428 Phil. 373

FIRST DIVISION

[A.M. No. RTJ-01-1642 (formerly OCA IPI No. 00-921-RTJ), March 06, 2002]

P/SUPT. SEVERINO CRUZ AND FRANCISCO MONEDERO, COMPLAINANTS, VS. JUDGE PEDRO M. AREOLA AND BRANCH CLERK OF COURT JANICE YULO-ANTERO, RESPONDENTS.

DECISION

PUNO, J.:

This is an administrative complaint filed by P/Supt. Severino Cruz and Francisco Monedero against Judge Pedro M. Areola of Regional Trial Court, Branch 85, Quezon City and his Branch Clerk of Court for Ignorance of the Law relative to Criminal Case No. Q-99-80446 entitled "People of the Philippines vs. Marilyn A. Carreon" for Estafa pending before the sala of the respondent Judge.

The records show that on November 26, 1998, the Evaluation and Preliminary Investigation Bureau of the Office of the Ombudsman issued a Resolution[1] recommending the filing of an Information for Estafa as defined and penalized under Art. 315, par.1(b) of the Revised Penal Code against Marilyn Carreon, an employee of the Land Transportation Office based on the complaint filed by herein complainants. Upon the filing of the Information, the case was docketed as Criminal Case No. Q-99-80446 and was raffled to Branch 85.

On January 19, 1999, accused Marilyn Carreon filed with the trial court an Urgent Motion for Reinvestigation. In his Order dated January 25, 1999, the respondent Judge considered the said motion a mere scrap of paper for non-compliance with Sections 4 and 5, Rule 15 of the 1997 Rules of Civil Procedure. On the same date, a Warrant of Arrest was issued by the respondent Judge and released by respondent Branch Clerk of Court.

On February 10, 1999, respondent Judge issued another Order deferring the implementation of the Warrant of Arrest against the accused pending the resolution of her Motion for Reinvestigation. On June 16, 1999, respondent Judge granted Carreon's Motion for Reconsideration and directed the Branch Trial Prosecutor to conduct a reinvestigation of the case.[2]

The Office of the City Prosecutor issued a Resolution finding no cogent reason to reverse, modify, or alter the resolution of the Office of the Ombudsman and recommended that the case be set for trial.

On September 20, 1999, Carreon filed an Urgent Ex-Parte Motion to Suspend Proceedings and to Hold in Abeyance the Issuance of Warrant of Arrest as she intended to file a Motion for Reconsideration of the Resolution of the Reinvestigation or a petition for review before the Secretary of Justice. In his Order dated

September 27, 1999, respondent Judge granted Carreon's motion and suspended further proceedings in the said case.[3]

On the basis of the foregoing Orders issued by the respondent Judge, complainants filed the instant complaint[4] charging both respondent Judge and his Branch Clerk of Court with ignorance of the law.

In their Joint Comment,[5] respondent Judge manifests that the issuance of a warrant of arrest is not a ministerial function of a judge as he is mandated to determine the existence of probable cause before issuing a warrant. Respondent Branch Clerk of Court, on the other hand, claims that it is a ministerial duty on her part to release duly signed orders, resolutions and decisions of the presiding judge of her branch.

The sole issue in this case is whether or not the orders of respondent Judge and the release thereof by respondent Branch Clerk of Court constitute ignorance of the law.

On August 6, 2001, we referred the administrative complaint to Justice Romeo A. Brawner of the Court of Appeals for investigation, report and recommendation.[6]

In compliance with the Court's Resolution, Justice Brawner submitted his Report and Recommendation dated February 5, 2002. In recommending the dismissal of the complaint against the respondents, Justice Brawner elucidates, thus:

> "Complainants take issue of the fact that although respondent Judge already issued a warrant of arrest, he still deferred its implementation to give way to a reinvestigation of the case on motion of the accused.
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> Moreover, complainants argued, the Office of the City Prosecutor already resolved the issue of the existence of probable cause against the accused three times but respondent Judge still suspended the proceedings pending the petition for review filed by the accused.
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> It must be stressed that the 1987 Constitution requires the judge to determine probable cause 'personally,' making it the exclusive and personal responsibility of the issuing judge to satisfy himself of the existence of probable cause. In satisfying himself of the existence of probable cause for the issuance of a warrant of arrest, the judge is not required to personally examine the complainant and his witnesses. Following established doctrine and procedure, he shall: (1) personally evaluate the report and the supporting documents submitted by the fiscal regarding the existence of probable cause and, on the basis thereof, issue a warrant of arrest; or (2) if on the basis thereof he finds no probable cause, he may disregard the prosecutor's report and require the submission of supporting affidavits of witnesses to aid him in arriving at a conclusion as to the existence of probable cause (Mayor Abdula vs. Judge Guiani, G.R. No. 118821, February 18, 2000, 326 SCRA 1).
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> What complainants believe is that there is no longer any reason why the respondent Judge should withhold the issuance of a warrant of arrest considering that the Office of the City Prosecutor already made a finding