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THIRD DIVISION

[A.M. No. RTJ-03-1774, May 27, 2004]

PROV. PROSECUTOR DORENTINO Z. FLORESTA, COMPLAINANT, VS. JUDGEELIODORO G. UBIADAS, REGIONAL TRIAL COURT, OLONGAPO CITY, BRANCH 72 RESPONDENT.

D E C I S I O N

CARPIO MORALES, J.:

By a Sworn Complaint[1] dated January 24, 2000, then Provincial Prosecutor, now Regional Trial Court Judge Dorentino Z. Floresta (complainant) administratively charged Judge Eliodoro G. Ubiadas of the Olongapo City Regional Trial Court (RTC), Branch 72 with "gross ignorance of [the] law, grave abuse of authority and violations of the Code of Judicial Conduct."

Complainant faults respondent for dismissing for lack of jurisdiction, on motion of the accused, by Order[2] of July 9, 1997, Crim. Case No. 212-97, *People of the Philippines v. Chia Say Chaw, et al.,* for illegal entry.

Complainant alleges that by dismissing Crim. Case No. 219-97 "[d]espite . . . the provision of P.D. 1599 which established the Exclusive Economic Zone of the Philippines and [the apprehension of the accused] within the 200 nautical miles of the . . . Zone," respondent "virtually surrender[ed] our sovereignty and criminal jurisdiction to the Chinese government."[3]

Complainant likewise faults respondent for failure to resolve, as he has yet to resolve, the Motion for Reconsideration and/or Clarification of the abovesaid Order of July 9, 1997, despite the lapse of more than two years since the filing of the motion. By such failure, complainant charges respondent with violation of Canon 3, Rule 3.05 of the Code of Judicial Conduct which enjoins judges to dispose of the court's business promptly and decide cases within the required periods, and of SC Circular No. 13 (July 1, 1987) which requires lower courts to resolve cases or matters before them within three months or ninety days from date of submission.

Complainant furthermore faults respondent for granting, "without giving notice to the prosecution," the petition for bail of Jose Mangohig, Jr. who was arrested by virtue of a warrant issued by the Municipal Trial Court of Subic, Zambales which found probable cause against him for violation of Section 5(b), Art. III of Republic Act No. 7610 ("Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act").[4]

Finally, complainant faults respondent for disqualifying him (complainant) from appearing in Crim Case No. 634-99, People v. Esmane-Diaz, despite his (complainant's) designation to handle the prosecution of the case by the Ombudsman.

By Second Indorsement-Comment of March 20, 2000,[5] respondent contends that petitioner has no personality to initiate the complaint against him as he is not a party to the cases subject thereof.

On the merits of the charges, respondent counters that territorial jurisdiction over the area where the accused in Crim. Case No. 212-97 were arrested — within the vicinity of Scarborough Shoal — has not yet been established by controlling jurisprudence, given the conflicting claims thereover by the Philippines and China and the absence of an inter-country agreement determining the common boundaries of the Exclusive Economic Zone.[6]

As to his failure to resolve the Motion for Reconsideration of his July 9, 1997 Order dismissing, for lack of jurisdiction, Crim. Case No. 212-97, respondent points out that said motion was filed after the accused were already released from detention. He further points out that during the pendency of said motion, representatives of the Department of Foreign Affairs (DFA) informed him that said office was not interested in setting aside the order of dismissal but that it was suggesting an amendment of the order.[7] Respondent explains though that since the accused had already been released from detention and had left the Philippines, and the interest of the DFA was merely for the amendment of the order of dismissal, the motion had already become academic.

As to the second charge, respondent informs that the petition for bail of Mangohig who was then under preliminary investigation, which motion was filed on January 3, 2000 on which same date a copy of said petition was furnished the public prosecutor, was as set by Mangohig heard on the morning of January 4, 2000 during which there was no appearance from the Prosecutor's Office; and that as the offense for which Mangohig was charged is ordinarily a bailable offense, respondent granted him bail.

As for his order disqualifying complainant in Crim. Case No. 634-99, respondent explains that he had already reconsidered the same through his February 10, 2000 Order,[8] he having earlier failed to see petitioner's designation by the Ombudsman.

