601 Phil. 21

THIRD DIVISION

[A.M. No. RTJ-08-2142 [OCA-IPI No. 08-2779-RTJ], March 20, 2009]

ATTY. NORLINDA R. AMANTE-DESCALLAR, COMPLAINANT, VS. JUDGE REINERIO ABRAHAM B. RAMAS, REGIONAL TRIAL COURT, BRANCH 18, PAGADIAN CITY, RESPONDENT.

DECISION

YNARES-SANTIAGO, J.:

Atty. Norlinda R. Amante-Descallar, Clerk of Court, Regional Trial Court of Pagadian City, Branch 18, filed seven administrative complaints against respondent Judge Reinerio Abraham B. Ramas, of the same court, for gross ignorance of the law, gross negligence, and violation of the Code of Judicial Conduct.

In *Misc. No. 2820*, complainant charged respondent with gross ignorance of the law in relation to Civil Case No. 3412. She claimed that in the Order dated August 18, 2006, respondent granted the motion for execution of the prevailing party by counting the five year period provided in Section 6 of Rule 39 from the counsel's receipt of the Entry of Judgment. Complainant averred that Rule 39 expressly provides that the five year period is reckoned from the date of entry of judgment; and not from the date of receipt by counsel; that jurisprudence is replete with rulings that a final judgment ceases to be enforceable after that period, but merely gives the prevailing party a right of action to have the same revived. Hence, respondent should be disciplined for gross ignorance of the law and violation of Rule 3.02[1] Canon 3 of the Code of Judicial Conduct.[2]

In *Misc. No. 2821*, complainant charged respondent with gross ignorance of the law in relation to the conduct of the plea bargaining in Criminal Case Nos. 5601-2000 and 5602-2000 both entitled "*People v. Cebedo.*" On pre-trial, the defense offered to enter into plea bargaining by offering to plead guilty in Crim. Case No. 5602-2000 for possession of seven (7) decks of shabu in exchange for the withdrawal of Crim. Case No. 5601-2000 for selling one deck of shabu. The prosecution agreed and respondent approved the agreement declaring Crim. Case No. 5601-2000 withdrawn[3] and dismissed as a consequence of plea bargaining.[4]

Complainant averred that respondent's conduct was contrary to the provisions on plea bargaining in Section 2 of Rule 116, Rules on Criminal Procedure[5] and Sections 2 and 3 of R.A. No. 8493,[6] and Supreme Court Circular No. 38-98.[7] She argued that it was unclear whether the offended party consented and whether the prosecutor has proper authority to enter into such agreement; and that plea bargaining is limited to a plea to a lesser offense which is necessarily included in the offense charged.[8]

In *Misc. No. 2824*, complainant alleged that the validity and propriety of the plea bargaining in Crim. Case Nos. 5760-2K, 5761-2K, 5762-2K entitled "*People v. Dumpit*" and the dismissal of one case as a consequence thereof are questionable. Respondent approved the plea bargaining agreement entered into by the prosecution and the accused[9] and dismissed Crim. Case No. 5760-2K and Crim. Case No. 5762-2K as a consequence of plea bargaining. Upon arraignment,[10] accused pleaded guilty to the sale of shabu. Thereafter, respondent issued a Decision[11] finding the accused guilty of selling shabu in Crim. Case No. 5761-2K. The next day, the accused applied for probation and was released on recognizance. [12]

Complainant also alleged that respondent was grossly negligent relative to the issuance of Search Warrant No. 40-03[13] against accused Dumpit which led to the filing of an Information for possession of shabu docketed as Criminal Case No. 6899. [14] In a Motion to Quash the Information, the accused challenged the jurisdiction of the court over his person and prayed for the suppression of the evidence obtained[15] on ground that Search Warrant No. 40-03 was intended for one Edmun Camello and not Dometilo. In the Order[16] dated May 3, 2004, respondent quashed Search Warrant No. 40-03, admitting that there was indeed an error in the search warrant, particularly the name of the person subject thereof which rendered it intrinsically void.

Complainant argued that respondent's failure to read carefully the contents of the search warrant before affixing his signature constitutes gross negligence; that any inadvertence on the part of the stenographer should not be construed to exonerate the respondent who signed the search warrant without ascertaining the correctness of its contents; that by such negligence, respondent exposed the judicial system to ridicule by declaring null and void a search warrant which he himself issued and likewise caused a blow on the morale of the police officers who lost the case on a technicality.

