

SECOND DIVISION

[A.M. No. RTJ-97-1376, July 20, 2000]

RAFAEL J. DIZON, JR., COMPLAINANT, VS. JUDGE LORENZO B. VENERACION, REGIONAL TRIAL COURT, MANILA, BRANCH 47, RESPONDENT.

RESOLUTION

QUISUMBING, J.:

In a letter dated May 13, 1996, complainant Rafael J. Dizon, Jr., chairman and managing director of 7-R Port Services, Inc., charged respondent Judge Lorenzo B. Veneracion of the Regional Trial Court, Manila, Branch 47, of incompetence and "intentional disregard for the law" on the ground that he earlier issued a search warrant against 7-R that resulted in the seizure of 100 motor vehicles owned by the company. Complainant seeks respondent's dismissal from the service.

The factual antecedent of this administrative matter is summarized thus:

Sometime in 1989, the Taxi Operators of Metro Manila, Inc. (TOMMI) imported 100 units of Datsun Cedric cars from Hua Kok Realty, Ltd. (Hua Kok), a Singaporean company. The Bureau of Customs seized the vehicles since the importation was without the required SGS Clean Report of Findings. During the pendency of the seizure proceedings, TOMMI requested the Department of Finance (DOF) and the Cooperative Development Authority (CDA) for approval of the assignment of the vehicles to the Manila Taxi Transport Service Cooperative, Inc. (MTTSCI). It also requested that the vehicles be released tax- and duty-free, pursuant to Article 62(1) of R.A. No. 6938, the Cooperative Code of the Philippines.^[1] The DOF and the CDA approved the assignment, and the Bureau of Customs released the vehicles subject only to the payment of a penalty.

The subject vehicles were then sold to MTTSCI. Afterwards, MTTSCI mortgaged the same to 7-R Port Services, Inc. (hereafter 7-R, for brevity) as security for its obligation to the latter.

As MTTSCI failed to pay its obligation, 7-R obtained approval of the DOF and the CDA to foreclose the vehicles subject to the payment of duties and taxes under Article 62(1) of R.A. No. 6938 and Joint Circular No. 1-90 of the DOF and the CDA.^[2] 7-R paid the duties and taxes.

On March 4, 1994, SPO4 Romualdo B. Cruz, a member of the Presidential Anti-Crime Commission, and Sylvia Tongco, representing Hua Kok, applied for a search warrant alleging violation of Article 62(1), R.A. No. 6938 and Joint Circular No. 1-90. Respondent judge issued the search warrant on March 7, 1994. On the same day, members of the PACC seized the vehicles.

Promptly, 7-R moved to quash the search warrant on the principal ground that there had not been any violation of law. Respondent judge denied the motion, explaining that the amount of taxes paid for the vehicles was improperly computed and that the seller of the vehicles had not been paid. 7-R's motion for reconsideration was also denied.

Aggrieved, 7-R filed a petition for *certiorari* with the Court of Appeals, which found respondent judge to have acted with grave abuse of discretion in having issued the assailed search warrant despite the absence of probable cause. The appellate court noted that no competent proof was presented concerning the violations complained of, which were supposed to have been the basis for the issuance of the search warrant. Moreover, the Court of Appeals noted that respondent judge claimed that he issued the search warrant because the seller of the subject vehicles had not been paid, and not because of a violation of R.A. No. 6938. This decision of the Court of Appeals became final on February 26, 1996.

In the instant complaint, complainant asserts that respondent judge intentionally disregarded the law in issuing the search warrant, citing the Court of Appeals' decision on the matter. According to complainant, respondent is neither fit nor worthy to hold his office and should be dismissed from the service.

In his answer, respondent insists that the search warrant had been properly issued because the supplier of the subject vehicles had not been paid. According to respondent, any disposition of the vehicles without the supplier being paid is a violation of penal law and justifies the issuance of the search warrant.

The Office of the Court Administrator, in a memorandum report dated April 16, 1997, stated that respondent judge is administratively liable for having issued a search warrant on the ground of non-payment of the purchase price of the vehicles in question. This, according to the OCA, is incompetence and gross ignorance of the law. The OCA recommended that respondent judge be fined in the amount of P10,000.00.

Rule 126 of the Rules of Court provides:

"SEC. 3. *Requisite for issuing search warrant.* - A search warrant shall not issue but upon probable cause in connection with one specific offense to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the things to be seized.

SEC. 4. *Examination of complainant; record.* - The judge must, before issuing the warrant, personally examine in the form of searching questions and answers, in writing and under oath the complainant and any witnesses he may produce on facts personally known to them and attach to the record their sworn statements together with any affidavits submitted."

Indeed, respondent judge does not appear to have thoroughly examined the complainant and her witnesses, in a manner that would sufficiently establish probable cause for the issuance of a search warrant as required by the rules.