510 Phil. 546

# FIRST DIVISION

# [ A.M. NO. RTJ-03-1794, October 25, 2005 ]

## P/SUPT. MANUEL P. BARCENA, COMPLAINANT, VS. JUDGE HENRICK F. GINGOYON, RESPONDENT.

## RESOLUTION

**QUISUMBING, J.:**

On April 27, 2000, complainant P/Supt. Manuel P. Barcena filed with the Office of the Chief Justice, a verified letter-complaint[1] charging respondent Judge Henrick F. Gingoyon, presiding judge of the Regional Trial Court, Branch 117 in Pasay City, with gross ignorance of the law, grave abuse of authority, and bias and partiality.

Complainant alleges that he was formerly the Chief of the Regional Drug Enforcement Office of the PNP-NCRPO. On August 25, 1998, complainant and his men conducted a buy-bust operation in 2817 P. Zamora St., Pasay City. They arrested and charged two persons, Shien Ngo Chiao and Ping Chua Shoing, with violations of Republic Act No. 6425, the Dangerous Drugs Act of 1972. Their cases were docketed as Criminal Cases Nos. 98-1124 and 98-1125. Also seized were a 1998 Mitsubishi Lancer, with Plate No. WEW 323, registered to one John Chua, and a 1995 Nissan Sentra, with Plate No. UDE 228, registered to a certain Willy Quintos. These were allegedly used in the commission of the crime.

Complainant states that Criminal Cases Nos. 98-1124 and 98-1125 were raffled to Branch 116 of the RTC in Pasay City, and jointly tried by respondent in his capacity as pairing judge of the branch. On December 7, 1998, respondent granted accused's demurrer to evidence.[2] Later, despite a judgment of acquittal, he issued an order on December 11, 1998, giving due course to the prosecution's notice of appeal.[3]

Further, complainant adds, respondent gave custody of the cars to Sheriffs Leoncio Gutierrez, Jr., and Reynaldo Mulat, and ordered complainant to turn over the cars to them despite the elevation of the records of the cases to the Court of Appeals.[4] Respondent likewise issued an order on January 3, 2000,[5] denying a motion for the release of the vehicles that was filed by the counsel for the accused on behalf of the registered owners.

Complainant further alleges that on March 25, 2000, while performing his functions as the new Chief of Police of Bacoor, Cavite, he chanced upon the Lancer parked in a vacant lot in Soldiers Hills IV Subdivision in Molino, Bacoor. He learned from nearby residents that Sheriff Mulat had been using the car for the past eight months. Complainant asked Sheriff Mulat for the registration papers and his authority to use the car. When Sheriff Mulat could not produce any, complainant and his men towed the car to their station for verification and proper disposition.[6]

Sheriff Mulat submitted a report of the incident to respondent on March 27, 2000, alleging that complainant and his men forcibly took the vehicle. On even date, respondent issued an order[7] against complainant and his men requiring them to show cause why they should not be cited for contempt for towing the vehicle, which they knew was in custodia legis. Included in the order was a directive that copies of it be sent to the Ombudsman, the Secretary of the Department of Interior and Local Government, the Chief of the Philippine National Police, and the National Police Commission, for possible administrative or criminal prosecution of complainant.

Complainant avers that respondent is guilty of gross ignorance of the law for allowing the prosecution to appeal a judgment of acquittal.[8]

Complainant also charges respondent with grave abuse of authority supposedly for allowing Sheriff Mulat to use the car for the latter's personal benefit. Complainant argues that respondent should have known that Sheriff Mulat had been using the car and keeping it in a vacant lot in Soldiers Hills IV Subdivision near the latter's house because respondent lived nearby. Complainant adds that respondent should have ordered the car impounded. According to complainant, respondent's failure to discharge the car despite the lapse of eight months, when considered with the fact that respondent issued the show cause order with celerity the same day Sheriff Mulat's report was filed, shows that respondent approved of the illegal use of the car.[9]

