

SECOND DIVISION

[**A.M. No. RTJ-04-1887 (Formerly A.M. OCA IPI No. 03-1654-RTJ), December 09, 2004**]

JUDGE CAROLINE B. PANGAN, COMPLAINANT, VS. JUDGE CLIFTON U. GANAY AND JUDGE SAMUEL R. MARTIRES, REGIONAL TRIAL COURT, BRANCHES 31 AND 32, RESPECTIVELY, AGOO, LA UNION, RESPONDENTS.

DECISION

CALLEJO, SR., J.:

The instant administrative case has its roots in the Comment dated May 10, 2002 of Judge Caroline B. Pangan, Municipal Trial Court, Rosario, La Union, in A.M. No. OCA-IPI No. 02-1206-MTJ,^[1] where the latter made allegations of gross ignorance of the law, incompetence, abuse of authority and dereliction of duty against Judge Clifton U. Ganay, Regional Trial Court (RTC), Agoo, La Union, Branch 31, and Judge Samuel R. Martires, RTC, Agoo, La Union, Branch 32. It was alleged therein that the respondents committed the following:

a. The Hon. JUDGE CLIFTON GANAY should be asked to explain why, on the basis of an UNAPPROVED RECOMMENDATION by an Assistant Provincial Prosecutor:

1. he entertained a Special Proceedings of doubtful pedigree and intervened during the preliminary investigation stage of the investigation of a heinous crime;
2. and hastily and prematurely ordered the release of the suspect even if an officer duly mandated by law had already found probable cause and has issued a warrant for the arrest of said suspect and even if the Office of the Provincial Prosecutor was still reviewing the case pursuant to law;
3. and he issued the said order without even following the basic principles of due process;

All of which acts are in clear violation of the new Revised Rules on Criminal Procedure;

That to allow HON. JUDGE CLIFTON U. GANAY to get away with what he did, would be to open the doors to other Judges of the Regional Trial Courts to precipitately and prematurely intervene and influence the preliminary investigation and review of criminal cases under the guise of a Special Proceeding;

...

c. The HON. JUDGE SAMUEL MARTIREZ (sic) should be asked to explain why:

1. Despite the fact that a valid Information has been filed in his court for the heinous crime of MURDER, with "NO BAIL" recommended against JOEL "TOTO" ABRIL, he DID NOT ISSUE A WARRANT FOR HIS ARREST and as a result of which the said accused continues to remain at large;
2. Why, despite the filing of a valid Information for MURDER, with NO BAIL recommended, during the arraignment of the accused JOEL "TOTO" ABRIL on July 3, 2001 and even with the urgings of the prosecution that the said accused be committed, he did not order the arrest, detention and commitment of the said accused.

All of which acts are in violation of the clear provisions of the law.^[2]

The complainant alleged that she handled the preliminary investigation of the complaint for murder filed against Joel Abril, docketed as Criminal Case No. 5584. After searching questions were asked, she found probable cause for the filing of the offense charged and directed the issuance of a warrant of arrest so as not to frustrate the ends of justice. Abril then filed a motion for reconsideration and a motion to quash the warrant of arrest, which the complainant Judge denied. The case was, thereafter, transmitted to the Provincial Prosecutor. On February 29, 2000, Assistant Provincial Prosecutor Pablo Lachica issued a Resolution recommending the dismissal of the case for alleged lack of merit.

Due to the conflicting recommendations of the complainant and Prosecutor Lachica, Provincial Prosecutor Rogelio Hipol created a three-man panel to reinvestigate the case composed of 1st Assistant Prosecutor Julio B. Tecan and 3rd Assistant Prosecutors Oscar B. Corpuz and Georgina D. Hidalgo. The panel sustained the findings of probable cause made by the complainant Judge and resolved to indict Abril. An Information for murder was then filed on August 23, 2000 before the sala of respondent Judge Ganay docketed as Criminal Case No. A-3691.

On July 3, 2001, Abril appeared for arraignment before the sala of respondent Judge Martires. However, the latter did not issue any warrant of arrest despite the charge of murder against Abril. Prosecutor Lachica then filed an Urgent Motion to Dismiss on the ground of lack of evidence, but failed to disclose that a review of the case was being conducted by the Office of the Provincial Prosecutor.

