

## FIRST DIVISION

[ A.M. No. MTJ-00-1321, March 10, 2004 ]

**VICTORY LINER, INC., REPRESENTED BY JOHNNY T. HERNANDEZ, PRESIDENT, COMPLAINANT, VS. JUDGE REYNALDO B. BELLOSILLO, RESPONDENT.**

### DECISION

**DAVIDE JR., CJ.:**

For our resolution is the verified complaint of Victory Liner, Inc. (VLI) against respondent Judge Reynaldo B. Bellosillo, then Presiding Judge of the Municipal Circuit Trial Court (MCTC) of Orani, Bataan, and Acting Presiding Judge of the MCTC of Dinalupihan-Hermosa, Bataan, for gross ignorance of the law, grave abuse of authority, oppression, and inaction on a pending motion.

The antecedent facts are as follows:

On 2 March 2000, while a Victory Liner bus bearing Plate No. CWF-935 was cruising along the National Highway of Dinalupihan, Bataan, it accidentally hit and fatally injured Marciana Bautista Morales. Marciana died the following day. VLI shouldered all the funeral and burial expenses of Marciana. Subsequently, on 6 March 2000, VLI and the heirs of the victim entered into an Agreement/Undertaking.<sup>[1]</sup> On 14 March 2000, after payment by VLI of the claims, Faustina M. Antonio, the authorized and designated representative of the heirs of the victim, executed a *Release of Claim*<sup>[2]</sup> and an *Affidavit of Desistance*<sup>[3]</sup> in favor of VLI and the driver Reino de la Cruz.

However, earlier or on 3 March 2000, two of Marciana's sons Rolando B. Soriano and Jimmy B. Morales, who were also signatories to the *Agreement/Undertaking*, executed a *Pinagsamang Salaysay*<sup>[4]</sup> against Reino de la Cruz. On the strength of that document, a criminal complaint was filed with the MCTC of Dinalupihan-Hermosa, Bataan, for reckless imprudence resulting in homicide,<sup>[5]</sup> which was docketed as Criminal Case No. 10512.

After preliminary examination, or on 13 March 2000, respondent Judge Bellosillo ordered the immediate issuance of a warrant of arrest against De la Cruz and fixed his bail at P50,000 to be posted in cash. He further directed the Chief of Police of Dinalupihan, Bataan, to immediately impound the bus involved in the accident, which could be released only upon the posting of a cash bond in the amount of P50,000.<sup>[6]</sup>

On 30 March 2000, VLI filed a Manifestation and Motion<sup>[7]</sup> manifesting that it was depositing to the court under protest a cash bond of P50,000 for the release of its bus. After making the deposit, VLI's counsel presented the receipt issued by the

Clerk of Court of MCTC, Dinalupihan, to the Chief of Police of Dinalupihan, Bataan, who then released the bus.

On 4 April 2000, VLI filed with respondent's court a petition<sup>[8]</sup> to declare null and void the order directing it to post bond for the release of its bus. This petition was, however, dismissed for improper venue and lack of jurisdiction.

On that same day also, respondent Judge Bellosillo issued an order directing the Chief of Police of Dinalupihan, Bataan, and his deputies and investigators to explain in writing why they should not be held in contempt of court for, and be administratively charged with, having released without a court order the Victory Liner bus involved in Criminal Case No. 10512. Thus, the bus was re-impounded by the police authorities of Dinalupihan, Bataan.

Subsequently, on 18 April 2000, respondent Judge acted on VLI's Manifestation and Motion dated 30 March 2000 and issued an order<sup>[9]</sup> for the release of the bus.

