the other party must be served a copy of the motion at least three (3) days before the hearing.

Nevertheless, Judge Canoy issued an Order dated September 5, 2008, directing Assistant City Prosecutor Robert Gonzaga (Prosecutor Gonzaga), the prosecutor-in-charge of the case, to give his comment on the said motion within three (3) days upon receipt of the Order. Three (3) days later, Prosecutor Gonzaga submitted his comment. And despite his opposition, Judge Canoy granted Melgazo's motion.^[8]

Subsequently, Pantilo filed a motion for inhibition of Judge Canoy which was later denied.

Aggrieved, Pantilo filed a letter-complaint dated November 3, 2008 before the Office of the Court Administrator charging Judge Canoy with (1) gross ignorance of the law and procedures; (2) grave abuse of authority; and (3) appearance of impropriety (Canon 2, Code of Judicial Conduct). Pantilo also prays for Judge Canoy's disbarment.

On January 5, 2009, the Court Administrator required respondent judge to comment on the complaint within ten (10) days from receipt.

Accordingly, on February 5, 2009, Judge Canoy filed his comment, arguing that the facts in this case were exceptional. In his comment, he admitted that the inquest proceedings of Melgazo before Prosecutor Gonzaga concluded around 5:00 p.m. on September 3, 2008, after which, Melgazo, with his counsel, Atty. Caceres Azarcon, went to his office to post bail for Melgazo's provisional liberty.^[9] He noted that because of the time, most of the clerks in his office and the Office of the Clerk of Court had already gone home. Thus, it was no longer possible to process the posting of bail and all the necessary papers needed for the release of Melgazo.

Bearing in mind the constitutional right of the accused to bail and coupled with the insistence of Melgazo's counsel, Judge Canoy summoned Prosecutor Gonzaga and inquired about the result of the inquest proceedings. Thereupon, Prosecutor Gonzaga relayed to him that the charge against Melgazo was for Reckless Imprudence with Homicide and the recommended bail bond was thirty thousand pesos (PhP 30,000). However, since it was already past 5:00 p.m., Prosecutor Gonzaga claimed that he could no longer file the Information and that it would have to be filed the next day.^[10]

Despite all this, Judge Canoy informed Prosecutor Gonzaga that he would allow Melgazo to post bail in the amount recommended. He then called Mrs. Ruth O.

Suriaga (Suriaga), Clerk IV, Office of the Clerk of Court, RTC, Surigao City, to accept as deposit for bail the thirty thousand pesos (PhP 30,000) from Melgazo.^[11] Likewise, he instructed Suriaga to earmark an official receipt which would have to be dated the following day or September 4, 2008.

Accordingly, he summoned the escorting police officers, Perocho and Lamanilao, and verbally ordered them to release Melgazo from detention. He also said that the written order would be issued the following day.^[12]

In his defense, Judge Canoy invokes the constitutional right of the accused to bail and Section 17(c), Rule 114 of the Revised Rules of Criminal Procedure, which does not require that a person be charged in court before he or she may apply for bail.^[13] To his mind, there was already "a constructive bail given that only the papers were needed to formalize it."^[14] It would be unreasonable and unjustifiable to further delay the release of the accused. Nevertheless, he submits that if he would be "faulted for such act, he does humbly concede but he merely acted in accordance with what he deemed best for the moment x x x."^[15]

As to his Order dated September 8, 2008 directing the release of the vehicle subject of the case, he contends that there was no deliberate intent to disregard rules and procedure. In fact, he points out that the prosecution was given three (3) days within which to file its comment on the motion of the accused. The grounds raised by both parties were well taken into consideration, but he found the grounds raised by Melgazo to be more reasonable and practical and, hence, he granted the motion.

Similarly, he denied the motion for inhibition filed by Pantilo owing to the absence of an express imprimatur of the prosecutor handling the case.

On February 9, 2009, Pantilo filed his Reply to the Comment arguing that there is no such thing as constructive bail under the rules. He adds that, while he does not dispute the accused's right to post bail, the granting of such should be in harmony with the rules, i.e., an application or motion to that effect and a corresponding order from the court granting the motion.

On October 18, 2010, Court Administrator Jose Midas P. Marquez issued his evaluation and recommendation on the case. In his evaluation, the Court Administrator found that respondent judge failed to comply with the documents required by the rules to discharge an accused on bail. Further, the Court Administrator noted that Judge Canoy also has another pending case (but filed on a later date, September 3, 2009): OCA-IPI No. 09-3254-RTJ, entitled *Cristita Conjurado Vda. de Tolibas v. Judge Victor A. Canoy* for Gross Ignorance of the Law and Conduct Prejudicial to the Best Interest of Service.

Consequently, he recommended the following: (1) the instant complaint be re-docketed as a regular administrative matter; and (2) Judge Canoy be fined forty thousand pesos (PhP 40,000) with a stern warning that a commission of similar acts in the future will be dealt with more severely.

The Court's Ruling

We find the evaluation and recommendations of the Court Administrator well-