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SECOND DIVISION

[A.M. No. RTJ-12-2336 (Formerly A.M. OCA-IPI No. 11-3695-RTJ), November 12, 2014]

ESTHER P. MAGLEO, COMPLAINANT, VS. PRESIDING JUDGE ROWENA DE JUAN-QUINAGORAN AND BRANCH CLERK OE COURT ATTY. ADONIS LAURE, BOTH OF BRANCH 166, REGIONAL TRIAL COURT, PASIG CITY, RESPONDENTS.

D E C I S I O N

MENDOZA, J.:

This administrative case stemmed from a sworn Complaint-Affidavit,[1] dated July 12, 2011, filed by Esther P. Magleo (*complainant*) charging respondents Judge Rowena De Juan-Quinagoran (*respondent judge*) and Atty. Adonis A. Laure, Clerk of Court V (*respondent CoC*), both of the Regional Trial Court, Branch 1.66, Pasig City (RTC), with Gross Misconduct, Gross Partiality, Acts Unbecoming a Member of the Judiciary, Violation of the Code of Judicial Conduct, and Conduct Unbecoming a Court Personnel relative to Criminal Case No. 137860-PSG, entitled *People of the Philippines v. Esther Magleo y Pampolina,* for Estafa under Article 315, paragraph l(b) of the Revised Penal Code.

Complainant is the accused in the aforementioned criminal case. She averred that in an Order, dated May 13, 2010, Judge Nicanor Manalo, Jr. (*Judge Manalo*) granted her demurrer to evidence and acquitted her of the charge of estafa. Thereafter, the prosecutor filed a motion to inhibit Judge Manalo from the case which was later re-raffled to Branch 166, RTC, Pasig City, presided over by respondent judge.

Complainant avers that, instead of *motu proprio* dismissing the case on ground of double jeopardy, respondent judge through her Order, dated November 4, 2010, overturned the order of acquittal and set the case for reception of defense evidence on February 23, 2011.[2] Complainant filed a motion for reconsideration, but it was denied by respondent judge in her February 2, 2011 Omnibus Order.

On February 11, 2011, complainant filed a petition for *certiorari* (With Prayer for Temporary Restraining Order) before the Court of Appeals (*CA*) questioning the propriety of the Omnibus Order.[3] Complainant asserts that the November 4, 2010 and February 2, 2011 orders of respondent judge were indicative of her gross partiality and lack of knowledge of the existing laws and jurisprudence, violating complainant's right against double jeopardy.

She further stated that she did not receive a notice of hearing for June 8, 2011.[4] Despite such omission, respondent judge still issued a warrant of arrest on June 9, 2011. She was surprised when agents of the National Bureau of Investigation (*NBI*) forcibly arrested her on June 15, 201 1. She added that while on her way to the NBI office, a lady agent called the personnel of Branch 166, RTC, Pasig City, to inquire

on the amount of the complainant's bail, but the personnel said that there was no bail indicated. The personnel was said to be reluctant in giving any information and asked, *"Nadampot ninyo na ba, nadampot nyo na ba siya."*[5]

According to complainant, she examined the order of arrest and it appeared that the amount of bail recommended was erased to bar her from posting the bond for her temporary liberty. She claimed that on the same day, she instructed her bondsman to proceed to Branch 166 to inquire about the proper amount of bail. Respondent CoC and the staff, however, treated the bondsman with hostility, annoyance and indifference.[6]

The next day, on June 16, 2011, complainant's son and her lawyer talked to respondent judge and the latter agreed to fix the amount of bail at P40,000.00. Respondent judge, however, initially refused to sign the order and advised them to file a motion to lift the warrant of arrest. Complainant averred that when her son inquired why the same was not signed, the court secretary arrogantly said, "*Huwag mo na ako tanungin, yun ang order ni Judge makikipagtalo ka pa e sumunod ka na lang, wala ka namang magagawa.*"[7] Thereafter, upon filing of an *ex-parte* Motion to Lift Warrant of Arrest, respondent judge granted the same and complainant was released from NBI custody around 5:30 o'clock in the afternoon of the same day. To aggravate her ordeal, police officers proceeded to complainant's house on June 27, 2011 to enforce anew the warrant of arrest, but her counsel sent an e-mail to the arresting officer, furnishing him a copy of the order lifting the order of arrest.[8]

Complainant avers that these acts show how cruel, ignorant and unorganized respondent judge is in running her office. It would also show that respondent clerk of court and the court staff exhibited hostility, partiality and wanton disregard of respect.

