

SECOND DIVISION

[A.M. No. RTJ-02-1702, August 20, 2002]

**ARSENIO R. SANTOS AND AMELITA S. NICODEMUS,
COMPLAINANTS, VS. JUDGE MANUELA F. LORENZO AND BRANCH
CLERK OF COURT EVA S. NIEVALES, REGIONAL TRIAL COURT,
BRANCH 43, MANILA, RESPONDENTS.**

D E C I S I O N

MENDOZA, J.:

This is a complaint charging Judge Manuela F. Lorenzo and Branch Clerk of Court Eva S. Nievales, both of the Regional Trial Court, Branch 43, Manila, with neglect of duty and abuse of authority. The complainants, Arsenio R. Santos and Amelita S. Nicodemus, are the father and aunt of the victim in Criminal Case Nos. 95-146904-05^[1] (for Frustrated Murder and Illegal Possession of Firearms) and Criminal Case No. 96-147577 (for Violation of Comelec Gun Ban) filed with the said court.

In a letter/complaint, dated November 17, 2000, to the Office of Court Administrator, complainants, through the Volunteers Against Crimes and Corruption (VACC), alleged that the cases were submitted for decision on February 14, 2000, but judgment against the accused Zaldy and Zandy Prado was rendered only on September 11, 2000. It was further alleged that respondent judge Lorenzo issued on the date of promulgation an order regarding the bail bonds in the three cases against Zaldy Prado: the bond of P130,000.00 for illegal possession of firearms remained the same, while the bond for frustrated murder was increased from P17,000.00 to P22,000.00, and the bond for violation of the COMELEC gun ban was increased from P6,000.00 to P12,000.00. In the frustrated murder case, respondent judge Lorenzo likewise increased the bail bond of Zandy Prado from P8,500.00 to P17,000.00. However, so it was alleged, on September 18, 2000, on motion of the accused, respondent judge Lorenzo reduced the bail bond for illegal possession of firearms from P130,000.00 to P30,000.00. Complainants claimed that the reduction of the bond after the conviction of the accused was irregular. They also denounced the delay in the rendition of the decision in these cases.

As to Branch Clerk of Court Nievales, complainants blamed her for the delay in the transmittal of the records of the cases to the Court of Appeals after the accused had filed a notice of appeal on September 20, 2000. Complainants alleged that, as of November 3, 2000, the records of the said cases had not been elevated to the appeals court.

In their letter/complaint to the Office of the Court Administrator, complainants asked for clarification "if the Hon. Judge and the Clerk of Court [had] legal basis [for] what they did in our cases."^[2]

Required to comment on the letter/complaint, respondent judge Lorenzo stated:

The complainant accuses undersigned of abuse of authority and gross ignorance of the law for reducing the bail of Zaldy Prado. In Crim. Case No. 146905 Zaldy Prado was charged [with] Illegal Possession of Firearms and the bail recommended then was P130,000.00. However, after the decision was promulgated Zaldy Prado was sentenced to suffer imprisonment of two years, eleven months and eleven days to four years, nine months and eleven days of prision correccional. As a matter of fact, Zaldy Prado and Zandy Prado were brought to prison immediately after promulgation [of judgment] because they cannot put up a new bond in the increased amount. This is so because in the frustrated homicide case and violation of election law, the bonds were increased but the illegal possession remained at P130,000.00 because the undersigned believes that it is high already. Zaldy Prado moved that the P130,000.00 [bail] for the illegal possession of firearms [case] be reduced and considering that the penalty was only for two to four years, the Court believes that the amount of P30,000.00 was reasonable. In allowing the reduction of the bond, the primary consideration as found in Sec. 9, Rule 114 of the [Revised] Rules of Criminal Procedure has been followed and that the circumstances that preclude the grant of bail as enumerated in Sec. 5, Rule 114 [of the Revised Rules of Criminal Procedure] are not present. Besides, if they found [that] the Court erred in reducing the bond to that amount why did they not ask for reconsideration? The remedy is available to them.^[3]

On the other hand, in her comment dated May 15, 2001, Branch Clerk of Court Eva S. Nievaes explained the reasons for the delay in the transmittal of the records to the Court of Appeals:

