

EN BANC

[**A.M. No. RTJ-10-2216 (Formerly A.M. OCA I.P.I. No. 08-2788-RTJ), June 26, 2012**]

STATE PROSECUTORS II JOSEF ALBERT T. COMILANG AND MA. VICTORIA SUÑEGA-LAGMAN, COMPLAINANTS, VS. JUDGE MEDEL ARNALDO B. BELEN, REGIONAL TRIAL COURT, BRANCH 36, CALAMBA CITY, RESPONDENT.

D E C I S I O N

PER CURIAM:

Before the Court is an administrative complaint filed by State Prosecutors Josef Albert T. Comilang (State Prosecutor Comilang) and Ma. Victoria Suñega-Lagman (State Prosecutor Lagman) against respondent Judge Arnaldo Medel B. Belen (Judge Belen) of the Regional Trial Court (RTC) of Calamba City, Branch 36, for manifest partiality and bias, evident bad faith, inexcusable abuse of authority, and gross ignorance of the law.

The Facts

State Prosecutor Comilang, by virtue of Office of the Regional State Prosecutor (ORSP) Order No. 05-07 dated February 7, 2005, was designated to assist the Office of the City Prosecutor of Calamba City in the prosecution of cases. On February 16, 2005, he appeared before Judge Belen of the RTC of Calamba City, Branch 36, manifesting his inability to appear on Thursdays because of his inquest duties in the Provincial Prosecutor's Office of Laguna. Thus, on February 21, 2005, he moved that all cases scheduled for hearing on February 24, 2005 before Judge Belen be deferred because he was set to appear for preliminary investigation in the Provincial Prosecutor's Office on the same day.

Instead of granting the motion, Judge Belen issued his February 24, 2005 Order in Criminal Case No. 12654-2003-C entitled *People of the Philippines v. Jenelyn Estacio* ("*Estacio Case*") requiring him to (1) explain why he did not inform the court of his previously-scheduled preliminary investigation and (2) pay a fine of P500.00 for the cancellation of all the scheduled hearings.

In response, State Prosecutor Comilang filed his Explanation with Motion for Reconsideration, followed by a Reiterative Supplemental Motion for Reconsideration with Early Resolution. On May 30, 2005, Judge Belen directed him to explain why he should not be cited for contempt for the unsubstantiated, callous and reckless charges extant in his Reiterative Supplemental Motion, and to pay the postponement fee in the amount of P1,200.00 for the 12 postponed cases during the February 17, 2005 hearing.

In his comment/explanation, State Prosecutor Comilang explained that the contents

of his Reiterative Supplemental Motion were based on "his personal belief made in good faith and with grain of truth." Nonetheless, Judge Belen rendered a Decision dated December 12, 2005 finding State Prosecutor Comilang liable for contempt of court and for payment of P20,000.00 as penalty. His motion for reconsideration having been denied on February 16, 2006, he filed a motion to post a supersedeas bond to stay the execution of the said Decision, which Judge Belen granted and fixed in the amount of P20,000.00.

On April 12, 2006, State Prosecutor Comilang filed with the Court of Appeals (CA) a petition for certiorari and prohibition with prayer for temporary restraining order and/or writ of preliminary injunction docketed as CA-G.R. SP No. 94069 assailing Judge Belen's May 30, 2005 Order and December 12, 2005 Decision in the *Estacio Case*. On April 24, 2006, the CA issued a temporary restraining order (TRO)^[1] enjoining Judge Belen from executing and enforcing his assailed Order and Decision for a period of 60 days, which was subsequently extended with the issuance of a writ of preliminary injunction.^[2]

Notwithstanding the TRO, Judge Belen issued an Order^[3] on September 6, 2007 requiring State Prosecutor Comilang to explain his refusal to file the supersedeas bond and to appear on September 26, 2007 to explain why he should not be cited indirect contempt of court. In his Compliance,^[4] State Prosecutor Comilang cited the CA's injunctive writ putting on hold all actions of the RTC relative to its May 30, 2005 Order and December 12, 2005 Decision during the pendency of CA-G.R. SP No. 94069. He also manifested^[5] that he was waiving his appearance on the scheduled hearing for the indirect contempt charge against him.

Nevertheless, Judge Belen issued an Order^[6] dated September 26, 2007 directing State Prosecutor Comilang to explain his defiance of the *subpoena* and why he should not be cited for indirect contempt. Judge Belen likewise ordered the Branch Clerk of Court to issue a *subpoena* for him to appear in the October 1, 2007 hearing regarding his failure to comply with previously-issued subpoenas on September 18, 2007, and on October 8, 2007 for the hearing on the non-filing of his supersedeas bond. State Prosecutor Comilang moved^[7] to quash the *subpoenas* for having been issued without jurisdiction and in defiance to the lawful order of the CA, and for the inhibition of Judge Belen.

