

## FIRST DIVISION

[ A.M. NO. RTJ-05-1966, March 21, 2006 ]

**IMELDA S. ENRIQUEZ, COMPLAINANT, VS. JUDGE ANACLETO L. CAMINADE, RESPONDENT**

### DECISION

#### PANGANIBAN, CJ:

Judges are expected to exhibit more than just cursory acquaintance with statutes and procedural laws. In all good faith, they must know the laws and apply them properly. Judicial competence requires no less. Where the legal principle involved is sufficiently basic and elementary, lack of conversance with it constitutes gross ignorance of the law.

#### The Case and the Facts

This administrative case stems from a verified Complaint<sup>[1]</sup> filed with the Office of the Court Administrator (OCA) by Imelda S. Enriquez. In that case, Judge Anacleto Caminade was charged with gross misconduct, knowingly rendering an unjust judgment, and gross ignorance of the law. The material averments of the Complaint and respondent's Comment are summarized by the OCA as follows:

"x x x [Complainant] Imelda S. Enriquez charges [Respondent] Judge Anacleto Caminade with Gross Misconduct, Knowingly Rendering an Unjust Judgment and Gross Ignorance of the Law and Procedure relative [to] Criminal Case No. CBU-066703, entitled '*People of the Philippines versus Sherwin Que @ Bungol, Anthony John Apura,*' for Murder. As mother of the victim in the criminal case, [complainant] alleges that respondent issued an order dated 31 March 2004, the decretal portion of which reads:

'WHEREFORE, the Court hereby denies the motion for the issuance of the warrant of arrest against the accused-movants; sets aside the assailed Resolution of the City Prosecutor on the basis of which the latest amended information was filed; quashes the latest amended information; and remands this case to the City Prosecutor for completion of the preliminary investigation.'

"Respondent so ruled because there was no preliminary investigation completed on accused Alvin Taggart Pimentel Alvez and Alvin John Apura [as] they were denied the opportunity to file a motion for reconsideration or a petition for review before the information was filed in court.

"Complainant claims that respondent was grossly mistaken when he ruled, in effect, that the investigating prosecutor cannot file a criminal

information before the expiration of the 15-day period within which the accused are allowed by the Revised Rules of Court to move for reconsideration or petition for review of an adverse 'Resolution.' Respondent cited *Sales versus Sandiganbayan* (G.R. [No.] 143802, 16 November 2001) that 'the filing of motion for reconsideration is an integral part of the preliminary investigation proper' and that an [i]nformation 'filed without first affording x x x accused his right to file motion for reconsideration' is tantamount to a denial of the right itself to a preliminary investigation.

"Complainant contends that Sales is not applicable to the criminal case because of significant factual and procedural distinctions between the two cases: (1) the Sales case proceeded under the Rules of Procedure of the Ombudsman, while subject criminal case was conducted under the Rules of Court; (2) there was no completed preliminary investigation in the Sales case but there was a completed full-blown panel preliminary investigation on the accused in the subject criminal case; and (3) it is only under the Rules of Procedure of the Ombudsman that the preliminary investigation is deemed completed and terminated upon the lapse of the period to file a motion for reconsideration from the resolution of the Ombudsman while there is nothing in the Rules of Court which states that a person investigated has the right to file a motion for reconsideration or reinvestigation before the [i]nformation can be filed in court.

"In his **COMMENT**, respondent explains that the panel of prosecutors conducting preliminary investigation filed in court their amended information without furnishing accused Apura and Alvez their copy of the resolution. He stresses that his challenged order is in accordance with law and jurisprudence, citing among others, the case of Sales. He claims his order was an honest response to the pending matters before him and [he] merely granted reliefs consistent with those granted by the Supreme Court in the Sales case.

"[Respondent judge asserts that] while the facts of Sales and the criminal case are different, the legal principle involved in the former case 'that a preliminary investigation is part of due process and a motion for reconsideration of the Resolution of the Prosecutor finding probable cause for the filing of information is part of a preliminary investigation and respondent who is not given the opportunity to file the same is in effect deprived of his right without due process of law' cannot be overlooked. Respondent points out that complainant, who was represented by two attorneys, should have resorted to judicial recourse such as an appeal of the order in question via a petition for certiorari to the Court of Appeals."

[2]

### **Report and Recommendation of the OCA**

In its Report,<sup>[3]</sup> the OCA finds respondent guilty of gross ignorance of the law. Thus, it recommends that respondent be penalized with the maximum imposable fine of P40,000, considering that he was earlier penalized with six months' suspension for another serious though unrelated offense.

According to the OCA, the issue raised by complainant does not pertain to an error of judgment or to one pertaining to the exercise of sound judicial discretion by respondent. Rather, the issue is whether respondent complied with procedural rules so elementary that to digress from them amounts to either ignorance or negligence. Since the procedure for the institution of criminal actions is basic and clearly expressed in the Rules of Court, respondent's Order is deemed to have been attended by gross ignorance of the law.

### **The Court's Ruling**

The Court agrees with the findings of the OCA but reduces the penalty.

### **Administrative Liability of Respondent**

This Court has consistently held that lack of conversance with legal principles sufficiently basic and elementary constitutes gross ignorance of the law.<sup>[4]</sup> As an advocate of justice and a visible representation of the law, a judge is expected to be proficient in the interpretation of our laws.<sup>[5]</sup>

A perusal of the Order issued by respondent on March 31, 2004, shows that he remanded Criminal Case No. CBU-066703 to the city prosecutor for the completion of the preliminary investigation based on this Court's ruling in *Sales v. Sandiganbayan*.<sup>[6]</sup> Clearly, respondent failed to read the case in its entirety, or he grossly misapprehended the doctrine it had laid down.

A careful study of *Sales* reveals that it applies specifically to preliminary investigations conducted before the Ombudsman. That case was decided in accordance with the Rules of Procedure of the Ombudsman, granting the accused fifteen days to move for a reconsideration or a reinvestigation of an adverse resolution in a preliminary investigation.<sup>[7]</sup> Obviously, the criminal case filed before respondent's court was not covered by the Rules of Procedure of the Ombudsman but by the Rules of Court, which had no corresponding provision. Thus, *Sales* was not in point.

Diligence in keeping up-to-date with the decisions of this Court is a commendable virtue of judges and, of course, members of the bar. Comprehending the Court's decisions is a different matter, however, for it is in this area where one's competence may be tested and proven.<sup>[8]</sup>

As aptly pointed out by the OCA, the termination of a preliminary investigation upon the filing of an information in court is a well-established procedural rule under the Rules of Criminal Procedure. Respondent clearly strayed from the well-trodden path when he grossly misapplied the ruling of the Court in *Sales*. Since a preliminary investigation in Criminal Case No. CBU-066703 was held, that stage of the legal process was already completed.

The New Code of Judicial Conduct for the Philippine Judiciary requires judges to be embodiments of judicial competence and diligence.<sup>[9]</sup> Those who accept this exalted position owe the public and this Court the ability to be proficient in the law