In *Misc. No. 2825*, complainant assailed the August 2, 2006 Order[17] issued by respondent dismissing Criminal Case No. 8149-2K6 entitled *People v. Lopez* for lack of probable cause. In said case, respondent gave the prosecution ten days from receipt of the order to file a comment or opposition to the accused's Motion to Dismiss and/or for Judicial Determination of Probable Cause. However, on August 2, 2006, or only seven days after the prosecution received its copy of the order, the respondent issued an Order dismissing the case for lack of probable cause. Complainant claimed that respondent disregarded due process because the Order dismissing the case was rendered before the expiration of the 10 day period given to the prosecution to file comment.

Moreover, complainant alleged that respondent should have treated the subject motion as a Motion to Quash. Thus, pursuant to Section 1 of Rule 117, the motion should be made before the accused enters a plea, and not after arraignment, as in this case, and based on any of the grounds stated in Section 3, and failure to assert any ground before arraignment shall be deemed a waiver thereof.

In *Misc. No. 2860*, complainant alleged that on the strength of Search Warrant No. 87-04,[18] the accused in Criminal Case No. 7235-2K4 was arrested after a search

conducted in his residence. After arraignment, accused filed a Motion to Quash the Search Warrant and Suppress Evidence. However, the prayer[19] in said motion inadvertently asked for the quashal of another search warrant issued in another case.

Complainant claimed that despite the glaring error, respondent gave due course to the motion; worse, the dispositive portion of the Resolution dated August 8, 2005 was a mere reproduction of the erroneous prayer in the Motion. Complainant alleged that the same cannot be treated as a mere typographical error; that respondent did not read the resolution before affixing his signature; that respondent exhibited gross ignorance in issuing Search Warrant 87-04 and thereafter invalidating the same for failing to comply with the requisites of a Search Warrant; and that respondent issued several search warrants beyond the territorial jurisdiction of his court which were eventually invalidated thereby putting the efforts of the arresting officers to naught.

In *Misc. No. 2861*, complainant argued that respondent provisionally dismissed Criminal Case No. 6994-2K3 entitled *People v. Fernandez*, for failure of the prosecution to present the laboratory technician on several occasions despite having presented several other witnesses. Complainant claimed that the court cannot *motu proprio* dismiss the case solely on that ground since the prosecution has presented other witnesses whose testimonies respondent is duty bound to pass upon before making a resolution of the case. While Section 23 of Rule 119 allows the Court to dismiss the case for insufficiency of evidence, it requires that the prosecution must first rest its case and be given opportunity to be heard. The right of the accused to a speedy trial does not mean the arbitrary dismissal of the case against him to the prejudice of other parties in the case.

In *Misc. No. 2887*, complainant averred that Raup Ibrahim and Vivian Duerme who were the accused in three criminal cases[20] filed motions to suppress evidence and quash information praying for the dismissal of the cases against them. Respondent gave the prosecution ten days to file a Comment on the said motions. However, in disregard of the period given to the prosecution, respondent issued an Order dated July 31, 2006 dismissing the three cases.

In his Comment, respondent judge argued that complainant failed to show that his decisions were issued whimsically and arbitrarily or that the parties in said cases were deprived of due process; that hearings were conducted and the parties were given equal opportunity to be heard, and the dispositions in question were served upon them; that assuming his rulings to be erroneous, the rules provide remedies by which said rulings may be contested, which the parties failed to avail of. Moreover, if complainant believed that the dispositions were erroneous, she should have alerted the respondent as lawyer and an officer of the court.

Moreover, respondent assailed the standing of complainant to file the administrative complaint docketed as *Misc. No. 2820* because she was not the counsel of the parties nor was she a party to the case. He claimed that assuming the assailed order to be erroneous, the proper party could still avail of proper remedies under the rules; and that the present complaint only attempts to preempt whatever legal action the parties may undertake which is tantamount to a usurpation of the rights of the aggrieved party to a judicial process and an arrogation of judicial discretion.

With respect to the dismissal of Criminal Case No. 5601 as alleged in *Misc. No. 2821*, respondent averred that the prosecution initiated its withdrawal on August 4, 2000; that the assailed orders were properly served to the parties; however, neither contested the disposition of the court hence, the orders became final and executory by operation of law.