In its August 16, 2002 Report, [9] the Office of the Court Administrator (OCA) found, as to the first charge, that it was not shown that respondent acted with malice, oppression or bad faith sufficient to find him guilty of gross ignorance of the law, it having appeared that respondent based his dismissal order on his interpretation of a provision of law. The OCA thus concluded that as respondent's conclusions in his assailed order are not without logic or reason, and unattended by fraud, dishonesty, corruption or bad faith,[10] he could not be faulted for gross ignorance of the law. The OCA hastened to add, however, that respondent "is nonetheless required to act on the motion for reconsideration."

As to the second charge, the OCA stressed that the Rules of Court requires a movant to serve notice of his motion on all parties concerned at least three days before the hearing thereof, hence, respondent erred in granting the petition for bail without hearing the prosecution's side.

Finally, on the third charge, the OCA found that respondent's explanations were

fraught with inconsistencies since his allegation that he failed to see complainant's designation as Ombudsman-Prosecutor in Crim. Case No. 634-99 is belied by his December 17, 2000 Order[11] wherein he noted that complainant was deputized by the Office of the Ombudsman to prosecute said case. The OCA in fact noted that respondent's subsequent February 10, 2001 Order reconsidering his December 17, 2000 Order was issued only after the latter order had attained finality and the instant case was filed.

The OCA accordingly recommended that respondent be FINED in the amount of Twenty Thousand (P20,000.00) Pesos.

By Resolution of February 26, 2003,[12] this Court noted the OCA Report and required the parties "to **MANIFEST** within twenty (20) days from notice, whether they are submitting the case on the basis of the pleadings/records already filed and submitted."

By Manifestation dated April 1, 2003,[13] complainant proffered additional charges against respondent and submitted in support thereof, among other things an administrative complaint filed by one Dr. Reino Rosete against respondent and photocopies of orders issued by respondent. Dr. Rosete's complaint, which was addressed to then Court Administrator Alfredo Benipayo, is both undated and unsigned, however. In the same Manifestation, complainant submitted the case for decision.

On May 9, 2003, the Docket and Clearance Division of this Court received an undated manifestation[14] of respondent stating that he was submitting the case on the basis of the pleadings/records already filed in the case.

This Court's Findings

I. On the dismissal of Crim. Case No. 212-97

On innumerable occasions this Court has impressed upon judges that, as mandated by the Code of Judicial Conduct, they owe it to the public and the legal profession to know the very law they are supposed to apply to a given controversy.[15] They are called upon to exhibit more than just a cursory acquaintance with statutes and procedural rules, to be conversant with the basic law, and to maintain the desired professional competence. [16]

The propriety of the dismissal, on motion of the accused, of Crim. Case No. 212-97 on jurisdictional grounds is, however, a matter for judicial adjudication and the proper recourse of a party aggrieved by the decision of a judge is to appeal to the proper court, not file an administrative complaint.[17]

For, as a matter of public policy, in the absence of fraud, dishonesty or corruption, the acts of a judge in his judicial capacity are generally not subject to disciplinary action, even though such acts are erroneous.[18] Only in cases where the error is gross or patent, deliberate and malicious, or incurred with evident bad faith may administrative sanctions be imposed.[19] There is no showing that this was the case here.

With respect to the non-resolution of the prosecution's Motion for Reconsideration of the order of dismissal of Crim. Case No. 212-97 no resolution of which has been issued, complainant, in his Reply to the Comment of respondent, refutes respondent's explanation in this wise:

> When the said motion was filed in Court on July 11, 1997, the Chinese fishermen were not yet released from detention. It was during the pendency of the motion that the Chinese fishermen were allowed to leave by the Chief of Police of Subic, Zambales despite our representation that they should not be released from jail as another case for illegal fishing was still pending investigation. . . . The representatives from the Foreign Affairs merely wanted to convey to Judge Ubiadas the serious implications of his Order of dismissal on the ground of lack of jurisdiction on the territorial integrity and national security of our country. In fact, Foreign Secretary Domingo Siazon publicly denounced the Order of dismissal issued by Judge Ubiadas as evidenced of an article which appeared in the July 13, 1997 issue of the Philippine Daily Inquirer. Copy of said article is hereto attached as Annex "A" and made integral part hereof.
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> There is no truth that they told Judge Ubiadas that they are no longer interested in the setting aside of his Order of dismissal. In fact, the Motion for Reconsideration of the said Order of dismissal was already filed in his Court and he even issued an Order dated 18 July 1997 submitting the said Motion for resolution. Copy of said Order dated 18 July 1997 is hereto attached as Annex "B" and made integral part hereof. Since the said Motion for Reconsideration of his Order of dismissal was already considered by him as submitted for resolution as of 18 July 1997, Judge Ubiadas should have resolved one way or the other, the said motion.[20] (Underscoring supplied)

Whether the accused in Crim. Case No. 212-97 were already released at the time of the filing of the motion for reconsideration did not relieve respondent from resolving it as in fact he even issued an order stating that it was submitted for resolution.

Article VIII, Section 15(1) of the 1987 Constitution and Canon 3, Rule 3.05 of the Code of Judicial Conduct direct judges to dispose of their cases promptly and within the prescribed periods, failing which they are liable for gross inefficiency.[21]

To thus ensure that the mandates on the prompt disposition of judicial business are complied with, this Court laid down guidelines in SC Administrative Circular No. 13 [22] which provides, inter alia, that:

> Judges shall observe scrupulously the periods prescribed by Article VIII, Section 15, of the Constitution for the adjudication and resolution of all cases or matters submitted in their courts. Thus, all cases or matters must be decided or resolved within twelve months from date of submission by all lower collegiate courts while all other lower courts are given a period of three months to do so. (Underscoring supplied)

This injunction is reiterated in SC Administrative Circular No. 3-99[23] which requires all judges to scrupulously observe the periods prescribed in the Constitution for deciding cases, failure to observe which is a serious violation of the constitutional right of the parties to speedy disposition of their cases.[24]

Having failed to resolve the Motion for Reconsideration, respondent is liable for undue delay in rendering a decision or order which is a less serious charge under Section 9 of Rule 140 of the Rules of Court and which carries the penalty of suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months or a fine of more than P10,000 but not exceeding P20,000.

II. On the grant of bail to the accused in Crim. Case No. 271-99

Whether bail is a matter of right or discretion, and even if no charge has yet been filed in court against a respondent-suspect-detainee, reasonable notice of hearing is required to be given to the prosecutor, or at least his recommendation must be sought. [25] So Fortuna v. Penaco-Sitaca[26] instructs:

> [A]dmission to bail as a matter of discretion presupposes the *exercise thereof in accordance with law and guided by the applicable legal principles.* The prosecution must first be accorded an opportunity to present evidence because by the very nature of deciding applications for bail, *it is on the basis of such evidence that judicial discretion is weighed against in determining whether the guilt of the accused is strong.* In other words, discretion must be exercised regularly, legally and within the confines of procedural due process, that is, after the evaluation of the evidence submitted by the prosecution. Any order issued in the absence thereof is not a product of sound judicial discretion but of whim and caprice and outright arbitrariness. (Italics in the original; underscoring supplied)[27]

True, a hearing of the petition for bail was conducted in Crim. Case No. 271-99 on January 4, 2000 at 8:30 a.m.[28] Given the filing of the petition only the day before, at close to noontime, it cannot be said that the prosecution was afforded *reasonable notice* and *opportunity* to present evidence after it received a copy of the petition minutes before it was filed in court. It bears stressing that the prosecution should be afforded reasonable opportunity to comment on the application for bail by showing that evidence of guilt is strong.[29]

While in Section 18 of Rule 114 on applications for bail, no period is provided as it merely requires the court to give a "reasonable notice" of the hearing to the prosecutor or require him to submit his recommendation, and the general rule on the requirement of a three-day notice for hearing of motions under Section 4 of Rule 15 allows a court for good cause to set the hearing on shorter notice, there is, in the case of Mangohig, no showing of good cause to call for hearing his petition for bail on shorter notice.

Reasonable notice depends of course upon the circumstances of each particular case, taking into account, inter alia, the offense committed and the imposable penalties, and the evidence of guilt in the hands of the prosecution.