In their Joint Comment,[9] dated August 10, 2011, the respondents stated that when the case was re-raffled to Branch 166, RTC, Pasig City, in view of the inhibition of Judge Manalo, there was a pending motion for reconsideration of the May 13, 2010 Order granting complainant's Demurrer to Evidence. In her February 2, 201 1 Omnibus Order, respondent judge emphasized the reasons for overturning the order granting the demurrer to evidence. In its pertinent parts, the Omnibus Order reads:

> Clearly, when the accused filed the demurrer to evidence, the prosecution has not rested its case yet. Thus, the granting of the demurrer to evidence is not proper considering that it was filed *prematurely.*
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> The reason why the defense is not allowed to file a demurrer to evidence before the prosecution rests its case is best articulated in the case of Valencia vs. Sandiganbayan. The Supreme Court discussed that:
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> > [a] demurrer to evidence tests the sufficiency or insufficiency of the prosecution's evidence. As such, a demurrer to evidence or a motion for leave to file the same must be filed after the prosecution rests its case. But before an evidence may be admitted, the rules require that the same be formally

> offered, otherwise, it cannot be considered by the court. A prior formal offer of evidence concludes the case for the prosecution and determines the timeliness of the filing of a demurrer to evidence.
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> As held in Aquino v. Sison [G.R. No. 86025, November 28, 1989, 179 SCRA 648, 651,-652], the motion to dismiss for insufficiency of evidence filed by the accused after the conclusion of the cross-examination of the witness for the prosecution, is *premature* because the latter is still in the process of presenting evidence. The chemistry report relied upon by the court in granting the motion to dismiss was disregarded because it was not properly identified or formally offered as evidence. Verily, until such time that the prosecution closed its evidence, the defense cannot be considered to have seasonably filed a demurrer to evidence or a motion for leave to file the same.

> Thus, the filing of the demurrer to evidence before the prosecution could rest its case and the subsequent granting thereof effectively denied the prosecution's right to due process.[10] [Emphases supplied]

The complainant filed a petition for *certiorari* with the Court of Appeals *(CA)* questioning the November 4, 2010 and February 2, 2011 Orders, but it was dismissed by said appellate court on August 15, 201 1 for lack of merit.[11]

The respondents further stated that contrary to the allegations of complainant, the latter and her counsel were duly notified of the hearing on June 8, 2011, as evidenced by: (1) the February 23, 2011 Constancia[12] with return card[13] showing that the notice was duly received by complainant and her counsel; (2) the court calendar for June 8, 2011;[14] and (3) the certification issued by the post office.[15]

The respondents also averred that complainant failed to identify the court personnel who allegedly said "*Nadampot ninyo na ba, nadampot nyo na ba siya*." Moreover, they claimed that there was nothing wrong even if the court personnel indeed asked the same.[16] With respect to the allegation that the court personnel treated the bondsman with hostility, they claimed that no bondsman went to their branch that day. Even assuming that the bondsman indeed went to their branch, the court personnel were justified in not divulging any information due to the confidentiality of the court records.[17]

The respondents likewise stressed that the order of arrest did not state a bond for complainant's temporary liberty because she jumped bail by failing to appear in court for the June 8, 2011 hearing. Thus, the original bail bond in the amount of P40,000.00 was forfeited and an order of arrest was issued.[18]

Respondent judge explained that she did not immediately sign the draft order granting bail because she could not *motu proprio* lift the warrant of arrest as there

was no motion filed by the complainant's lawyer.[19] When complainant's lawyer, however, filed the proper motion to lift the order of arrest, she promptly acted on the motion and complainant was released immediately from NBI custody. She also stated that it was already beyond the control of the court if the PNP officers attempted to serve the warrant of arrest despite the order lifting the same.

