

SECOND DIVISION

[A.M. No. MTJ-04-1537 (formerly A.M. OCA IPI No. 01-998-MTJ), March 25, 2004]

ARTEMIO SABATIN, COMPLAINANT, VS. JUDGE EFREN B. MALLARE, MUNICIPAL CIRCUIT TRIAL COURT, NATIVIDAD-LLANERA, NUEVA ECIJA, RESPONDENT.

DECISION

CALLEJO, SR., J.:

The instant administrative case arose when Artemio Sabatin, in an Affidavit-Complaint^[1] dated January 15, 2001, charged Judge Efren B. Mallare, Municipal Circuit Trial Court, Natividad-Llanera, Nueva Ecija, with gross ignorance of the law, serious misconduct and violation of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, relative to Criminal Case No. 2751-N entitled *People of the Philippines v. Artemio Sabatin* for illegal possession of firearms.

The complainant, the accused in the said criminal case, alleged that pursuant to Search Warrant No. 017-N-2000 issued by the respondent judge, elements of the Philippine National Police (PNP) of General Natividad, Nueva Ecija under the command of P/Sr. Insp. Franklin Versoza Simon, entered his home and conducted a search thereon without his consent. The complainant averred that the search warrant in question was actually issued against his brother Pedrito Sabatin. When the complainant pointed this out to the police, P/Sr. Insp. Simon merely instructed his men to erase the name "Pedrito" and replace it with "Artemio," making it appear that the warrant was, indeed, issued in the complainant's name.

The complainant further alleged that he was arrested and brought by the policemen to their station for investigation, but was later released. He then received a subpoena after a few days, and it was only then that he learned that a criminal complaint had been filed against him for illegal possession of firearms. The complainant, in turn, filed a complaint for illegal search, unlawful arrest, arbitrary detention and falsification of public document against P/Sr. Insp. Simon and his men before the Office of the City Prosecutor of Cabanatuan City and the Department of the Interior and Local Government (DILG).

On August 5, 2000, the complainant filed a Motion to Quash Search Warrant No. 017-N-2000 before the respondent judge's *sala*. After several postponements, the preliminary investigation was again set for November 8, 2001. The complainant narrated the events as follows:

17. Na bago dumating and araw na iyon ay nakatanggap ako ng MOTION TO DISMISS, petsang Oktubre 12, 2000, para sa mga demanda ko [sic] ilalim ng I.S. No. H-3275-78 sa Cabanatuan City, galing sa inireklamo kong mga pulis, at kabilang sa mga UNANG

PAGKAKATAON ay nahawakan ko ang kopya ng **"SEARCH WARRANT NO. 017-N-2000"**, na maliwanag na nanggaling pala sa Branch 30 ng Regional Trial Court ng Cabanatuan City, pero ang nakapirmang hukom ay si Judge EFREN B. MALLARE, bilang Acting Presiding Judge, gaya nang makikita sa kopya ng nasabing 'SEARCH WARRANT', na minarkahang **ANNEX "K"**;

18. Sa pagka-diskubre naming ang Branch 30 ng Regional Trial Court ng Cabanatuan City ang nag-"issue" ng pinalsipikang SEARCH WARRANT, ako, sa pamamagitan ng aking abogado, ay duon nag-"file" ng MOTION TO QUASH SEARCH WARRANT NO. 017-N-2000, kasabay ng kinakailangang i-"file" ko sa 2nd Municipal Circuit Trial Court ng Gen. Natividad-Llanera, Nueva Ecija, ng aking OMNIBUS MOTION TO WITHDRAW MOTION TO QUASH SEARCH WARRANT NO. 017-N-2000 AND TO TRANSFER ITS RECORDS TO BRANCH 30, RTC, CABANATUAN CITY, WITH ADDED MOTIONS TO SUSPEND PRELIMINARY INVESTIGATION OF THE INSTANT CASE UNTIL RESOLUTION ON THIS PENDING INCIDENT AND TO FURNISH ACCUSED OF ALL PERTINENT DOCUMENTS/EVIDENCE OF THE PROSECUTION N ITS PRELIMINARY INVESTIGATION, parehong may petsang Oktubre 30, 2000. ...^[2]

