595 Phil. 618

EN BANC

[A.M. No. RTJ-05-1911 [Formerly A.M. OCA I.P.I. No. 02-9-540-RTC], December 23, 2008]

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. JUDGE RODRIGO B. LORENZO, RTC, BRANCH 266, PASIG CITY,RESPONDENT.

A.M. NO. RTJ-05-1913 [FORMERLY A.M. OCA I.P.I. NO. 02-1548-RTJ]

CHIEF STATE PROSECUTOR JOVENCITO R. ZUÑO, COMPLAINANT, VS. JUDGE RODRIGO B. LORENZO, RTC, BRANCH 266, PASIG CITY, RESPONDENT.

D E C I S I O N

VELASCO JR., J.:

These consolidated administrative cases involve the release on bail of three Filipinos caught while in the act of sniffing *methylamphetamine hydrochloride* (shabu) and five Chinese nationals arrested while manufacturing shabu. The apprehension was effected on November 6, 2001 during a raid in a makeshift illegal drugs laboratory in *Barangay* Capitolyo, Pasig City.

0 In **A.M. No. RTJ-05-1911**, the Court, reacting to news items appearing on page 12 of *The Philippine Star* in its April 18, 2002 issue[1] and the editorial in its April 21, 2002 issue entitled *Sino `shabu makers' freed on bail*,[2] issued a resolution referring the published articles to Court of Appeals Associate Justice Remedios Salazar-Fernando for investigation, report, and recommendation as to the extent of the liability of Judge Rodrigo B. Lorenzo, Regional Trial Court (RTC), Branch 266 in Pasig City, who granted the petition for bail of the accused.[3] The articles stated that Judge Lorenzo ordered the release of the Chinese nationals after each posted a PhP 700,000 bail and insinuated Judge Lorenzo's involvement in the PhP 12 million pay-off for the speedy release of the Chinese nationals. The article further reported that Judge Lorenzo had inhibited himself from hearing the case and was planning a trip to the United States for medical treatment.

In his Comment,[4] Judge Lorenzo denied all of the insinuations in the articles. He belied allegations of being the recipient of bribe money, adding, to bolster his claim of innocence, that it was he who issued the hold-departure order against the Chinese accused.[5] Responding to allegations about his intended trip to America, Judge Lorenzo stated that he did not even have a passport, let alone a US visa, and his medical condition did not allow him to travel by air.

Judge Lorenzo debunked charges of undue haste in the release of the Chinese

chemists since prior hearings were held on March 14, 2002. He also alleged that, considering that the substances found in the raided drug laboratory were not yet forensically examined and determined to be shabu--forensics chemist Vivian Sumobay having failed, despite repeated summons, to appear in the hearings of April 4, 5, and 11, 2002--the prosecution is deemed to have not yet established that what were confiscated during the arrests were illegal drugs or ingredients of illegal drugs. According to Judge Lorenzo, the presumptive innocence of the accused not having been overturned, he found no reason to further detain them. He also mentioned that in the April 21, 2002 issue of the *The Philippine Star*, Non Alquitran, the news writer, wrote that Police General Efren Fernandez, then head of the Narcotics Group of Camp Crame, when pressed to comment on the alleged pay-off, admitted that "the report remains a SPECULATION until they could gather evidence confirming the 12 million bribery."[6]

A.M. No. RTJ-05-1913 involves the formal complaint dated August 12, 2002 filed by Chief State Prosecutor Jovencito R. Zuño, charging Judge Lorenzo with Grave Misconduct, Knowingly Rendering an Unjust Judgment or Order, Gross Ignorance of the Law of Procedure, and Bias and Partiality.[7]

According to complainant, Judge Lorenzo, in Criminal Case No. 10535-D, arbitrarily granted the petition for bail of accused Luven San Juan, Geneveve Ordono, and Annalyn Plaza, who were arrested while in the act of sniffing shabu in a pot session and in possession of 1.03 grams of shabu and paraphernalia, at the time the raid was conducted. Complainant further averred that Judge Lorenzo granted bail without conducting a hearing or giving the prosecution reasonable time and chance to oppose the petition for bail--an act constituting gross and deliberate error, if not bad faith.[8]

As to those accused in Criminal Case No. 10537-D, the Chinese nationals who were caught in the act of manufacturing and in possession of shabu and 13,977.85 grams of substance, including various manufacturing paraphernalia, complainant contended they were granted bail despite vigorous objection from the prosecution which was still in the process of presenting evidence on the petition for bail, and despite strong evidence of guilt. As complainant put it, evident partiality, bad faith, and malice attended the hasty issuance of the order granting the petition for bail.[9] Complainant asked that Judge Lorenzo be dismissed from the service.

In his comment on the complaint, Judge Lorenzo stated that the charge against San Juan, Ordono, and Plaza, i.e., use and possession of 1.03 grams of shabu, was, as a matter of right, a bailable offense, contrary to complainant's allegation. In fact, Judge Lorenzo continued, the resolution approving the charge against the three for the aforesaid bailable offense was signed by State Prosecutor Emmanuel Velasco and approved no less by complainant. Besides, Judge Lorenzo contended, the Information against San Juan, Ordono, and Plaza did not contain allegation of conspiracy between them and the arrested Chinese nationals. In addition, the affidavit of apprehension of the police officer stated that the three women accused were in the living room of the house at the time of the raid, while the Chinese nationals were at the back of the house in a makeshift laboratory, a situation negating conspiracy.

