

EN BANC

[A.M. No. RTJ-04-1875 (formerly OCA II No. 03-1916-RTJ), November 09, 2005]

SILAS Y. CAÑADA, COMPLAINANT, VS. JUDGE ILDEFONSO B. SUERTE, RESPONDENT.

R E S O L U T I O N

AUSTRIA-MARTINEZ, J.:

In a verified letter-complaint dated November 8, 2003, Silas Y. Cañada administratively charged respondent Judge Ildefonso B. Suerte of the Regional Trial Court (RTC), Branch 60, Barili, Cebu, of arbitrary detention punished under Article 124 of the Revised Penal Code and the provisions of Republic Act No. 3019 entitled "Anti-Graft and Corrupt Practices Act" as well as the Canons of Judicial Ethics for having issued an order citing complainant in direct contempt of court and for having ordered his arrest and subsequent detention without affording him the opportunity to post bail. In a sworn affidavit attached to his letter-complaint, complainant alleges:

That on the strength of an illegal contempt order dated August 5, 2003 and issued by Judge Ildefonso B. Suerte of Branch 60, Regional Trial Court, sitting at Barili, Cebu, I was arrested on that same date by elements of the Badian PNP and Alcantara PNP, represented by SPO3 Rufino Tabañag, SPO3 Rolando Caballero, SPO3 Felipe Dinolan, Marcelino Cenarlo, and PO2 Vincent Aguanta.

That despite efforts of my counsels to have me released, Judge Suerte refused to give me my freedom until and unless I withdraw an affidavit that I executed on May 2, 2003 before Prosecutor Jesus P. Feliciano, upon which was based a petition I filed on July 25, 2003 before the Court of Appeals for 'Certiorari and Prohibition With a Prayer for a Temporary Restraining Order' docketed as CA-G.R. No. 78210. This petition sought the prohibition of Judge Suerte from hearing and trying Crim. Cases No. CEB-BRL 900, 906, and 907 pending before said Judge Suerte;

That because of my illegal detention, my counsels filed a petition for Habeas Corpus before the Court of Appeals and it was only when Judge Suerte received the wire from the Court of Appeals that a Writ of Habeas Corpus had been issued in my favor on August 19, 2003 that he released me, but by that time, I had already spent a total of fourteen (14) days at the Barili Municipal Jail;

That this Affidavit is being executed to support a charge of ARBITRARY DETENTION against Judge Ildefonso B. Suerte, SPO3 Rufino Tabañag, SPO3 Rolando Caballero, SPO3 Felipe Dinolan, SPO3 Marcelino Cenarlo, and PO2 Vincent Aguanta, whose addresses are in the letter complaint

which covers this Affidavit.^[1]

In his Comment dated February 2, 2004, respondent alleged:

The accused, Silas Y. Cañada and now the petitioner in the present complaint OCA IPI No. 03-1916-RTJ, before his arrest was one of the most wanted DRUG PUSHER and ILLEGAL POSSESSOR of short and long firearms, was LEGALLY ARRESTED and LAWFULLY DETAINED. The instant issue was already resolved and decided by CA, Former Twelve Division on October 29, 2003.

No illegal arrest and no arbitrary detention.

I am enclosing herewith certified Xerox copy in nine pages of the decision of the CA, marked as ANNEX 'A'.^[2]

In his report dated June 18, 2004, Court Administrator Presbitero J. Velasco, Jr. made the following findings, to wit:

The warrant of arrest was issued on the basis of the direct contempt order issued by the respondent against the complainant. As a result, complainant was detained for fourteen (14) days and only the writ of habeas corpus issued by the Court of Appeals saved her (sic) from further detention. Within her (sic) 14-day stay in jail, she (sic) was not able to post bond for temporary liberty apparently because the warrant of arrest issued by respondent judge indicated that she (sic) is not entitled to such a privilege. The words 'NO BAIL RECOMMENDED' were written on the face of the warrant of arrest. This is a clear case of gross ignorance of the procedural rule. Section 2, Rule 71 of the 1997 Rules of Civil Procedure is the governing authority on the matter. Its pertinent provision reads as follows, to wit:

SECTION 1. Direct contempt punished summarily.

x x x

SECTION 2. Remedy therefrom – The person adjudged in direct contempt by any court may not appeal therefrom, but may avail himself of the remedies of certiorari or prohibition. The execution of judgment shall be suspended pending resolution of such petition, provided such person files a bond fixed by the court which rendered the judgment and conditioned that he will abide by and perform the judgment should the petition be decided against him.

Clearly, the rule allows the person subject of a direct contempt judgment to file a bond to be fixed by the court as a remedy for the imposition of the judgment. In making it appear that complainant is not entitled to post a bond, respondent has gone beyond his authority as provided under the above-cited procedural rule. What is involved here is a fundamental procedural rule and well-known judicial norm. If the law is so elementary, not to know it or to act if one does not know it,

constitutes gross ignorance of the law. (*Luz vs. Yanesa*, March 9, 1999).

[3]

Accordingly, Court Administrator Velasco recommended that respondent judge be fined in the amount of P10,000.00 for gross ignorance of the law and procedure and that he be sternly warned that repetition of the same or similar act shall be dealt with more severely.[4]

In a Resolution dated September 20, 2004, we required the parties to manifest if they are willing to submit the case for resolution based on the pleadings filed.[5]

In his Manifestation dated October 15, 2004, complainant indicated his willingness to submit the case for resolution based on the pleadings on record.[6]

Despite due notice, respondent judge failed to comply with our directive. Hence, the Court concludes that he had waived his right to a full-blown investigation and that he is willing to submit the case for resolution based on the pleadings filed.

We agree with the findings of the OCA that respondent is guilty of gross ignorance of the law and procedure.

At the outset, it must be emphasized that the October 29, 2003 Decision of the Court of Appeals in CA-G.R. SP No. 78506 which was cited by respondent in his Comment to the instant complaint did not tackle the issue of whether or not complainant's arrest and detention were lawful. In fact, the CA, in said case ruled:

An incident of this case that was raised but is outside our jurisdiction to consider under the present petition, is the illegal confinement of the petitioner [referring to herein complainant]. He was confined for fourteen (14) days, or four (4) days in excess of what the Rules of Court allow. Similarly, counsel for petitioner was fined P3,000, or P1,000 in excess of what the Rules allow. The appropriate redress lies outside the present petition and is for the petitioner and his counsel to avail of under other existing laws and provisions of the Rules, and may take the form, among others, of an administrative complaint directly filed with the Honorable Supreme Court.[7]

Hence, it is wrong for respondent to claim that the CA, in its Decision in CA-G.R. SP No. 78506, has already resolved the issue of the legality of complainant's arrest and detention based on the order issued by the respondent on August 5, 2003.

Coming to the main issue in the present case, granting that there is a valid ground for respondent judge to cite complainant in direct contempt of court, he should have known that under Section 1, Rule 71 of the Rules of Court if the penalty of imprisonment is imposed upon the contemnor by a Regional Trial Court or a court of equivalent or higher rank, the same should not exceed ten days. Section 1, Rule 71 of the Rules of Court clearly provides:

Section 1. *Direct contempt, punished summarily.* – A person guilty of misbehavior in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, including disrespect toward the court, offensive personalities toward others, or refusal to be sworn or