In her 31 August 2011 Reply,[20] complainant reiterates the allegations she made in her complaint, claiming she did not receive any copy of the notice of the hearing for 08 June 2011. In their 07 September 2011 Joint Rejoinder,[21] respondents counters that complainant was duly informed of the 08 June 2011 hearing. On September 16, 2011, the OCA received complainant's Comment[22] on the Joint Rejoinder with the attached affidavit of Ronald P. Magleo, her son, narrating the 15th and 16th June 2011 incidents. On September 23, 2011, the OCA received the Joint Reply[23] to the Comment (on the Joint Rejoinder filed by the respondents). Finally, on October 4, 2011, complainant's Comment[24] on Respondent Judge Joint Rejoinder was filed with the OCA.

The OCA then recommended that the administrative case be referred to the Presiding Justice of the Court of Appeals, who shall cause the same to be raffled among the Justices of the said Court, for investigation, report and recommendation. [25]

The Court's Ruling

The issue in this case is whether the respondents committed transgressions in the performance of their duties warranting the imposition of disciplinary penalties.

The Court rules in the negative.

At the outset, this Court finds that there is no need to refer the administrative case to the CA as the facts and arguments stated in the pleadings are sufficient for proper adjudication of this case.

Claim of Gross Partiality for
reversing an Order Granting the
Demurrer to Evidence

Complainant asserts that respondent judge committed gross ignorance of the law and evident partiality when she overturned the order granting the demurrer to evidence because it would constitute as a violation to her constitutional right against double jeopardy. Complainant argues that a dismissal due to such order is considered as acquittal which bars a subsequent opening of the criminal case.

This Court is convinced that respondent judge acted in accordance with the law and jurisprudence. It was the February 2, 2011 Omnibus Order[26] which elucidated the clear legal basis why respondent judge continued the criminal case despite the earlier order granting the demurrer to evidence. Generally, if the trial court finds that the prosecution evidence is not sufficient and grants the accused's Demurrer to Evidence, the ruling is an adjudication on the merits of the case which is tantamount to an acquittal and may no longer be appealed.[27]

The current scenario, however, is an exception to the general rule. The demurrer to evidence was *premature* because it was filed before the prosecution rested its case. The RTC had not yet ruled on the admissibility of the formal offer of evidence of the prosecution when complainant filed her demurrer to evidence.[28] Hence, respondent judge had legal basis to overturn the order granting the demurrer to evidence as there was no proper acquittal. The complainant elevated the matter to the CA via a petition for *certiorari* but it sustained her ruling.[29] The CA decision reads:

> Indubitably, an order granting an accused's demurrer to evidence is a resolution of the case on the merits, and it amounts to an acquittal. Generally, any further prosecution of the accused after an acquittal would violate the constitutional proscription on double jeopardy. To this general rule, however, the Court has previously made some exceptions.[30]
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> **People v. Tan**[31] eruditely instructs that double jeopardy will not attach when the trial court acted with grave abuse of discretion amounting to lack or excess of jurisdiction, such as where the prosecution was denied the opportunity to present its case or where the trial was a sham. In addition, in **People v. Bocar**,[32] this Court rule that there is no double jeopardy when the prosecution was not allowed to complete its presentation of evidence by the trial court.
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> The circumstances obtaining in this controversy placed it within the realm of the exception.
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> The records demonstrate that the prosecution, with respondent Oilink International Corporation as private complainant, had not yet rested its case when the *Demurrer to Evidence* was filed and eventually granted by the RTC Branch 161.
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> The RTC Branch 161 should have ruled on the prosecution's *Formal Offer of Evidence* before acting on petitioner's *Demurrer to Evidence*. Having failed to do so, there is nary a doubt that no double jeopardy attached. Petitioner's blind insistence that she is made to face trial after having been acquitted carries no conviction.[33]

Though the CA decision has not reached finality, it only goes to show that the respondent judge acted in good faith as she merely followed precedents.

Claim of Violation of the Code
of Judicial Conduct for not serving
the Notice of Hearing

In the February 2, 2011 Omnibus Order of respondent judge, it was stated that the next scheduled hearing was on February 23, 2011.[34] On the said date, however,