

## THIRD DIVISION

**[ A.M. NO. P-06-2218 (FORMERLY OCA IPI NO. 05-2082-P), August 15, 2006 ]**

**ALBERT S. DELA PEÑA, COMPLAINANT, VS. ILUMINADO R. HUELMA, INTERPRETER, MCTC, CANTILAN-CARRASCAL, SURIGAO DEL SUR, RESPONDENT.**

### R E S O L U T I O N

**TINGA, J.:**

In administrative cases, the complainant must prove the allegations propounded against the respondent with preponderance of evidence.<sup>[1]</sup> Otherwise, the complaint will not prosper as the respondent enjoys the presumption of regularity in the exercise of duties and the presumption of innocence.

Before us is an administrative complaint filed by complainant Albert S. Dela Peña (Dela Peña) against Iluminado R. Huelma (Huelma), Court Interpreter, 1<sup>st</sup> Municipal Circuit Trial Court (MCTC), Cantilan, Surigao del Sur for grave misconduct and acts prejudicial to the best interest of the service.

The facts are as follows:

A land dispute arose between complainant, as a member of the board of Carcanmadcarlan Agri-based Multi-purpose Cooperative (CAMPCO), on one hand, and respondent's family, on the other. Said dispute was the subject of at least two land cases before the Department of Agrarian Reform Adjudication Board (DARAB)<sup>[2]</sup> and the Bureau of Forestry and Agricultural Resources (BFAR).<sup>[3]</sup>

Dela Peña alleges that during his tenure as a member of the board of CAMPCO, Huelma had influenced and instigated the latter's relatives to claim certain portions of the fishpond covered by an existing fishpond lease agreement, acquired by CAMPCO from one Joel H. Tan, leading to the dispute adverted to. After this dispute became litigable, Dela Peña claims that Huelma, using the court's time and office resources, caused the preparation and filing of criminal cases against the officers and workers of CAMPCO.

One of the criminal cases filed was Criminal Case No. 2436 entitled "People of the Philippines v. Emmanuel A. Almeda and Albert Dela Peña," for the crime of malicious mischief, raffled to the MCTC branch where Huelma was assigned.

Dela Peña alleges that while Huelma was in the performance of his official duties, as officer-in-charge of the said court, he took advantage of his position by preparing the Order<sup>[4]</sup> dated 21 May 2004 for the issuance of the warrant of arrest and the corresponding warrant itself, denominated as Order of Arrest<sup>[5]</sup> of even date, and

thereafter misleading Presiding Judge Jesusa E. Garcia-Perez (Judge Perez) to sign the two orders despite the fact that the charge was covered by the Rule on Summary Procedure.<sup>[6]</sup>

After Judge Perez signed the warrant of arrest, Huelma allegedly delivered in person the warrant to the police, resulting in the apprehension of Dela Peña and his co-accused in public view. Dela Peña claims to have suffered humiliation as a result.

On 16 July 2004, when Dela Peña's case was called for preliminary investigation, Judge Perez was allegedly stunned to learn that she was misled by Huelma in signing the Order dated 21 May 2004 and the corresponding warrant of arrest. In the same hearing, Judge Perez issued three orders: (1) an order lifting the warrant of arrest,<sup>[7]</sup> (2) an order directing the branch clerk of court to exclusively hold the records of the case against Dela Peña,<sup>[8]</sup> and (3) an order directing the stenographic reporters to immediately transcribe the records of the proceedings of the criminal case.<sup>[9]</sup>

In his Comment,<sup>[10]</sup> Huelma denied having instigated his relatives to file criminal charges against Dela Peña and his co-accused. Huelma instead declared that it was CAMPCO and its officers who usurped, grabbed and illegally occupied the fishpond which his relatives were possessing. In fact, the Department of Agrarian Reform (DAR) declared the land occupied by CAMPCO as land reform areas under the Comprehensive Agrarian Reform Program of the government and awarded the disputed areas to Huelma and his relatives as farmer-beneficiaries.<sup>[11]</sup>

In its evaluation, report and recommendation<sup>[12]</sup> dated 16 August 2005, the Office of the Court Administrator (OCA) recommended that the instant complaint be referred to the executive judge of the Regional Trial Court (RTC) of Surigao del Sur for investigation, report and recommendation. The Court, in a Resolution dated 28 September 2005, referred the administrative case to Judge Ermelindo G. Andal (Judge Andal), Executive Judge of RTC, Tandag, Surigao del Sur.

The records disclose that on 25 November 2005, Judge Perez filed before the Court a Comment in compliance with the Court's Resolution dated 25 July 2005. In her Comment,<sup>[13]</sup> Judge Perez admitted and assumed full responsibility over the erroneous issuance of the Order dated 21 May 2004 and the corresponding warrant of arrest. She denied any insinuation that she was misled by Huelma into signing the same. She admitted that while the issuance was an honest mistake, it was nonetheless a serious inadvertence. She thus offered her deep and sincere apologies to Dela Peña and his co-accused, noting that she immediately issued an order quashing the warrant of arrest when the matter was brought to her attention.

After due investigation, Judge Andal submitted his findings and recommended its dismissal. He reasoned that:

A reading, however, of the transcript of the proceedings during the initial hearing of Criminal Case No. 2435 before the MCTC, Cantilan-Carrascal, Surigao del Sur, on July 16, 2004, shows that while respondent was categorical in denying having prepared the Order directing the issuance of the Warrant of Arrest (Exhibit "E"), he vacillated when repeatedly

questioned by the defense counsel, Atty. Gerardo Maglinte, whether he prepared the Warrant of Arrest (Exhibit "F"), ultimately admitting it but claiming that he did so upon order of the Acting Presiding Judge (Exhibits "J", "J-1" to "J-21"). Accordingly, the Undersigned is convinced that, indeed, respondent had a hand in the preparation of the Warrant of Arrest. The Undersigned, however, is not convinced that respondent, on his own, personally prepared the Order directing the issuance of the Warrant of Arrest, first, because the phraseology appears not of the standard form but most likely the language of the Acting Presiding Judge and, second, instead of following the recommendation of the Prosecutor for the amount of bail, P6,000.00, the Court fixed a much smaller amount, P2,000.00. If as claimed respondent was personally interested in the Case and wanted to prejudice the herein Complainant, he would have indicated in the Order (Exhibit "E") the much bigger amount of bail as recommended by the Prosecutor. Normally, fixing the amount of bail is personally determined by the presiding judge. This is apparent in Exhibit "E". Of course, her Honor, Judge Jesusa E. Garcial Perez, in Paragraph 2 of her letter, dated November 25, 2005, addressed to the Honorable Third Division of the Supreme Court, denied "any insinuation or suggestion that (she) was influenced or misled by anyone much less respondent Huelma into signing the Order and Warrant of Arrest of the Accused in Criminal Case No. 2435.x x x [14]

The findings and recommendation of Judge Andal are well-taken, as the instant administrative complaint is clearly devoid of merit.

Noteworthy is that fact that Judge Perez took full responsibility for the erroneous issuance of the order and warrant, acknowledging that they were both prepared and issued upon her directive and on her discretion. This was reflected in the transcript and stenographic notes dated 16 July 2004.

Prosecutor Cuartero: Your honor please, may I be allowed to ask this Hon. Court your honor in relation to this incident because it seems to me your honor it is the usual practice of this Presiding Judge to have the order of Warrant of Arrest prepared by her subordinate and the Judge to sign or it is the Hon. Court who orders the subordianate (sic) to prepare the order of Arrest before she sign the Warrant of Arrest?

Prosecutor Cuartero: My question your honor is this if it is the usual practice of this Presiding