In an Order^[8] dated October 1, 2007, Judge Belen denied the motion to quash *subpoenas*, held State Prosecutor Comilang guilty of indirect contempt of court for his failure to obey a duly served *subpoena*, and sentenced him to pay a fine of P30,000.00 and to suffer two days' imprisonment. He was also required to post a supersedeas bond amounting to P30,000.00 to stay the execution of the December 12, 2005 Decision.^[9]

Aggrieved, State Prosecutor Comilang filed a complaint-affidavit^[10] on October 18, 2007 before the Office of the Court Administrator (OCA) charging Judge Belen with manifest partiality and malice, evident bad faith, inexcusable abuse of authority, and gross ignorance of the law in issuing the show cause orders, *subpoenas* and contempt citations, in grave defiance to the injunctive writ issued by the CA. State Prosecutor Comilang alleged that Judge Belen's acts were intended to harass, oppress, persecute, intimidate, annoy, vex and coerce him, and to place him in a

disadvantageous and compromising position, as he was prosecuting the libel case instituted by herein complainant State Prosecutor Lagman against Judge Belen when he was still a practicing lawyer, docketed as Criminal Case No. 15332-SP and pending before Branch 32 of the RTC of San Pablo City. This libel case eventually became the basis for Administrative Case No. 6687 for disbarment against Judge Belen.

To further show Judge Belen's flagrant violation of his oath of office, State Prosecutors Comilang and Lagman jointly filed a letter-complaint^[11] dated September 28, 2007 addressed to the Office of the Chief Justice, which the OCA treated as a supplemental complaint. They averred that State Prosecutor Jorge Baculi, who found probable cause to indict Judge Belen with libel in Criminal Case No. 15332-SP, was also harassed and oppressed by Judge Belen with his baseless and malicious citation for contempt and with the use of foul, unethical and insulting statements.

The Action and Recommendation of the OCA

The OCA directed Judge Belen to comment on State Prosecutors Comilang and Lagman's charges against him.

In his Joint Comment^[12] dated March 7, 2008, Judge Belen claimed that the allegations against him are factually misplaced and jurisprudentially unmeritorious, as his assailed orders were issued in accordance with the Rules of Court and settled jurisprudence. He explained that the writ of preliminary injunction issued by the CA only enjoined him from enforcing, executing and implementing the May 30, 2005 Order and December 12, 2005 Decision, but it never prohibited him from asking State Prosecutor Comilang to explain his failure to comply with the order requiring the posting of supersedeas bond to defer the implementation of the mentioned judgment, in accordance with Section 11, Rule 71 of the Rules of Court. He thus prayed for the dismissal of the instant administrative complaint, claiming to have discharged his judicial functions not in a gross, deliberate and malicious manner.

In its Report^[13] dated November 27, 2009, the OCA found Judge Belen to have violated Section 4, Rule 71 of the Rules of Court by failing to separately docket or consolidate with the principal case (the *Estacio Case*) the indirect contempt charge against State Prosecutor Comilang. It also found Judge Belen to have blatantly violated the injunctive writ of the CA when he issued the orders requiring State Prosecutor Comilang to explain why he failed to post a supersedeas bond which, given the antecedents of his administrative cases, showed manifest bias and partiality tantamount to bad faith and grave abuse of authority.

Judge Belen was likewise found to have violated the following provisions of the Code of Judicial Conduct:

Canon 2 – A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES

Rule 2.01 – A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.

Canon 3 – A JUDGE SHOULD PERFORM OFFICIAL DUTIES HONESTLY,
AND WITH IMPARTIALITY AND DILIGENCE ADJUDICATIVE
RESPONSIBILITIES

Rule 3.01 – A judge shall be faithful to the law and maintain professional competence.

Thus, the OCA recommended, *inter alia*, that Judge Belen be adjudged guilty of manifest bias and partiality, grave abuse of authority and gross ignorance of the law and accordingly, be dismissed from the service with forfeiture of all benefits except accrued leave credits, if any, and with prejudice to reemployment in the government or any subdivision, agency or instrumentality thereof, including government-owned and controlled corporations and government financial institutions.

The Issue

The sole issue to be resolved by the Court is whether Judge Belen's actuations showed manifest partiality and bias, evident bad faith, grave abuse of authority and gross ignorance of the law warranting his dismissal from service as RTC Judge of Branch 36, Calamba City.

The Ruling of the Court

After a careful evaluation of the records of the instant case, the Court concurs with the findings and recommendations of the OCA, but only in part.

Section 4, Rule 71 of the Rules of Court provides:

Section 4. *How proceedings commenced.* – Proceedings for indirect contempt **may be initiated *motu proprio* by the court against which the contempt was committed by an order** or any other formal charge requiring the respondent to show cause why he should not be punished for contempt.

In all other cases, **charges for indirect contempt shall be commenced by a verified petition** with supporting particulars and certified true copies of documents or papers involved therein, and upon full compliance with the requirements for filing initiatory pleadings for civil actions in the court concerned. If the contempt charges arose out of or are related to a principal action pending in the court, **the petition for contempt shall allege that fact but said petition shall be docketed, heard and decided separately, unless the court in its discretion orders the consolidation of the contempt charge and the principal action for joint hearing and decision.** (Emphasis supplied)

Indirect contempt proceedings, therefore, may be initiated only in two ways: (1) *motu proprio* by the court through an order or any other formal charge requiring the respondent to show cause why he should not be punished for contempt; or (2) by a verified petition and upon compliance with the requirements for initiatory pleadings.