

THIRD DIVISION

[A.M. No. MTJ-99-1221, March 16, 2000]

**JOSEFINA M. VILLANUEVA, COMPLAINANT, VS. JUDGE
BENJAMIN E. ALMAZAN, RESPONDENT.**

DECISION

PURISIMA, J.:

At bar is an administrative case instituted by Josefina M. Villanueva against Judge Benjamin E. Almazan for gross ignorance of the law, abuse of discretion, partiality and gross misconduct.

The verified letter-complaint^[1] filed with the Office of the Court Administrator averred that the acts of Judge Benjamin E. Almazan complained of were committed as follows:

On October 9, 1997, the complainant filed with the Municipal Trial Court of Santo Tomas, La Union, presided over by respondent Judge, two (2) Complaints for Grave Oral Defamation against one Teresita Nabayan, docketed as Criminal Cases Nos. 3097 and 3098, respectively.

On the same day, the respondent Judge, conducted a "preliminary examination", after which he issued the following Order downgrading the crimes charged to simple slander, to wit:

"The Court conducted the necessary preliminary examination to determine the existence of probable cause by asking searching questions to the witnesses for the prosecution. In the course of investigation, the Court is convinced that the offense committed by the accused was just simple slander.

In view of the findings of the Court in the two (2) entitled cases, the accused is hereby ordered to submit her counter-affidavit including that of her witness/es well as exhibits or evidence/s if there be any within ten (10) days from receipt of this order. Failure on her part to comply with his order, she is barred to present evidence during the trial of this case."

On the November 21, 1997, the complainant presented a Manifestation with Motion for Reconsideration, contending that the aforesaid action of respondent judge does not accord with the Rules of Court under which the judge has no authority to downgrade subject accusation from grave oral defamation to simple slander. In due time, the motion for reconsideration^[2] was denied for failure of the private prosecutor^[3] to get the conformity thereto of the public prosecutor.^[4]

On January 20, 1998, the day before the scheduled arraignment and pre-trial in the

said cases, complainant asked for the inhibition of Judge Benjamin E. Almazan from the said cases on the ground that the latter used to be a law partner of the defense counsel. Said request or motion for inhibition, which was denied, infuriated the respondent Judge who then subjected her (Complainant) to verbal abuse. When asked why he downgraded the charge to that of simple slander, respondent Judge explained to the complainant that he did so "because your answers were wrong".

On January 21, 1998, accused Teresita Nabayan was arraigned in the absence of the public prosecutor, who did not receive any calendar of cases for that day.

The same complaint sought to have Clerk of Court Violeta R. Villanueva investigated for blatant partiality and influence peddling, alleging that the latter discussed the cases during mahjong sessions where she entertained some litigants. Also, she (Violeta R. Villanueva) refused to officially receive the pleading of the herein complainant so as not to mess up the records, and was only forced to receive the same when she got a dressing down from the lawyer of complainant.

Respondent Judge and respondent Violeta R. Villanueva submitted their Comments, dated December 24, 1998, which the Office of the Court Administrator received on January 18, 1999.

Explaining his aforementioned action complained of, respondent Judge contended that he conducted a preliminary examination of the complainant and her two (2) eye witnesses, and thereafter, arrived at the conclusion that the acts allegedly committed were not grave oral defamation, as averred in the complaint, such that he issued his questioned Order to the effect that the accused in subject cases should be charged with simple slander only.

Respondent Judge theorized that his trouble with the complainant started when he denied her motion in subject criminal cases to amend the Complaint so as to reflect the correct dates of commission of the crimes charged, and the complainant was incensed by the failure of the court to grant her motion, and by the adverse effect on complainant's position of the action thus taken by respondent judge in the said cases when she requested him to inhibit therefrom. Respondent Judge maintained that the denial of the motion for reconsideration of complainant was proper because amendment of the complaint could only be made with conformity of the public prosecutor who intervened to prosecute the said cases.

Respondent Clerk of Court Violeta R. Villanueva denied the allegations of the complaint, branding the same baseless, motivated by ill will and a mere harassment, considering that she has no power to influence or interfere with the issuance of the orders, decisions, or actuations of respondent judge. She brushed aside as blatant lies the allegation that she attends mahjong sessions during office hours and entertains thereat litigants who need her services. That she discussed cases during such sessions is a mere speculation, since the complainant could not have gotten such information as she spent most of her time in Manila.

As regards the accusation that she was taking sides, this respondent maintained that the same is a fabrication by the complainant who wanted to impose her will upon the court.

On July 27, 1999, there was received from the Court Administrator^[5] the report

finding respondent judge administratively liable and recommending that he be fined Five Thousand (P5,000.00) Pesos, with stern warning that a repetition of the same or similar act shall be dealt with more severely.

The same report recommended the dismissal of the complaint against Violeta R. Villanueva for insufficiency of evidence.^[6]

In response to the Resolution of the Court dated August 23, 1999, respondent Judge manifested in a letter, dated September 20, 1999, that he was submitting the case on the basis of the pleadings and records.

The principal issues for resolution here concern the propriety of the preliminary investigation conducted by respondent judge, and the arraignment of the accused in subject criminal cases. Corollarily, the downgrading of the said cases, and denial of complainant's motion to inhibit respondent judge from trying the same cases are denounced.

After a thorough examination of the report and the records on hand, the Court finds merit in the recommendation of the Court Administrator.

The root of the controversy is the unfamiliarity of respondent judge with the rules applicable in cases requiring preliminary investigation.

Section 1, Rule 112 of the Rules of Court reads:

SECTION 1. *Definition.* — Preliminary investigation is an inquiry or proceeding for the purpose of determining whether there is sufficient ground to engender a well-founded belief that a crime cognizable by the Regional Trial Court has been committed and that the respondent is probably guilty thereof, and should be held for trial.^[7]

Section 9, of the same Rules provides:

SEC 9. *Cases not falling under the original jurisdiction of the Regional Trial Courts nor covered by the Rule on Summary Procedure.*

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(b) *Where filed directly with the Municipal Trial Court.* — If the complaint or information is filed directly with the Municipal Trial Court, the procedure provided for in Section 3(a) of this Rule shall likewise be observed. If the judge finds no sufficient ground to hold the respondent for trial, he shall dismiss the complaint or information. Otherwise, he shall issue a warrant of arrest after personally examining in writing an under oath the complainant and his witnesses in the form of searching questions and answers.

Contrary to the clear mandate of the aforestated rules, the respondent Judge conducted the preliminary investigation culminating in the lowering of the charge to simple slander. The original charge for grave oral defamation is punishable^[8] by *arresto mayor* in its maximum period to *prision correccional* in its minimum period, while simple slander is punishable by *arresto menor* or a fine not exceeding 200