

FIRST DIVISION

**[A.M. No. RTJ-02-1677 [OCA-IPI-00-1027-RTJ],
February 28, 2002]**

**JERUSALINO V. ARAOS, COMPLAINANT, VS. JUDGE ROSALINA L.
LUNA-PISON, IN HER CAPACITY AS PRESIDING JUDGE,
REGIONAL TRIAL COURT, BRANCH 107, QUEZON CITY,
RESPONDENT.**

R E S O L U T I O N

YNARES-SANTIAGO, J.:

A Complaint^[1] was filed by Jerusalino V. Araos against Judge Rosalina Luna-Pison, Presiding Judge of the Regional Trial Court of Quezon City, Branch 107, for Graft and Corruption, Knowingly Rendering An Unjust Decision and Gross Ignorance of the Law.

Complainant is the accused in Criminal Case No. Q-91-26112 for Estafa as defined and penalized under Article 315 of the Revised Penal Code. He alleged that on January 25, 2000, respondent judge rendered a decision^[2] convicting him of the crime of Other Deceits under Article 318 of the Revised Penal Code.

Complainant alleged that at the time of the filing of the Information in Criminal Case No. Q-91-26112 on October 10, 1991, the Metropolitan Trial Court had exclusive jurisdiction over the crime of Estafa regardless of the imposable fine pursuant to the provisions of Batas Pambansa Blg. 129.

Moreover, complainant claims that he did not employ deceit or misrepresentation when he entered into an agreement with the private offended party for the construction of the latter's house. He further explained that the amount of P350,000.00 which was given to him by the private offended party was spent solely for the purchase of the required building materials.

On October 16, 2000, respondent Judge filed her Comment^[3] praying that the complaint be dismissed averring, among others, that she merely inherited Criminal Case No. Q-91-26112 from Judge Delilah Vidallon-Magtolis who has been elevated to the Court of Appeals. Respondent contends that after the prosecution had presented all its evidence, complainant through counsel filed a Demurrer to Evidence dated May 9, 1999^[4] which she denied in a Resolution dated September 11, 1996.^[5] A motion for reconsideration thereto^[6] was likewise denied by respondent in an Order dated January 8, 1997.^[7]

Respondent Judge further states that complainant subsequently challenged the two (2) adverse orders against him before the Court of Appeals by way of a petition for certiorari with application for preliminary injunction docketed as CA-G.R. SP No.

43160.^[8] The petition was denied due course in a Resolution dated February 24, 1997.^[9]

Complainant then filed before this Court a petition for review on certiorari, docketed as G.R. No. 128768.^[10] On June 16, 1997, this Court denied the petition for failure to show reversible error on the part of the Court of Appeals.^[11] The resolution attained finality and was thereafter entered in the Book of Entries of Judgments on September 2, 1997.^[12]

Respondent Judge maintains that she decided the case with justice and equity being always the overriding consideration. She stressed that she had studied meticulously the case and that her decision was based on the facts and evidence presented and the law applicable to the offense charged.

The OCA recommended the dismissal of the complaint against respondent reasoning that the issues raised by complainant pertains to the respondent Judge's exercise of judicial discretion, and that the alleged want of jurisdiction of respondent judge had already been settled by the Court of Appeals and the Supreme Court, which upheld the jurisdiction of respondent judge over Criminal Case No. Q-91-26112.

The findings of the OCA are well taken. In administrative proceedings, complainants have the burden of proving by substantial evidence the allegations in their complaints.^[13] In the absence of contrary evidence as in this case, what will prevail is the presumption that the respondent has regularly performed her duties.^[14]

xxx. The Rules, even in an administrative case, demand that, if the respondent judge should be disciplined for grave misconduct or any graver offense, the evidence against him should be competent and should be derived from direct knowledge. The Judiciary to which the respondent belongs demands no less. Before any of its members could be faulted, it should only be after due investigation and after the presentation of competent evidence, especially since the charge is penal in character.^[15]

In cases where the charges involved are misconduct in office, willful neglect, corruption, or incompetency, the general rules in regard to admissibility in evidence in criminal trials apply. In other words, the ground for the removal of a judicial officer should be established beyond reasonable doubt.^[16]

Misconduct is defined as any unlawful conduct on the part of a person concerned in the administration of justice prejudicial to the rights of parties or to the right determination of the cause.^[17] It generally means wrongful, improper or unlawful conduct motivated by a premeditated, obstinate or intentional purpose.^[18] To justify the taking of drastic disciplinary action, as is what is sought by complainant in this case, the law requires that the error or mistake must be gross or patent, malicious, deliberate or in bad faith.^[19]

For liability to attach for ignorance of the law, the assailed order, decision or actuation of the judge in the performance of official duties must not only be found to be erroneous but, most importantly, it must be established that he was moved by