On 23 June 2000, VLI filed a verified complaint<sup>[10]</sup> with the Office of the Court Administrator (OCA) claiming that the respondent (a) is guilty of gross ignorance of the law in impounding its bus and requiring it to post a cash bond for the release of the bus; (b) gravely abused his authority when it revoked the surety bond of one of VLI's driver Edwin Serrano in Criminal Case No. 9373; (c) knowingly rendered an unjust and oppressive order when he increased the bond to P350,000 and required that it be posted in cash; (d) gravely abused his authority when he ordered the police authorities of Dinalupihan, Bataan, to file a case against Reino de la Cruz; and (e) is guilty of inaction or dereliction of duty in failing to resolve, despite the lapse of two months, VLI's petition for the nullification of the order requiring the posting of a cash bond for the release of the bus involved in the accident. Later, VLI filed with the Office of the Chief Justice a verified supplemental complaint against the respondent, which was forthwith indorsed to the OCA.

In his comment,<sup>[11]</sup> respondent Judge Bellosillo explains that in the exercise of his sound discretion and in the greater interest of justice and fair play, he required a cash bond of P50,000 for the release of the police-impounded vehicle to answer for damages by way of subsidiary liability in case of accused's insolvency. The requirement of a bond for the release of impounded vehicles involved in reckless imprudence cases is practiced not only by him but by other judges throughout the country.

As for his order for the re-impounding of the Victory Liner bus, respondent Judge claims that it was just under the circumstances considering that its prior release was illegal. The payment of cash bond for the release of the impounded vehicle was made by the VLI when respondent Judge was at his official station in the MCTC of Orani-Samal, Bataan. Thus, in his absence, no order could have been issued for the release of the impounded vehicle. If ever said vehicle had to be re-impounded, it was the fault of VLI's counsel, as he was the one who misled the police authorities into believing that with the payment of the bond, the bus could already be released.

The respondent justifies the substitution of the surety bond of accused Edwin Serrano in Criminal Case No. 9373 with a cash bond on the strength of the prayer of the prosecutor that the bond be posted in cash in view of the gravity of the offense.

The Rules of Court leave to the discretion of trial judges the question of whether a bail should be posted in the form of a corporate surety bond, property bond, cash deposit, or personal recognizance. Having found that Serrano's surety bond, which was not even attached to the information but merely noted on the third page thereof, was in a minimal amount and had expired already, he required a cash bond. He increased the bond after considering that Serrano was a fugitive from justice.

Respondent Judge Bellosillo denies that he ordered the police authorities of Dinalupihan to file the criminal case against Reino de la Cruz. He points to (a) the *Pinagsamang Salaysay* dated 3 March 2000 of Rolando B. Soriano and Jimmy B. Morales, which was the basis for the filing of the criminal complaint by the police investigator and; (b) the fact that said criminal complaint filed by the police investigator was duly approved by the Chief of Police. Thus, with these circumstances, it could not be said that he compelled the police authorities into filing the criminal case.

As to the charge of dereliction of duty for failure to act on the petition for the nullification of the order requiring a bond for the release of VLI's bus, respondent Judge avers that the same is baseless. Contrary to VLI's contention, he acted on that petition as early as 10 April 2000, which was the date set by VLI's counsel for the hearing of such petition.<sup>[12]</sup> VLI's counsel did not appear on that date and refused to accept or receive notices of hearing and court orders from court personnel.

In his Report and Recommendation, retired Justice Narciso T. Atienza, the OCA Consultant to whom this case was referred by the Court, submits that Judge Bellosillo's resignation, which was accepted by the Court En Banc effective 27 March 2002, does not render moot and academic the instant administrative complaint. He finds that the respondent Judge erred in ordering the impounding of the Victory Liner bus and in requiring a cash bond of P50,000 for its release; in fixing an excessive bail bond for Reino de la Cruz in Criminal Case No. 10512; and in increasing the bail bond of Edwin Serrano in Criminal Case No. 9373 unconscionably from P60,000 to P350,000. He then recommends that the respondent Judge be penalized with a fine of P20,000. But for lack of evidence, he exonerates respondent Judge from complainant's charge that he compelled the police authorities into filing the criminal case against De la Cruz. As to respondent's alleged inaction on VLI's petition to declare null and void the order requiring a bond for the release of the subject bus, Justice Atienza finds that the said petition was resolved on 10 April 2000, right on the day it was submitted for resolution. Likewise, he disregards the additional charges in the supplemental complaint, there being no showing that the respondent received a copy thereof.