The complainant was surprised when Judge Federico F. Fajardo, Jr. of the RTC of Cabanatuan City, Branch 30, issued the following Order on November 7, 2000, to wit:

This is a Motion to Quash Search Warrant No. 017-N-2000, dated July __, 2000 which appears to have been issued by Judge Efren B. Mallare. Upon a careful examination of the said Search Warrant, the caption thereof appears to be RTC-Branch 30, Cabanatuan City. However, the Presiding Judge of RTC, Br. 30 is the undersigned presiding judge and not Judge Efren B. Mallare. Judge Mallare is the Acting Presiding Judge of the Municipal Circuit Trial Court of General Natividad and Llanera, Nueva Ecija.

The undersigned did not issue the questioned search warrant. He is not the Executive Judge who is the only one authorized to issue search warrants for illegal possession of firearm and ammunition. The Executive Judge of the RTC, Cabanatuan City is the Hon. Johnson Ballutay of RTC, Branch 25, Cabanatuan City.

Further, the questioned search warrant is not at all connected with any case pending in this Court, and therefore, this Court is not the proper forum for the quashing of the said search warrant.

WHEREFORE, premises considered, the motion to quash search warrant is hereby returned to the accused and his counsel, with the advise that it be referred to the Hon. Executive Judge, RTC, Cabanatuan City or Judge Efren B. Mallare for appropriate action.^[3]

The respondent judge thereafter issued an Order dated December 4, 2000, to wit:

After a careful perusal of the grounds relied upon by the accused in seeking for the quashal/dismissal of this case, the Court noticed that the same appeared to be well taken as the records would readily show that the Chief of Police, PNP, Gen. Natividad, Nueva Ecija has applied for a search warrant against one Pedrito Sabatin alias Boyet and this has been admitted by the then Chief of Police Franklin Versoza Simon as per his comment dated 13 September 2000 (p. 27, rec.), although he misspelled the name Pedrito to Pablito by advancing reason that an error was committed when said first name was typewrote (sic) and in order to obviate any leakage thereof, a correction has been made from Pedrito/Pablito to Artemio Sabatin alias Boyet which led to the filing of the instant case.

In short, the search warrant issued by this court against one Pedrito Sabatin alias Boyet, after it has complied with the requisite for issuing search warrant (Sec. 3, Rule 126 Revised Rules on Criminal Procedure), has not been fully implemented.

Furthermore, the case filed before this Court against one Artemio Sabatin y Miguel alias Boyet *cannot be entertained by this court for this court has never issued any search warrant against said accused*; and, therefore, any evidence taken from him maybe considered inadmissible for the search undertaken by the PNP of Gen. Natividad, Nueva Ecija, is considered unlawful.

WHEREFORE, finding the Motion To Quash/Dismiss Criminal Complaint meritorious, the same is hereby granted and this case is hereby dismissed.^[4]

According to the complainant, the respondent judge issued the questioned search warrant despite his lack of authority to do so in order to protect P/Sr. Insp. Franklin V. Simon. He also alleged that the respondent later on denied that he issued the questioned warrant in order to escape possible administrative sanctions.

In his Comment, the respondent averred that the normal procedure in criminal cases was to set them for preliminary examination in order to determine probable cause. However, in this case, the complainant (accused therein) through counsel practically waived the early resolution of the preliminary examination by filing several motions. Thus, the complainant cannot now question the delay in the early termination of the criminal case, for had it not been for the filing of said motions, the preliminary examination could have been terminated since September 2000 as provided for in the Rules of Criminal Procedure. The respondent further stated, thus:

To recapitulate; therefore, the undersigned believes that being an Acting Presiding Judge of the 2nd Municipal Circuit Trial Court of Gen. Natividad-Llanera, N.E., he has performed and [is] still performing, in good faith, the duties and responsibilities vested upon his office. In fact the records will speak for itself, and being the Presiding Judge of the Municipal Trial Court, Sto. Domingo, Nueva Ecija, he has always been dedicated to his work and never committed any absence, and this fact can also be attested by the records of that Court which also speak for itself. Lastly, if