

FIRST DIVISION

[A.M. No. MTJ-96-1112, December 27, 1996]

ANTONIO ADAPON, COMPLAINANT, VS. JUDGE HERNANDO C. DOMAGTOY, RESPONDENT.

D E C I S I O N

PADILLA, J.:

This is an Administrative Complaint filed against Hernando C. Domagtoy, presiding judge of the Eleventh Municipal Circuit Trial Court of Santa Monica-Burgos, Surigao del Norte for conduct unbecoming a judge.

Antonio J. Adapon, his wife Susie and Bienvenida Navarro were private complainants in Criminal Cases Nos. 106, 107 and 108 entitled "*People of the Philippines v. Pedrito Bondoc*" filed with the MCTC of Dapa, Surigao del Norte, for falsification by omission, grave slander and grave oral defamation, respectively. On 4 May 1995, three (3) warrants of arrest were issued against accused Pedrito Bondoc. However, the arresting officers were not able to serve the warrants of arrest because they could not find him.^[1] On 5 May 1995, respondent judge issued an order of release for accused Bondoc on the ground that "he has posted the necessary amount of bail for his temporary liberty".^[2]

On 11 May 1995, the MCTC Clerk of Court of Dapa issued a certification^[3] that no bailbond was filed by accused Bondoc as of that date. On the same day, complainant Adapon wrote a letter-complaint to Executive Judge Melchor M. Libarnes of the Regional Trial Court, Branch 31 of Dapa, Surigao del Norte bringing to his attention the alleged irregular approval of the bailbond and the consequent irregular issuance of the order of release by respondent judge. Judge Libarnes referred the letter-complaint of Antonio Adapon to respondent judge for comment. In a letter to Judge Libarnes dated 14 May 1995, respondent judge said "I cannot make an honest comment on this insane maneuver. I prefer to meet my rabid admirer on clearer ground". Judge Libarnes then forwarded to this Court the complaint and respondent judge's reply thereto (comment).

On 26 July 1995, the Court issued a resolution referring the complaint of Antonio Adapon to Judge Carlo Lozada of RTC Branch 30 of Surigao City for investigation, report and recommendation. On 4 September 1995, private complainant filed an amended complaint to clarify the allegations in his letter-complaint. The amended complaint averred that on 4 May 1995, the MCTC of Dapa, Surigao del Norte issued three (3) warrants of arrest against Pedrito Bondoc, accused in Criminal Case Nos. 106, 107, and 108. However, the accused was not arrested nor did he surrender to police authorities. At the time the order of release was issued on 5 May 1995 by respondent judge, accused was not under custody of the law and no bailbond had been filed for his temporary liberty. Complainant Adapon further alleged that before a property is accepted as bond, a certification must be issued by the municipal

treasurer that realty taxes up to the current year have been paid. In this case, a certification was issued only on 12 May 1995.

In respondent's memorandum to Judge Lozada, he alleged that the order of release was regularly issued. The accused then had already been detained in the house of one Barsenio Mindaña when the police officers decided not to arrest the accused as they were doubtful of the validity of the warrants.^[4] Moreover, the order of release issued by respondent judge was based on a certification issued by the Municipal Treasurer of Dapa, Surigao del Norte which stated that taxes on the properties posted as bond had already been fully paid as of 1995.

In his investigation report,^[5] Judge Lozada recommended that respondent judge be absolved from the charges on the ground that complainant failed to establish an irregularity in the approval of the bailbond in the three (3) criminal cases. The discrepancy in the issuance of the order of release on 5 May 1995 and the fact that there was no bailbond filed in MCTC Dapa, Surigao del Norte as of 11 May 1995 is explained by the fact that the bailbond was filed and approved in the MCTC of Sta. Monica (less than two [2] hours drive by private vehicle from Dapa) and was received by the Clerk of Court of MCTC Dapa only on 18 May 1995. When the order of release was issued on 5 May 1995, the bailbond was already filed in Sta. Monica.

Judge Lozada then concluded that regularity in the performance of official duty had not been overcome by evidence of the complainant who had no personal knowledge of the alleged misconduct of respondent judge.

On 31 January 1996, this Court designated Judge Melchor Libarnes of RTC Branch 31 of Dapa to report to the Court whether or not accused Pedrito Bondoc in Criminal Cases Nos. 106, 107 and 108 was actually arrested; if so, in what municipality he was apprehended and actually detained. Judge Libarnes' investigation reveals that based on testimonies of the police officers, accused Bondoc was not arrested and the warrants of arrest were returned to MCTC, Dapa unserved.

On the basis of the evidence on record, the OCA found that respondent judge had no authority to issue the order of release in view of Sections 1 and 14(a), Rule 114 of the Rules of Court. It also noted the past indiscretion of respondent judge in the case of *Rodolfo G. Navarro v. Judge Hernando C. Domagtoy*^[6] where the latter was suspended for a period of six (6) months after having been found guilty by this Court of gross misconduct, inefficiency in office and gross ignorance of the law.

The OCA recommends that respondent judge be ordered to pay a fine of Ten Thousand Pesos (P10,000.00), with warning that a repetition of the same or similar acts in the future would be dealt with more severely.

This Court agrees with the findings of the Office of the Court Administrator.

Section 1, Rule 114 of the Rules of Court provides:

"SECTION 1. Bail defined. - Bail is the security given for the release of a person in custody of the law, furnished by him or a bondsman, conditioned upon his appearance before any court as required under the conditions hereinafter specified. Bail may be given in the form of a