

FIRST DIVISION

[A.M. No. MTJ-95-1065, January 20, 1998]

JOSEPHINE R. TULIAO, COMPLAINANT, VS. JUDGE JOSE O. RAMOS, MUNICIPAL TRIAL COURT, ECHAGUE, ISABELA, RESPONDENT.

D E C I S I O N

BELLOSILLO, J.:

On 3 March 1995 a criminal complaint for homicide was filed by the Philippine National Police against a certain Gallego Adona alias "Pogi" for the killing of Randy Ramos Tuliao, son of complainant herein, docketed as Crim. Case No. 4293. On 8 March 1995 respondent Judge Jose O. Ramos, MTC of Echague, Isabela, conducted the preliminary investigation. In his Order dated 16 March 1995 respondent Judge directed the accused Gallego Adona to submit his counter-affidavit which he did on 24 March 1995.

On 3 April 1995, finding probable cause, respondent issued a warrant of arrest against the accused, and on the same day approved his personal bail bond in the amount of 20,000.00 posted on 23 March 1995 by the Commonwealth Insurance Company (COMMONWEALTH) purportedly signed by its Senior Vice President Rolando B. Francisco^[1]

On 8 April 1995 the parents of deceased Randy Tuliao informed respondent Judge that the bail bond of the accused was falsified. They presented a letter of a certain Maximo Parlan, Operations Manager of COMMONWEALTH, stating that the bail bond came from a spurious source considering that COMMONWEALTH had ceased issuing bail bonds since 24 February 1992. In view of the adverse information regarding the bond, respondent Judge ordered the cancellation of the bond and directed the immediate arrest of the accused. He also directed the NBI of Cabanatuan City to investigate the persons responsible for the procurement and filing of the questionable bond.^[2]

On 11 July 1995 complainant Josephine R. Tuliao, mother of the deceased Randy Tuliao, filed an administrative complaint against Judge Jose O. Ramos charging him with negligence in approving a fraudulent bail bond, failure to terminate the preliminary investigation of the case within the period prescribed in Sec. 3 of Rule 112, and, failure to transmit the records of the case to the Provincial Prosecutor as required in Sec. 5 of Rule 112. In support of her complaint, Tuliao submitted the affidavit dated 13 August 1992 of Rolando B. Francisco, former Senior Vice President of COMMONWEALTH, stating that he worked for COMMONWEALTH only until 17 August 1992 so that he could not have signed the bail bond on 23 March 1995 and that the signature appearing on the bail bond to be that of "Rolando B. Francisco" was a forgery considering that he did not sign it; neither did it have any semblance of his genuine signature.^[3]

Complainant also presented in evidence the following documents: (a) Certificate of Authority issued by the Insurance Commission dated 1 July 1993 certifying that effective 1 July 1992 the authority of COMMONWEALTH to issue bail bonds had already been withdrawn; (b) Affidavit of publication dated 14 July 1992 issued by Lourdes Diaz, Classified Ads Manager of the *Philippine Daily Inquirer*, stating that a notice had been published in its issue of 15 June 1992 that COMMONWEALTH had ceased underwriting and issuing bail bonds since 11 December 1991; (c) Certification dated 6 May 1992 issued by Celso M. Gabalones, Chief, Documentation Unit, Supreme Court, that the authority of COMMONWEALTH to issue bail bonds was only valid until 24 February 1992.

Complainant also contended that respondent Judge failed to resolve the case of her son and to transmit the record of his investigation to the Provincial Prosecutor within the prescribed period. The preliminary investigation was initiated as early as 8 March 1995 but the case remained pending with him without any action taken thereon.

In his comment of 22 August 1995 respondent explained that the personal bail bond issued by COMMONWEALTH appeared on its face to be in order, complete with a certification issued by the Supreme Court dated 2 March 1995 that COMMONWEALTH had authority to issue bail bonds, a Certificate of Authority from the Insurance Commission and a Certification issued by the Clerk of Court of the RTC of Tarlac, Tarlac, that COMMONWEALTH had no pending liability with that court. Respondent Judge insisted that if indeed the bond was fake his approval was simply an honest mistake.^[4]

Respondent Judge claimed that the accused filed his bail bond as early as 28 March 1995 but respondent did not immediately approve it because, as a safeguard to ensure that COMMONWEALTH was not blacklisted, he ordered the brother of the accused to secure first a certification from the Clerk of Court of the RTC of Tarlac where the bond was prepared that COMMONWEALTH was not blacklisted; and, he (respondent) approved the bond only after receiving the certification.^[5]

As to the alleged delay in resolving the case and his failure to transmit the record to the Provincial Prosecutor, respondent Judge averred that the preliminary investigation was not completed as there were matters that needed clarification; consequently, he set the case for hearing on 7 April 1995 so that he could ask clarificatory questions to the parties and their witnesses. But since the accused had gone in hiding the hearing for the clarificatory questions did not push through, so that the delay, if any, was not due to his fault.

