

FIRST DIVISION

[A.M. No. MTJ-01-1370 (formerly A.M. No. 00-11-238-MTC), April 25, 2003]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
JUDGE AGUSTIN T. SARDIDO, MUNICIPAL TRIAL COURT OF
KORONADAL, SOUTH COTABATO, RESPONDENT.**

D E C I S I O N

CARPIO, J.:

The Case

This is an administrative case against respondent Judge Agustin T. Sardido ("Judge Sardido") formerly presiding judge of the Municipal Trial Court of Koronadal, South Cotabato, for gross ignorance of the law. Judge Sardido issued an Order dated 20 October 1998 excluding Judge Braulio Hurtado, Jr. ("Judge Hurtado") of the Regional Trial Court of Kabacan, North Cotabato as one of the accused in an Amended Information.^[1] Judge Sardido ruled that Supreme Court Circular No. 3-89 requires that Judge Hurtado be dropped from the Amended Information and his case be forwarded to the Court.

The Facts

Private complainant Teresita Aguirre Magbanua accused Oscar Pagunsan and Danilo Ong of the crime of "Falsification by Private Individual and Use of Falsified Document."^[2] The Amended Information included Judge Hurtado. The case, docketed as Criminal Case No. 14071, was raffled to Judge Sardido, then presiding judge of the Municipal Trial Court of Koronadal, South Cotabato ("MTC-Koronadal").

In a Deed of Absolute Sale dated 8 August 1993, private complainant Magbanua and six other vendors allegedly sold two parcels of land, covered by TCT Nos. 47873 and 33633 and located at the commercial district of Koronadal, to Davao Realty Development Corporation, represented by accused Ong, with co-accused Pagunsan, as broker. Judge Hurtado, who at that time was the Clerk of Court of RTC-Koronadal and *ex-officio* notary public, notarized the Deed of Absolute Sale.

However, private complainant Magbanua denies signing the Deed of Absolute Sale dated 8 August 1993 which states that the consideration for the sale was only P600,000.00. Private complainant asserts that what she and the other vendors signed was a Deed of Absolute Sale dated 6 August 1996 for a consideration of P16,000,000.00. Under the terms of the sale, the vendee agreed to pay for the capital gains tax. The consideration in the 8 August 1993 Deed of Absolute Sale was apparently undervalued. Subsequently, the Bureau of Internal Revenue assessed the vendors a deficiency capital gains tax of P1,023,375.00.

Judge Hurtado filed a motion praying that the criminal complaint against him be forwarded to the Supreme Court. Judge Hurtado claimed that Circular No. 3-89 dated 6 February 1989 requires "all cases involving justices and judges of the lower courts, whether or not such complaints deal with acts apparently unrelated to the discharge of their official functions, such as acts of immorality, estafa, crimes against persons and property, etc." to be forwarded to the Supreme Court. Judge Hurtado asserted that since the case against him is one involving a judge of a lower court, the same should be forwarded to the Supreme Court pursuant to Circular No. 3-89.

The Provincial Prosecutor opposed Judge Hurtado's motion, arguing that the case against Judge Hurtado is not within the scope of Circular No. 3-89 since it is not an IBP-initiated case. Moreover, the offense charged was committed in 1993 when Judge Hurtado was still a clerk of court and *ex-officio* notary public.

On 20 October 1998, Judge Sardido issued an Order, the pertinent portions of which read:

The issue to be resolved in the instant case is, whether the case of Judge Hurtado, who is charged for acts committed prior to his appointment as an RTC Judge, falls within the purview of the afore-said Circular No. 3-89.

It is the humble submission of the Court that the case of Judge Hurtado, an RTC Judge of the Regional Trial Court of Kabacan, North Cotabato, falls within the meaning and intent of the said circular.

For reasons being, firstly, the said circular provides that all cases involving justices and judges of lower courts shall be forwarded to the Supreme Court for appropriate action, whether or not such complaints deal with acts apparently unrelated to the discharge of their official functions, and regardless of the nature of the crime, without any qualification whether the crime was committed before or during his tenure of office. Under the law on Legal Hermeneutics, if the law does not qualify we must not qualify. Secondly, it would sound, to the mind of the Court, awkward for a first level court to be trying an incumbent judge of a second level court.

For reasons afore-stated, this Court can not and shall not try this case as against Judge Hurtado, unless the Honorable Supreme Court would order otherwise.

Wherefore, the foregoing premises duly considered, the name of Judge Braulio L. Hurtado, Jr. is ordered excluded from the amended information and the case against him is ordered forwarded to the Honorable Supreme Court, pursuant to the afore-said Circular No. 3-89 of the Supreme Court, dated February 9, 1989.

Accordingly, Maxima S. Borja ("Borja"), Stenographer I and Acting Clerk of Court II of the MTC-Koronadal, South Cotabato, wrote a letter dated 21 July 1999 forwarding the criminal case against Judge Hurtado to the Court Administrator for appropriate action.

Then Court Administrator Alfredo L. Benipayo issued a Memorandum dated 25 October 2000 pointing out that Circular No. 3-89 refers only to administrative complaints filed with the IBP against justices and judges of lower courts. The Circular does not apply to criminal cases filed before trial courts against such justices and judges.