Justice Atienza also notes that in A.M. No. 00-1293, promulgated on 5 July 2000, respondent Judge was reprimanded for issuing a policy action and an order beyond the scope of his authority; and in MTJ No. 00-1308, promulgated on 16 December 2002, respondent Judge was found guilty of undue delay in rendering a decision and was ordered to pay a fine of P11,000 to be taken from his retirement benefits. He further notes the pending administrative cases against respondent Judge: (1) *OCA IPI No. 96-232-MTJ* for conduct unbecoming a judge; (2) *OCA IPI No. 98-533-MTJ* for ignorance of the law, grave abuse of discretion, and gross misconduct; (3) *OCA IPI No. 96-203-MTJ* for issuing an unjust interlocutory order and gross ignorance of

the law; (4) *A.M. No. 99-1222* for violation of the constitutional rights to information and to speedy trial; and (5) undocketed cases for unprofessional and ill-mannered conduct, refusing to receive documents, and illegal possession of firearms.

Verily, the resignation of respondent Judge Bellosillo does not render moot and academic the instant administrative case. The jurisdiction that the Court had at the time of the filing of the administrative complaint is not lost by the mere fact that the respondent judge ceased to be in office during the pendency of this case. The Court retains its jurisdiction to pronounce the respondent official innocent or guilty of the charges against him. A contrary rule would be fraught with injustice and pregnant with dreadful and dangerous implications.<sup>[13]</sup>

We agree with Justice Atienza in exonerating the respondent from the charges of inaction on a pending motion and of compelling the police authorities to file a criminal case against De la Cruz. We, however, hesitate to hold the respondent administratively accountable for gross ignorance of the law in ordering (1) the impounding of the vehicle involved in the vehicular accident and (2) the posting of a P50,000 bond for the release of the vehicle, both of which were found by OCA Consultant Atienza to be erroneous.

Notably, in its Motion to Resolve, VLI submits that this case presents a good occasion for us to resolve, among other issues, "the legality of the imposition by trial judges on bus operators to post bail bond for their impounded vehicles in accident cases, in addition to the bail bond required for the provisional liberty of accused-drivers." According to VLI, our ruling on this matter would guide trial court judges nationwide in accident cases so that bus operators and their personnel would not be at the mercy of judges like the respondent in this case, who during his incumbency had been requiring vehicle owners involved in accidents to post cash bonds for the release of impounded vehicles.

In *Lacadin v. Mangino*,<sup>[14]</sup> the respondent Judge therein was sought to be administratively liable for extending the lifetime of a search warrant issued by him. We held that even if he may have committed an error of judgment or an abuse of discretion for such act, he cannot be punished administratively therefor in the absence of proof that he was motivated by ignominy or ill-will. Moreover, we ruled that the administrative case is not the right forum to determine whether the life of a search warrant may be extended by the court upon proper motion filed before the expiration of the 10-day period.

Worth noting also is the case of *Cañas v. Castigador*.<sup>[15]</sup> In that case, an Isuzu trailer truck involved in a vehicular mishap was ordered impounded in an Order of 11 September 1996 of the trial court where the criminal case against its driver was pending. That order was addressed to the Chief of Police of General Trias, Cavite, or any officer of the law. In an earlier order of 14 August 1996, the vehicle owner was required to surrender the truck to the court. Subsequently, on motion of the prosecutor, the trial court declared the vehicle owner guilty of indirect contempt for continued defiance of the 11 September 1996 Order. However, upon the vehicle owner's petition, we found respondent's order holding the petitioner therein guilty of indirect contempt to be highly improper for several reasons. But we did not pass upon the issue of the legality of the impounding of the vehicle involved in the vehicular accident. We did not declare the order for the impounding of the vehicle to