In *Misc. No. 2824*, respondent averred that the parties in Criminal Cases No. 5760-2K, 5761-2K and 5762-2K actively participated in the proceedings. None of them contested the disposition of the court which are now final and executory.

Respondent imputed ill motive on the part of complainant in filing the present charges. He claimed that he filed an administrative complaint against complainant for irresponsibly disclosing wrong and malicious information in Election Protest Case No 0001-2K4, to which complainant retaliated by filing administrative charges against him for Absenteeism and Falsification of Certificate of Service and for bringing home a piece of evidence, of which respondent was found guilty. Thereafter, respondent filed another administrative charge against complainant for Gross Inefficiency, who in turn filed the instant administrative complaints.

In its Report dated January 7, 2008,[21] the Office of the Court Administrator found respondent guilty of gross ignorance of the law only in Misc. No. 2821 and Misc. No. 2824, and recommended the dismissal of the other complaints for being judicial in nature, thus:

> EVALUATION: As can be gleaned from the records, it is evident that the acts being complained of relate to the propriety of the orders issued by respondent judge in resolving the motion to dismiss filed by the counsel of the accused in Misc. No. 2825; motion to suppress evidence filed by the counsel of the accused in Misc. No. 2887. Thus, the same refers to the exercise of respondent judge of his judicial discretion.
>
> x x x x
>
> Likewise, as to Misc. No. 2820 and Misc. No. 2860, even assuming that respondent judge made an erroneous decision and/or interpretation of Section 6 of Rule 39 of the Rules of Court, still he cannot be automatically held administratively liable.
>
> x x x x
>
> As to Misc. No. 2861, the act complained of actually dwells on an issue evidently judicial in nature since it involves the appreciation of evidence by the respondent judge. It bears without stressing that a trial judge's impression on the testimony of witnesses and his appreciation of evidence presented before him are binding on the Court in the absence of a clear showing of grave abuse of discretion or an obvious misapprehension of facts. The fact that the respondent's appreciation of evidence differed from that of the complainant's does not warrant the conclusion that the respondent judge is ignorant of the law.
>
> x x x x

Moreover, as to these charges of ignorance of the law, complainant utterly failed to present substantial proof to negate the presumptions of good faith and the regularity in the performance of judicial functions. It is true that "judges may be held administratively liable for gross ignorance of the law when it is shown that--motivated by bad faith, fraud, dishonesty or corruption--they ignored, contradicted or failed to apply settled law and jurisprudence."

x x x x

Finally, the present administrative complaint does not even allege that respondent judge was motivated by bad faith, malice, corruption or dishonesty when he issued the assailed orders/decisions. Neither were there any evidence presented tending to prove that respondent judge was motivated by such motives in issuing said orders/decisions.

However, as to Misc. No. 2821 and Misc. No. 2824, the next issue to be resolved is: whether or not the issuance of Orders dated September 4, 2000 and August 14, 2000, respectively, amounted to gross ignorance of the law which would justify an administrative sanction against respondent judge.

To justify his issuances of Orders dated September 4, 2000 and August 14, 2000 in Misc. No. 2821 and Misc. No. 2824, respectively, respondent judge insists that neither the prosecution nor the accused contested the disposition of the Court, thus, said orders are now final and executory.

One need not even go beyond the four corners of RA 6425 (as amended by R.A. 7659 effective December 31, 1993) to see respondent judge's palpable error in the application of the law. The assailed Orders are in connection with violation of the Dangerous Drug Act, particularly, Sections 15 and 16 of R.A. 6425 (as amended) which cannot be a subject of plea bargaining as provided under the plea-bargaining provision of the same law. Nevertheless, respondent judge in his Order dated September 4, 2000 and August 14, 2000 approved and granted the release of the accused by virtue of the plea-bargaining agreement entered by the prosecution and the accused. The pertinent provisions of R.A. 6425 (as amended) reads as thus:

> Article III, RA 6425
>
> SEC. 15. *Sale, Administration, Dispensation, Delivery, Transportation and Distribution of Regulated Drugs.*--The penalty of *reclusion perpetua* to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, dispense, deliver, transport or distribute any regulated drug.
>
> x x x x