Thus, in the Resolution of 6 December 2000, the Court directed that the letter of Acting Clerk of Court Borja be returned to the MTC-Koronadal together with the records of the criminal case. The Court directed Judge Sardido to explain in writing why he should not be held liable for gross ignorance of the law for excluding Judge Hurtado from the Amended Information and for transmitting the records of Judge Hurtado's case to the Court.

In his Explanation dated 26 January 2001, Judge Sardido reasoned out that he excluded Judge Hurtado because Circular No. 3-89 directs the IBP to "forward to the Supreme Court for appropriate action all cases involving justices and judges of lower courts x x x." Judge Sardido claims that the Circular likewise "applies to courts in cases involving justices or judges of the lower courts," especially so in this case where "Judge Hurtado was charged with falsification of public document as a notary public while he was still the Clerk of Court of the Regional Trial Court of the 11th Judicial Region in Koronadal, South Cotabato."

In the Resolution of 28 March 2001, the Court referred this case to the Office of the Court Administrator ("OCA") for evaluation, report and recommendation. On 10 July 2001, the OCA submitted a Memorandum recommending that this case be re-docketed as a regular administrative matter.

Judge Sardido filed his Manifestation dated 20 September 2001 stating that he is submitting the case for decision based on the pleadings and records already filed. Judge Sardido insisted that he did "what he had done in all honesty and good faith."

OCA's Findings and Conclusions

The OCA found that Judge Sardido erred in excluding Judge Hurtado as one of the accused in the Amended Information in Criminal Case No. 14071. The OCA held that Circular No. 3-89, which is Judge Sardido's basis in issuing the Order of 20 October 1998, refers to administrative complaints filed with the IBP against justices and judges of lower courts. The Circular does not apply to criminal cases filed against justices and judges of lower courts. The OCA recommended that a fine of P5,000.00 be imposed on Judge Sardido for gross ignorance of the law.

The Court's Ruling

The Court issued Circular No. 3-89 in response to a letter dated 19 December 1988 by then IBP President Leon M. Garcia, seeking clarification of the Court's En Banc Resolution of 29 November 1998 in ***RE: Letter of then Acting Presiding Justice Rodolfo A. Nocon^[3] and Associate Justices Reynato Puno^[4] and Alfredo Marigomen^[5] of the Court of Appeals.***

A certain Atty. Eduardo R. Balaoing had filed a complaint against Court of Appeals Justices Nocon, Puno and Marigomen relating to a petition filed before their division.

In its En Banc Resolution of 29 November 1988, the Court required the IBP to refer to the Supreme Court for appropriate action the complaint^[6] filed by Atty. Balaoing with the IBP Commission on Bar Discipline. The Court stated that the power to discipline justices and judges of the lower courts is within the Court's exclusive power and authority as provided in Section 11, Article VII of the 1987 Constitution. ^[7] The Court Administrator publicized the En Banc Resolution of 29 November 1988 by issuing Circular No. 17 dated 20 December 1988.

The Court issued Circular No. 3-89 on 6 February 1989 clarifying the En Banc Resolution of 29 November 1988. Circular No. 3-89 provides in part as follows:

(1) The **IBP (Board of Governors and Commission on Bar Discipline)** shall forward to the Supreme Court for appropriate action all cases involving justices and judges of lower courts, whether or not such complaints deal with acts apparently unrelated to the discharge of their official functions, such as acts of immorality, estafa, crimes against persons and property, etc. x x x. (Emphasis supplied)

Circular No. 3-89 clarified the second paragraph, Section 1 of Rule 139-B of the Rules of Court which states that:

The IBP Board of Governors may, *motu proprio* or upon referral by the Supreme Court or by a Chapter Board of Officers, or at the instance of any person, initiate and prosecute proper charges against erring **attorneys including those in the government service**. (Emphasis supplied).

As clarified, the phrase "attorneys x x x in the government service" in Section 1 of Rule 139-B does not include justices of appellate courts and judges of lower courts who are not subject to the disciplining authority of the IBP. All administrative cases against justices of appellate courts and judges of lower courts fall exclusively within the jurisdiction of the Supreme Court.

However, Rule 139-B refers to Disbarment and Discipline of Attorneys which is administrative and not criminal in nature. The cases referred to in Circular No. 3-89 are administrative cases for disbarment, suspension or discipline of attorneys, including justices of appellate courts and judges of the lower courts. The Court has vested the IBP with the power to initiate and prosecute administrative cases against erring lawyers.^[8] However, under Circular No. 3-89, the Court has directed the IBP to refer to the Supreme Court for appropriate action all administrative cases filed with IBP against justices of appellate courts and judges of the lower courts. As mandated by the Constitution, the Court exercises the exclusive power to discipline administratively justices of appellate courts and judges of lower courts.

Circular No. 3-89 does not refer to criminal cases against erring justices of appellate courts or judges of lower courts. Trial courts retain jurisdiction over the criminal aspect of offenses committed by justices of appellate courts^[9] and judges of lower courts. This is clear from the Circular directing the IBP, and not the trial courts, to refer all administrative cases filed against justices of appellate courts and judges of lower courts to the Supreme Court. The case filed against Judge Hurtado is not an administrative case filed with the IBP. It is a criminal case filed with the trial court under its jurisdiction as prescribed by law.