Judge Lorenzo also pointed out that, during the hearings on the petition for bail on

December 7, 2001 and January 9, 2002, the prosecutors made no written or oral objection to said petition which he granted on January 14, 2002 in accordance with Section 4, Rule 114 of the *Revised Rules on Criminal Procedure*.[10] Judge Lorenzo also averred that, contrary to the prosecution's claim, the prosecutors were given reasonable time and opportunity to oppose the petition for bail, State Prosecutor Velasco having personally been furnished a copy of the petition on December 3, 2001, or 30 days before the scheduled arraignment date. Even Prosecutor Conrado Tolentino, per Judge Lorenzo, did not file any written opposition to the petition for bail and did not attend the January 9, 2002 hearing. Prosecutor Marcelino Deza who attended for Prosecutor Tolentino did not also interpose any opposition or objection.

We ordered consolidation of the two administrative cases.

On March 19, 2004, the Investigating Justice submitted a 101-page *Consolidated Final Report and Recommendation* in which she recommended the dismissal of allegations respecting the reported PhP 12 million bribe for the release of the accused in Criminal Case No. 10537-D. The Investigating Justice, however, found the respondent judge, who has meanwhile reached the compulsory retirement age, to have committed procedural lapses for which he should be adjudged guilty of professional incompetence.

After a circumspect review of the report and the case records, the Court finds the conclusions and recommendation of the Investigating Justice to be in accordance, for the most part, with the facts obtaining and the applicable rules. We agree with the Investigating Justice that there is no concrete evidence to show that respondent judge received a PhP 12 million bribe for the speedy release of the accused in Criminal Case No. 10537-D, as insinuated in the news articles. No less than the then NARCGROUP head, Philippine National Police (PNP) Gen. Efren Fernandez, squelched speculations on the reported PhP 12 million bribery attempt. We also agree with the Investigating Justice that respondent judge did not err in granting the petition for bail of accused San Juan, Ordono, and Plaza since the offense they were charged with was bailable as a matter of right.

Complainant's plea that the respondent judge be dismissed from the service on the grounds detailed in his complaint has nothing substantial to support itself. Bare allegations of bias, partiality, gross ignorance of the law, and knowingly rendering an unjust order will not suffice to merit the dismissal of a judge. In administrative cases, complainant bears the *onus* of establishing or proving the averments in his complaint by substantial evidence.[11] As a matter of policy, the acts of a judge in the discharge of official functions are not subject to disciplinary action, absent clear and convincing evidence of fraud, dishonesty, and/or corruption.[12] In fine, to merit disciplinary action, the error or mistake must be gross or patent, malicious, deliberate, or in bad faith. In the absence of a showing to the contrary, defective or erroneous decisions or orders, if that be the case, are presumed to have been issued in good faith.[13] To us, the evidentiary inculpatory tests and exacting standards have not been met in the case of the respondent judge. As the Investigating Justice aptly observed, there is not an iota of evidence to show that respondent judge received any bribe as insinuated by the articles.

Judges should not allow themselves to be harassed and prevented from performing their tasks by malicious and irresponsible media reports. Accordingly, administrative

cases leveled against judges must always be examined with a discriminating eye, for their consequential effects are, by their nature, highly penal, such that judges stand to face the sanction of dismissal and/or disbarment. In sum, we find the published articles attributing acts of dishonesty and corruption to respondent judge to be without basis.

Nonetheless, we agree with the conclusion of the Investigating Justice that respondent judge, in ordering the release on bail of the accused Chinese nationals, committed several serious lapses in disregard of legal and procedural rules. To start off, respondent judge allowed the accused to post bail supposedly because of the prosecution's inability to prove their guilt with strong evidence. But as aptly observed by the Investigating Justice, respondent judge's decision "would have been correct, if only [he] paid enough attention to the factors why the prosecution had not yet established that the evidence of guilt is strong,"[14] referring to the non-appearance during the April 4, 5, and 11, 2002 bail hearings of two key prosecution witnesses, the PNP forensic chemist, Police Inspector Sumobay; and the head of the raiding team, Police Senior Inspector Insp. Napoleon Villegas. As observed further, Sumobay's testimony would have proved not only the amount of shabu seized, but more importantly that the substance examined was shabu. The records tend to show that five kilos of shabu were confiscated.

Given the foregoing consideration, the Court is at a loss to understand why the respondent judge did not even bother to look into the reasons for the non-appearance of Sumobay and Villegas during the first three hearings scheduled for the petition for bail; and why Sumobay did not answer the bench warrant issued when she failed to appear in the initial hearings. If respondent did, he would have discovered that Villegas was on an official mission abroad during the petition for bail hearings; as for Sumobay, she failed to appear simply because she never received a subpoena. The investigating report details the circumstances behind her non-appearance, thus:

> When P/Insp. Sumobay was called to testify during the investigation, she claimed that she did not receive any subpoena, allegedly served by the court. It turned out that the subpoena intended for her was served to a certain PO3 Elizabeth Villa of the ADOT Training Division, an office different from her office. x x x Sumobay's office has its own receiving section and subpoena clerks x x x.
>
> P/Insp. Sumobay, upon learning of the subpoena and bench warrants against her from her co-chemist, went to Branch 266 to verify the information that she was supposed to appear and testify on April 11, 2002. She even checked from the records of the court who received the subpoena for her. She took the time to verify the identity of one PO3 Villa x x x. She attended and testified during the April 18, 2002 hearing which was previously scheduled for the hearing on the petition for bail. Her actuations clearly dispelled the notion that she intentionally absented herself from the April 4, 5, and 11, 2002 hearings x x x.
>
> Respondent judge's witness, Allan Alvarez testified that he personally served the subpoena upon verbal order of respondent judge. This was the first time Allan Alvarez, a clerk at Branch 266, served a subpoena. x x x