Complainant further avers that respondent issued an order on January 3, 2000, denying the motions for the release of the vehicles despite the fact that Criminal Cases Nos. 98-1124 and 98-1125 were already elevated to the Court of Appeals. Complainant speculates that the order was intended to make it appear that the case was still pending before the trial court to justify Sheriff Mulat's continued possession and use of the car.[10]

Lastly, complainant charges respondent with bias and partiality. He argues that respondent acted with undue haste in issuing the show cause order. He likewise contends that respondent had prejudged him and his men liable for contempt. He adds that respondent without first conducting a hearing to verify the veracity of Sheriff Mulat's report furnished copies of the show cause order to the Ombudsman, the DILG Secretary, the PNP Chief and the NAPOLCOM for possible filing of administrative complaints against complainant and his men. Further, according to complainant, respondent had declared in open court that he wanted to resolve the contempt incident on the first day of hearing and was reluctant to grant them extension of time to controvert the additional evidence Sheriff Mulat had submitted during said hearing.[11]

In his comment dated May 2, 2000,[12] respondent explains that he gave due course to the notice of appeal despite the judgment of acquittal not because the notice was meritorious, but because it was filed within the reglementary period.[13] Respondent cites the ruling of this Court that a special civil action brought to question the judgment of acquittal does not place the accused in double jeopardy if the judgment of acquittal was in effect a denial of the State's right to due process.[14]

Moreover, respondent claims he acted in good faith. He avers that he repeatedly advised the handling prosecutor to file a special civil action for certiorari instead of an appeal. He also made it clear that the notice was given due course only because it was filed within the reglementary period. He adds that he qualifiedly and reluctantly gave due course to the appeal to afford the prosecution latitude for legal activism, as judges are called upon to be judicial activists or "to be receptive to innovative views, paradigmatic shifts and blazing new jurisprudential trails."[15]

Respondent denies the charge of grave abuse of authority and points out that complainant relies wholly on speculations and surmises. Respondent adds that there is nothing irregular about his order placing custody of the car with Sheriffs Leoncio Gutierrez, Jr., and Reynaldo Mulat because courts in Pasay City, like most courts, have no impounding area, and it is a matter of practice to instruct sheriffs to keep the impounded vehicles in their own places of storage.[16] He admits that he instructed Sheriff Mulat to drive the car to the court on several occasions in connection with the hearings on motions filed for the release of the vehicles. And this act is not prohibited.

Respondent insists that he could entertain the motions for the release of the impounded vehicles because he never lost jurisdiction over the civil aspect of the case and only the jurisdiction of the court over the criminal aspect of the case was lost upon the perfection of the appeal and the elevation of the records to the Court of Appeals.[17]

Further, respondent denies he issued the show cause order with undue haste, contending he was simply being efficient. He likewise denies depriving complainant and his men of their right to be heard. He points out that he gave them an extension of five days to file their supplemental affidavit, as well as granted their prayer to be allowed to confront the witnesses for Sheriff Mulat. That he furnished copies of his order to the Ombudsman, the DILG Secretary, the PNP Chief and the NAPOLCOM also cannot be taken as proof of bias and partiality because according to him, keeping the charges to himself may constitute misprision of a potential felony. [18]

After the Office of the Court Administrator recommended that the matter be investigated, we referred the case to Court of Appeals Associate Justice Rebecca De Guia-Salvador for investigation, report, and recommendation.[19]

In her report dated July 10, 2002, Justice De Guia-Salvador found no proof that respondent was impelled by bad faith, malice, an impulse to do an injustice, corrupt consideration, or any other similar motive in issuing the erroneous order granting due course to the notice of appeal. Thus, she recommended that the charge of gross ignorance of the law be **dismissed** for lack of merit.

Justice De Guia-Salvador likewise found no proof that respondent acted with grave abuse of authority or with manifest bias and partiality. She stated that because the appeal was a patent nullity, the trial court never lost jurisdiction over the case and all its incidents, including the resolution of the motions for the release of the vehicles.

Despite Justice De Guia-Salvador's report, the OCA recommended that respondent