On 13 December 1995 this Court referred the administrative case of respondent Judge to Acting Executive Judge Henedino P. Eduarte, RTC, Echague, Isabela, for investigation. In his report and recommendation of 18 December 1996 Judge Eduarte found that the charges against respondent were fully substantiated by the evidence presented and were sufficient to warrant the dismissal of respondent Judge. However, at that time, respondent Judge had already retired so that the only recourse seemed to be to forfeit his retirement benefits.

We hold respondent Judge administratively liable. The surety bond filed by the

accused together with its attachments was fake. This is admitted by respondent in his comment although he rationalizes that he committed an honest mistake as the surety bond appeared to be in order and complete on its face.

But the facts show otherwise. As early as September 1989 the lower courts received from the Office of the Court Administrator a list of insurance companies authorized to do business with the courts as well as those ordered to cease and desist from accepting insurance risks of any kind. One such insurance company not authorized to transact business with the courts - as it was not issued any clearance - was COMMONWEALTH, of which fact respondent was charged with notice.

A brief look at the mere appearance of the bail bond posted by the accused Adona readily shows that the bond is miserably lacking insofar as the requirements set forth in par. (4), Sec. E, Ch. VI, particularly subpar (a), of the Manual for Clerks of Court^[6] are concerned:

4. *Specific Requisites.* - (a) For Surety Bond. - In accepting a surety bond, the Clerk of Court should see to it that the following requisites are complied with, otherwise, the bond should be rejected;

(1) *Photographs of Accused.* - It shall be obligatory on the part of surety and bonding companies issuing such bond to attach photographs (face, left and right profiles), passport size, recently taken of the accused on all copies of the corresponding personal bailbond to be issued or posted.

(2) *Affidavit of Justification.* - The bond shall be accompanied by an affidavit of justification to include a statement to the effect that the company has no pending obligation demandable and outstanding in any amount to the Government or any of its agencies as of the last day of the month preceding the date the bond is issued or posted.

(3) *Clearance from the Supreme Court.* - Every bond shall be accompanied by a clearance from the Supreme Court showing that the company concerned is qualified to transact business which is valid only for thirty (30) days from the date of its issuance.

(4) *Certificate of Compliance with OIC Circular.* - The bond shall be accompanied by a verified certification to the effect that the bond form used has been duly registered with the Insurance Commission; that the same has been entered and recorded in the Bond Registry Book of the company concerned in compliance with Circular No. 66, dated 19 September 1966, of the OIC and that said bond has not been canceled.

(5) *Authority of Agent.* - In case the bond is issued thru a branch or thru an agent, a copy of the authority or power of attorney shall be submitted to the Clerk of Court for filing, together with the schedule of limits of its authority.

(6) *Current Certificate of Authority.* - The bond shall be accompanied by a current certificate of authority issued by the Insurance Commission with the financial statement (OIC Form No. 1) showing the maximum underwriting capacity of the company.

Clearly, the above requisites were not all complied with. Even assuming that the clearance from the Supreme Court and the certificate of authority by the Insurance Commission were all valid and authentic, the number of lacking documents belies the claim of respondent Judge that he only committed an honest mistake as the bond submitted was apparently in order.

A careful review of the records shows that the supporting documents required to be attached to the surety bond are all plain xerox copies. Consequently, it cannot be denied that respondent was indeed negligent. Prudence would have dictated that respondent should demand the presentation of the originals of the required documents before approving the bail bond.

Respondent Judge argued that he approved the bond only after receiving the certification of the Clerk of Court of the RTC of Tarlac dated 28 March 1995 that COMMONWEALTH was not blacklisted. But, the certification only states that COMMONWEALTH "had no pending liability in any branch of the RTC, Tarlac, with respect to bail bonds issued by it in that court." Contrary to the claim of respondent, the certification did not state that COMMONWEALTH was not blacklisted, much less that it was authorized to issue bail bonds.

The explanation of respondent that the bail bond dated 23 March 1995 was filed on 28 March 1995 is almost incredible since the accused was arrested only on 3 April 1995. For, why would the accused procure a bail bond long before he was arrested unless there was connivance between him and respondent Judge as to enable the former to know in advance that the amount of bail would be fixed at P20,000.00.

As to the delay in resolving the preliminary investigation, complainant argued that respondent Judge violated Secs. 3 and 5 of Rule 112 which provide:

Sec. 3. *Procedure.* - Except as provided for in Section 7 hereof, no complaint or information for an offense cognizable by the Regional Trial Court shall be filed without a preliminary investigation having been first conducted in the following manner: (a) The complaint shall state the known address of the respondent and be accompanied by affidavits of the complainant and his witnesses as well as other supporting documents, in such number of copies as there are respondents, plus two (2) copies for the official file. The said affidavits shall be sworn to before any fiscal, state prosecutor or government official authorized to administer oath, or, in their absence or unavailability, a notary public, who must certify that he has personally examined the affiants and that he is satisfied that they voluntarily executed and understood their affidavits; (b) Within ten (10) days after the filing of the complaint, the investigating officer shall either dismiss the same if he finds no ground to continue with the inquiry, or issue a subpoena to the respondent, attaching thereto a copy of the complaint, affidavits and other supporting documents. Within ten (10) days from receipt thereof, the respondents