1. Criminal Case No. 35-146304 was never filed in this Court, hence the undersigned branch clerk of court should not be made accountable for the record of this case;
2. Criminal Case No. 96-147577 entitled "People of the Philippines versus Zaldy Prado y Donato" was tried and decided by this Court in consolidation with two other criminal cases. In the drafting of her Decision (consisting of thirty-one (31) pages) the Honorable Manuela F. Lorenzo brought to her house the original of the transcripts of stenographic notes (TSNs). The decision was promulgated on September 11, 2000.
3. This Branch was designated as a Family Court effective September 1, 2000 and pursuant to the guidelines in AM-99-11-07 SC an inventory of our pending cases was made for the purpose of unloading those over which this Court has no jurisdiction. We unloaded eighty-five (85) cases on September 14, 2000 and in the tedious task of the inventory (where pages were numbered, return cards were pasted and records were sewn) the undersigned cannot remember where exactly the TSNs of the questioned Zaldy Prado case were placed when they were returned by the Honorable Manuela Lorenzo. Moreover, the undersigned as well as the other Court personnel were overwhelmed by the incoming Family Court cases (72 in September, 81 in October, 61 in November 2000).
4. Considering the strict procedure at the Court of Appeals, the undersigned cannot forward immediately the questioned records of the case.^[4]

On April 4, 2002, the Office of the Court Administrator (OCA), to which the complaint in this case was referred for evaluation, recommended that the administrative case against respondents be dismissed for lack of merit.

EVALUATION: After a careful study of the documents on file, we recommend that the letter dated November 17, 2000 of Mr. Arsenio R. Santos and Ms. Amelita S. Nicodemus not be given due course.

While the documents on file show that the aforesaid criminal cases were submitted for decision on February 14, 2000 and the decision was promulgated only on September 11, 2000 the same should not be taken against the respondent judge considering the heavy caseload of the court within the National Capital Judicial Region. Moreso, there is nothing on record that will show that the delay was done maliciously or was caused with deliberate intent to inflict damage.

RECOMMENDATION: Respectfully submitted for the consideration of the Honorable Court recommending that this case be DISMISSED for lack of merit.

With regard to the delay in the transmittal of the records to the Court of Appeals, we find the explanation of co-respondent Atty. Eva S. Nievaes worthy of credence so as to exculpate her from administrative liability. It has been noted that Regional Trial Court, Branch 43, Manila was designated as Family Court and was tasked to conduct an inventory for the purpose of unloading of cases to other branches.

The disarray of records in the course of the inventory should be considered so as [to] justify the delay in the transmittal of the records.^[5]

We find the recommendation of the Office of the Court Administrator to be well taken.

A. With regard to Judge Manuela F. Lorenzo

Two questions are raised with respect to Judge Manuela F. Lorenzo. The first is her reduction of the bail bond for accused Zaldy Prado in Criminal Case No. 146905 from P130,000.00 to P30,000.00. This is a prosecution for illegal possession of firearms. At the time the bail was initially fixed in 1995, it was set at P130,000.00 in view of the penalty (reclusion perpetua to death) then prescribed for the crime under P.D. No. 1866. However, R.A. No. 8294, which took effect on July 6, 1997, reduced the penalty for illegal possession of firearms to prision correccional in its maximum period (4 years and 1 day to 6 years) and a fine of not less than P15,000.00. In accordance with the new law, respondent judge sentenced accused Zaldy Prado to an indeterminate prison term of two (2) years, eleven (11) months, and eleven (11) days to four (4) years, nine (9) months, and eleven (11) days. As the bail was originally fixed in view of the penalty imposed in P.D. No. 1866, it became necessary for respondent judge to fix the bail at a lower amount when the accused applied for bail on appeal on September 19, 2000 in view of the provisions of R.A. No. 8294.

Bail, after conviction by the Regional Trial Court, is afforded to the accused as a matter of discretion. A trial judge acts according to law in granting bail if the circumstances enumerated in Rule 114, §5 for denying it are not present. Thus this provision reads: