

FIRST DIVISION

**[A.M. No. MTJ-01-1386 (A.M. No. 97-365-MTJ),
December 05, 2001]**

**LOURDES R. LIGAD, COMPLAINANT, VS. JUDGE TEODORO L.
DIPOLOG, RESPONDENT.**

R E S O L U T I O N

KAPUNAN, J.:

In her letter, dated July 17, 1997, addressed to then Chief Justice Andres R. Narvasa, Lourdes R. Ligad (complainant) charged respondent Judge Teodoro Dipolog, Municipal Trial Court (MTC) of Plaridel, Misamis Occidental, with grave abuse of authority for his refusal to release on recognizance complainant's grandson, Joey Sailan, a minor.^[1]

Sailan is the defendant in Criminal Case No. 284-96. He was charged with violating Presidential Decree (P.D.) No. 1602 (Prescribing Stiffer Penalties on Illegal Gambling). He was allegedly caught bringing *jai-alai* (locally known as "*masiao*") tips and tally sheets. On June 5, 1997, Atty. Mita Martinez of the Public Attorney's Office (PAO) filed a motion for release on recognizance of Sailan, who was then only thirteen (13) years old, to the custody of his maternal grandmother, complainant herein. Acting on the motion, respondent judge issued an Order, dated June 6, 1997, denying the same. He cited the second paragraph of Section 13 of Rule 114 of the 1985 Rules on Criminal Procedure,^[2] the law then in effect, which stated:

Section 13. Bail, when not required; reduced bail or recognizance -

X X X

A person in custody for a period equal to or more than the minimum of the principal penalty prescribed for the offense charged, without application of the Indeterminate Sentence Law or any modifying circumstance, shall be released on a reduced bail or on his own recognizance, at the discretion of the court.

In denying his release on recognizance, respondent judge reasoned that Sailan "had not yet been in custody for a period equal to or more than the minimum of the principal penalty prescribed for the offense charged."^[3]

On June 16, 1997, the Department of Social Welfare and Development, through Vivian Sanchez, Social Welfare Officer II, filed a manifestation with the said lower court recommending that Sailan be released on recognizance to his maternal grandmother in accordance with the provisions of P.D. No. 603 (The Child and Youth Welfare Code). The DSWD particularly cited Article 191 thereof providing that upon recommendation of the DSWD, "the court may release a youthful offender on

recognizance, to the custody of his parents or other suitable person who shall be responsible for his appearance whenever required."^[4] According to the complainant, when she followed this up with respondent judge, the latter "arrogantly" told her that "he is the law and everything is at his discretion."^[5]

In compliance with the 1st Indorsement, dated August 22, 1997, of then Court Administrator Alfredo L. Benipayo, respondent judge submitted his Comment, dated October 10, 1997, on the letter-complaint. He denied the allegations therein explaining thus:

[O]n October 11, 1996, [he] issued a Warrant of Arrest for the immediate arrest of accused JOEY SAILAN. However, accused JOEY SAILAN was not arrested for being at large and the Warrant of Arrest was returned unserved; On May 30, 1997, [he] issued an Order sending the records of this case to the file of the archived cases, and issued Alias Warrant of Arrest; On June 4, 1997, accused JOEY SAILAN was arrested; On June 5, 1997, accused JOEY SAILAN through counsel ATTY. MITA Q. MARTINEZ, from the Public Attorney's Office (PAO) filed a motion for release on Recognizance; On June 6, 1997, [respondent judge] citing Second Paragraph Section 13, Rule 114 of our 1985 Rules on Criminal Procedure denied said motion for release on Recognizance; that counsel for the accused inspite of having received a copy of said Order of Denial did not file any motion for reconsideration; On June 16, 1997, another motion for release on recognizance was filed by VIVIAN G. SANCHEZ - a Social Welfare Officer II; that because of the standing Order of Denial of this Court dated June 6, 1997 denying the first motion filed by PAO lawyer - ATTY. MITA Q. MARTINEZ has not been reconsidered because said lawyer did not ask for reconsideration , the second motion filed by VIVIAN G. SANCHEZ was denied by this Court in its Order dated June 17, 1997 and this second movant VIVIAN G. SANCHEZ inspite of having received the Order of Denial of this Court did not asked [sic] for a reconsideration.^[6]

Respondent judge particularly denied the charge of abuse of authority stating that the denial of the release on recognizance of Joey Sailan was predicated on the second paragraph of Section 13, Rule 114 of the 1985 of Rules on Criminal Procedure. Moreover, the movants therein allegedly did not ask for reconsideration of the assailed orders. He likewise denied having uttered that "I am the law and everything is at my discretion." According to respondent judge, he merely advised the complainant to instruct her lawyers to file a motion for reconsideration.^[7]

In his Memorandum, dated September 9, 1999, the Court Administrator made the following evaluation:

Respondent Judge explains that accused could not be released on recognizance because he had just been arrested and that he had not yet been in custody for a period equal to or more than the minimum of the principal penalty prescribed for the offense charged, as provided for in Section 13 of Rule 114 of the 1985 Rules on Criminal Procedure.

Respondent Judge's explanation is but proof of his ignorance of the law. Section 15, Rule 114 of the 1985 Rules on Criminal Procedure, as

amended by Administrative Circular No. 12-94, effective October 1, 1994, provides that:

"Whenever allowed pursuant to law or these Rules, the Court may release a person in custody on his own recognizance or that of a responsible person."

And being a youthful offender, he being but thirteen years of age at the time of arrest, under Article 191, P.D. 603 (The Child and Youth Welfare Code), he may be committed to the care of the Department of Social Welfare or the local rehabilitation center or a detention house.

"A youthful offender held for physical or mental examination or trial or pending appeal, if unable to furnish bail, shall from the time of his arrest be committed to the care of the Department of Social Welfare or the local rehabilitation center or a detention home in the province or city which shall be responsible for his appearance in court whenever required; Provided, That in the absence of any such center or agency within a reasonable distance from the venue of the trial, the provincial, city and municipal jail shall provide quarters for youthful offenders separate from other detainees. The court may, in its discretion, upon recommendation of the Department of Social Welfare or other agency or agencies authorized by the Court, release a youthful offender on recognizance, to the custody of his parents or other suitable person who shall be responsible for his appearance whenever required.

Respondent Judge should have taken into consideration that as a minor the accused should not have been mingled with other detainees. His continued exposure to the harsh conditions prevailing in a prison would eventually affect his rehabilitation.^[8]

The Court Administrator then recommended that a fine of two thousand pesos (P2,000.00) be imposed on respondent judge with the warning that a repetition of the same or similar acts in the future would be dealt with more severely.^[9]

Upon the instance of the Court, complainant and respondent judge respectively manifested that they were submitting the case for resolution on the basis of the pleadings already filed.

The findings and recommendation of the Court Administrator are well taken

The Court shares his view that respondent judge betrayed his "ignorance of the law" when he denied the release of Sailan to the custody of complainant. Respondent judge erroneously applied the second paragraph of Section 13 of Rule 114 of the 1985 Rules on Criminal Procedure. Had he been more circumspect in ascertaining the applicable laws, respondent judge would have known that Article 191 of P.D. No. 603 properly applies in this case since Sailan was a minor. Said provision of law reads in full as follows: