

FIRST DIVISION

[A.M. No. RTJ-04-1852, June 03, 2004]

WILFREDO M. TALAG, COMPLAINANT, VS. JUDGE AMOR A. REYES, REGIONAL TRIAL COURT, MANILA BRANCH 21, RESPONDENT.

D E C I S I O N

YNARES-SATIAGO, J.:

This is an administrative complaint filed against Judge Amor A. Reyes of the Regional Trial Court, Manila for partiality, grave abuse of authority and oppression in connection with Criminal Case No. 02-201852 entitled "*People of the Philippines v. Wilfredo Talag.*"

The instant case arose when, on April 18, 2001, a certain Romeo Lacap filed a complaint against Wilfredo Talag, Leticia Talag and Kenneth Bautista, for violation of Batas Pambansa Blg. 22 and Estafa occasioned by the dishonor of four checks.

On June 4, 2001, during the preliminary investigation, Wilfredo Talag, Leticia Talag, and Kenneth Bautista, submitted their counter-affidavits denying any participation in the transaction allegedly perpetrated by them to defraud the complainant.

On December 15, 2001, the Assistant City Prosecutor issued a Resolution recommending the filing of an Information for Estafa against herein complainant and the dismissal of all the charges against Leticia Talag and Kenneth Bautista. The Information was filed with the RTC of Manila, Branch 21, presided by respondent Judge Amor A. Reyes, and docketed as Criminal Case No. 02-201852.

On May 7, 2002, complainant filed a motion for reconsideration before the Office of the City Prosecutor, praying for the dismissal of the complaint against him for utter lack of merit. On even date, he filed an Omnibus Motion before the trial court: (1) to defer issuance of warrant of arrest and/or to recall the same if already issued; and (2) to remand case to the Office of the City Prosecutor pending review of the motion for reconsideration.

On May 31, 2002, complainant filed with the trial court a Very Urgent Motion to Set for Hearing Accused's Omnibus Motion to defer issuance of warrant of arrest and/or to remand case to the Office of the City Prosecutor pending review of the motion for reconsideration.

According to complainant, on June 11, 2002, he requested his counsel to determine whether the hearing for the pending motions had already been set. To his consternation, he was told by his counsel that respondent Judge ordered the issuance of a warrant of arrest without first resolving the said motions.

Complainant immediately filed a petition for certiorari before the Court of Appeals challenging the issuance of the warrant of arrest. The Court of Appeals issued a temporary restraining order enjoining the trial court from enforcing the said warrant. Accordingly, respondent Judge issued an Order on June 25, 2002, deferring the resolution of the Very Urgent Motion until after the expiration of the TRO issued by the Court of Appeals. Thereafter, the petition was dismissed by the Court of Appeals for lack of merit.

On August 20, 2002, complainant filed a motion for respondent Judge's inhibition. Two days after, i.e., on August 22, respondent Judge issued the assailed warrant of arrest against complainant. Meanwhile, complainant through counsel filed a Notice of Change of Address.

On September 30, 2002, complainant filed a Very Urgent Motion to Consider Motion to Remand Case to the Office of the City Prosecutor pending Review of the Motion for Reconsideration and Motion for Re-investigation and to Resolve the Same with Urgency. On October 2, 2002, he filed a Motion to Resolve Motion for Inhibition.

Respondent Judge denied the motion for inhibition and set the case for arraignment on December 11, 2002. Complainant claims that said order never reached him or his counsel since it was sent by registered mail to his previous address at No. 1 Zaragosa Street, San Lorenzo Village, Makati City, in spite of the Notice of Change Address which was filed as early as August 28, 2002.

Since complainant failed to attend his arraignment allegedly due to lack of notice, respondent Judge reset the same to January 22, 2003. However, the second notice was again sent to the wrong address at Makati City, again resulting in complainant's failure to attend his arraignment. As a consequence, respondent judge issued a bench warrant of arrest.

Subsequently, complainant filed a Motion to Recall Warrant of Arrest and a Very Urgent Motion for Reconsideration. On February 28, 2003, an order was issued by the respondent Judge which lifted the bench warrant but denied the motion for reconsideration.

On May 12, 2003, complainant filed a verified complaint before the Office of the Court Administrator charging respondent Judge with partiality, grave abuse of authority and oppression allegedly committed in the following manner:

- (1) Respondent Judge issued the warrant of arrest on May 23, 2003 despite complainant's pending omnibus motion to defer issuance of warrant of arrest or to recall the same if already issued and to remand case to Office of the City Prosecutor, and the very urgent motion to set for hearing the omnibus motion;
- (2) When the matter was elevated to the Court of Appeals and a temporary restraining order was issued, respondent seemed to have waited for the TRO to expire and for the dismissal of complainant's petition before the Court of Appeals because she did not resolve the motion for

inhibition, and she immediately issued a warrant of arrest against him after said petition was dismissed.

- (3) Respondent had a predisposition to deny the motions filed by complainant since, although she was in haste in issuing the warrant of arrest, she nonetheless dilly-dallied in resolving the motions filed by complainant;
- (4) Despite complainant's notice for a change of address, respondent's order of November 18, 2002, setting his arraignment on December 11, 2002, was sent to his and counsel's former address resulting in his failure to attend the arraignment;
- (5) In the same way, the notice of the resetting of arraignment from December 11, 2002 to January 22, 2003, was again sent to the wrong address, such that he was not notified of said scheduled arraignment. Such lack of notice however, did not stop respondent Judge from issuing a bench warrant of arrest for his failure to appear on the scheduled arraignment;
- (6) Although respondent Judge lifted the said bench warrant on February 28, 2003, she nevertheless denied complainant's motion for reconsideration relative to the Order dated November 2002 denying the motion for inhibition;
- (7) Respondent Judge exhibited partiality and malevolent attitude when she did not only deny all remedies available to complainant but also uttered hostile side-comments during hearings and even commented that complainant was overly fond of filing motions.^[1]

In her comment, respondent Judge refuted the charges in this wise:

- (1) She did not consider the omnibus motion dated May 7, 2002 filed by complainant because its notice of hearing was addressed to the Public Prosecutor, for which reason, she issued the warrant of arrest on May 23, 2003;
- (2) She issued the order dated June 25, 2002 deferring the resolution of complainant's very urgent motion to set the case for hearing in view of the resolution of the Court of Appeals dated June 14, 2002, enjoining her from enforcing the warrant of arrest issued against complainant;
- (3) Since the trial court had not yet acquired jurisdiction over the person of the complainant when the court received the