Abril filed a petition, which was later amended, before the sala of respondent Judge Ganay entitled "*Re: Petition to Quash the Warrant of Arrest and/or for the Release of the Respondent from Detention, Joel 'Toto' Abril v. People of the Philippines,*" docketed as Special Proceeding Case No. A-920. Respondent Judge Ganay granted the amended petition and ordered the release of Abril, despite the fact that the case was still pending review before the Provincial Prosecutor. The complainant alleged that respondent Judge Ganay should have respected the law and the offices tasked with the preliminary investigation and review of the case. Thus, despite the warrant

of arrest issued by the complainant Judge, Abril was released prior to his arraignment.

The complainant averred that she was neither impleaded nor notified in the said case, even though she was the one who issued the assailed warrant of arrest; the only respondent in the said case was the Office of the Prosecutor, Agoo, La Union, represented by Prosecutor Lachica. She further contended that respondent Judge Ganay hastily issued the order for the release of Abril, considering that the amended petition was filed only on April 11, 2000; the hearing was thereafter conducted the very next day, while the Order for the release of Abril was issued on April 13, 2000. The complainant contended that respondent Judge Ganay should have informed Abril that his remedy lies with the Office of the Provincial Prosecutor, pursuant to Section 5, Rule 112 of the Revised Rules of Criminal Procedure, a petition for certiorari or prohibition, but not a special proceeding as the latter was not among the allowable special proceedings in the rules.

In his Comment dated February 10, 2003, respondent Judge Ganay denied the allegations against him. He averred that Abril was arrested by virtue of an arrest warrant issued by the complainant Judge on January 10, 2000. Upon his failure to have the said warrant quashed with the issuing court, Abril filed a petition in the sala of respondent Judge Ganay on April 11, 2000, which was captioned as "special proceeding." Respondent Judge Ganay averred that the quashal of the warrant of arrest issued on January 10, 2000 was specifically prayed for in the petition. The respondent further narrated, thus:

On April 13, 2000, he [Basconcillo] appeared in Court. The Trial Prosecutor was indecisive. Apparently Judge Pangan and Public Prosecutor Pablo Lachica (Chief of Office, Provincial Prosecutor's Office, Agoo, La Union) were diametrically opposed to each other in their legal positions regarding the case under preliminary investigation, the Public Prosecutor [LACHICA] in favor of DISMISSING the case for lack of evidence while Judge Pangan, acting as a subalterm of the Prosecution, finding probable cause to hold Joel "Toto" Abril for trial.

Eventually, these warring positions would be resolved by the Provincial Prosecutor, when he created a panel of three (3) public prosecutors to resolve them, one way or the other.

BUT IN THE MEANWHILE[,] the lot of Joel "Toto" Abril was miserable because he remained in detention in the slammer.

This explains why he (thru counsel) brought his misery to Branch 31, RTC, under Judge Ganay by petitioning the Court for the quashal of the questionable warrant of arrest which Judge Pangan issued, by virtue of which Abril was arrested.^[3]

Thereafter, respondent Judge Ganay issued an Order^[4] granting the petition on April 13, 2000, on the ground, among others, that the warrant ordering his arrest was issued hastily and was thus illegal.

Respondent Judge Ganay contended that not all judicial actions are proper subjects of an administrative complaint; otherwise, "there will be no Judge left to man the

ramparts of our Temples of Justice.”^[5] He posited that the complainant Judge panicked when Abril filed a complaint against her in connection with the arrest warrant she issued. The respondent maintained that the warrant the complainant Judge issued was illegal and that he had to act upon it speedily.

In his Comment dated March 25, 2003, respondent Judge Martires prayed that the charge against him be dismissed for utter lack of merit. He narrated the events that led to the instant administrative case, as follows:

1. On January 10, 2000, the following incidents transpired, thus:
 - a. A Criminal Complaint for Murder dated January 10, 2000 was filed on January 10, 2000 by the NBI Special Investigator against Joel “Toto” Abril before the Municipal Trial Court of Rosario.
 - b. On that same day (January 10, 2000), Judge Pangan conducted the preliminary inquiry.
 - c. Then, by her Order of January 10, 2000, Judge Pangan ordered the issuance of a warrant of arrest. Correspondingly, a warrant of arrest of even date was issued.
 - d. At 3:35 in the afternoon of January 10, 2000, the NBI arrested the accused Joel Abril per its 1st Indorsement dated January 10, 2000 and the Personal Data Sheet of the accused.
 - e. By the Commitment Order dated January 10, 2000 of Judge Pangan, the accused was committed to the BJMP of Agoo, La Union.
2. On January 12, 2000, the accused through his counsel Atty. Hernando Pangasinan, filed a Motion To Quash Criminal Complaint and Warrant of Arrest. The accused argued that the criminal complaint did not state the name of the victim.
3. On that same day, January 12, 2000, but after the accused filed the aforementioned motion to quash, as shown by the Registry Receipts, the NBI filed a Motion to Admit Amended Complaint.
4. The following day, by the Order of January 13, 2000, Judge Pangan denied the motion to quash and admitted the amended criminal complaint.
5. On January 24, 2000, the accused through Atty. Pablo Olarte, filed a Motion for Reconsideration to the Order of January 13, 2000 and/or Motion to Recall Warrant of Arrest.
6. On February 3, 2000, the Preliminary Investigation started.
7. Finding the existence of probable cause against the accused for the crime of murder, Judge Pangan in her Resolution of February 10, 2000, DENIED the motion for reconsideration and ordered that the records of the case be forwarded to the Provincial Prosecutor for “appropriate action.”
8. The Panel of Assistant Provincial Prosecutors, on August 23, 2000, filed the Information dated June 1, 2000, and which was docketed as Criminal Case No. A-3691. The same was raffled to Branch 32 on August 29, 2000.

9. On October 10, 2000, the private complainant Teodorico Ocol filed a Motion to Transfer Case to Branch 31 dated October 2, 2000, alleging, among others, that he has executed an affidavit of desistance.
10. Simultaneously, the private complainant, also on October 10, 2000, filed a Motion to Dismiss. Attached to the Motion to Dismiss was his Affidavit of Desistance.
11. On November 9, 2000, Atty. Felimon Asperin entered his appearance as counsel for the accused and moved that the motion to dismiss be set for hearing.
12. By the Order of the Court of November 9, 2000, the hearing on the Motion to Dismiss was set on November 14, 2000.
13. Of the incidents during the hearing of November 14, 2000 the Order of the Court of even date will show[.] The accused and his counsels appeared. The Public Prosecutor informed the Court that the accused filed a petition for review before the Department of Justice (or DOJ, for brevity). Upon agreement of the parties, the arraignment of the accused was reset to December 5, 2000.
14. On December 5, 2000, the accused objected that he be arraigned and opposed the motion to dismiss in view of the petition for review before the DOJ. However, counsel for the accused manifested that they have also filed a motion to withdraw petition for review but which has not yet been acted upon by the DOJ. The hearing was reset to December 13, 2000.
15. However, the hearings scheduled on December 13, 2000 and January 22, 2001 were cancelled in view of the unresolved motion to withdraw before the DOJ.
16. By the Order of February 21, 2001, the Court directed the DOJ to immediately resolve the motion of the accused[;] after all, it was merely a withdrawal of his appeal.
17. On June 5, 2001, the Court received a copy of DOJ's Resolution dated May 28, 2001 granting the withdrawal of the appeal.
18. By the Notice of Hearing dated June 21, 2001, the arraignment of the accused was set on July 3, 2001. The accused was arraigned on that day.
19. Of matters taken up after the arraignment on July 3, 2000 was the manifestation of Asst. Provincial Prosecutor Pablo Lachica that the accused be committed to the Provincial Jail and that the case be dismissed. Likewise, the prosecutor presented the private complainant to testify on his motion to dismiss and affidavit of desistance. The continuation of hearing was scheduled on October 18, 2001.
20. On October 18, 2001, the hearing was reset to October 24, 2001. The court directed the issuance of a subpoena to the alleged eyewitness Victoria Alabaso.
21. Victoria Alabaso appeared on October 24, 2001 but was not presented by the prosecution. Instead, the motion to dismiss was deemed submitted for resolution.
22. On March 12, 2002, Asst. Provincial Prosecutor Pablo Lachica filed an Urgent Motion To Dismiss.
23. After hearing the Motion To Dismiss on March 15, 2002, the same was referred by the Court to the Provincial Prosecutor for