

## SECOND DIVISION

**[ A.M. No. MTJ-04-1543 (Formerly OCA-IPI-02-1259-MTJ), May 31, 2004 ]**

**ATTY. AUDIE C. ARNADO, COMPLAINANT, VS. JUDGE MARINO S. BUBAN, MTCC, BRANCH 1, TACLOBAN CITY, RESPONDENT.**

### D E C I S I O N

**TINGA, J,:**

*Ignorantia judicis est calamitas innocentis.*<sup>[1]</sup>

As judges are front-liners in the dispensation of justice, it is imperative they keep abreast with the changes and developments in law and jurisprudence. As judges are apostles of the law, their ignorance of the law is impermissible and inexcusable.

On June 5, 2002, the Office of the Court Administrator received the verified Complaint of Attorney Audie Arnado, accusing respondent Judge Marino S. Buban of gross ignorance of the law amounting to judicial incompetence, as well as manifest partiality and bias, prejudgment and grossly oppressive and abusive conduct in handling Criminal Cases Nos. 2000-02-13 and 2000-02-12, entitled "*People of the Philippines versus Atty. Audie Arnado.*"

The antecedents are as follows:

On February 3, 2000 and May 16, 2000, informations for two (2) counts of estafa involving the amounts of Eight Hundred Eighteen Thousand Five Hundred Ten and 20/00 (P818,510.20) Pesos and Fifty- Nine Thousand Nine Hundred Sixty-Eight (P59,968.00) Pesos, respectively, were filed against the complainant with the Municipal Trial Court, Branch I, of Tacloban City, presided by respondent judge.

On May 26, 2000, complainant, thru his original counsel, filed a motion to suspend proceedings in the criminal cases on the ground that a civil case pending before the Regional Trial Court in Region 7, seeking as it does the declaration of nullity of a contract, constitutes a prejudicial question. On August 4, 2000, respondent judge issued an order denying the motion. In the same order, he directed the bonding company, in view of the complainant's failure to appear in court for three (3) times, to show cause why the bail bond should not be cancelled and a warrant for his arrest should not be issued. He also scheduled the arraignment of the complainant in the same order.

On March 11, 2002, complainant, thru his new counsel, filed a motion seeking to quash the informations and recall the warrant of arrest on the ground of lack of jurisdiction. He averred that while the MTC has original jurisdiction over offenses punishable with imprisonment not exceeding six (6) years, in the criminal cases before the respondent judge the imposable penalties both exceed six (6) years in

view of the amounts involved.

On March 18, 2002, complainant reiterated his move by filing a motion to recall the warrant of arrest. On April 5, 2002, respondent judge denied the motion to quash and recall arrest warrant on the ground that the complainant had lost standing for having jumped bail.

After receiving the order of the respondent judge canceling his bond and ordering the issuance of a warrant for his arrest, complainant filed the present Complaint.

On June 26, 2002, the Office of the Court Administrator, required respondent to comment on the Complaint.

In his *Comment*, dated September 5, 2002, respondent seeks to absolve himself based on the following averments, viz.: (a) as the informations were filed by the City Prosecutor's Office of Tacloban City and they were raffled and assigned only to his sala, he has no (personal) interest "in insisting or assuming jurisdiction" over the cases; (b) the issue of jurisdiction was never raised by complainant until he filed the motion dated March 11, 2002; (c) the grounds invoked by the complainant are matters of defense and are not therefore proper grounds for a motion to quash; and, (d) complainant submitted himself to the jurisdiction of the court by posting bail. Respondent judge further alleges that the motions which complainant filed are sham as he had no standing in court.

On November 28, 2002, complainant filed his rejoinder.

Finding that respondent judge erred in assuming jurisdiction over the criminal cases and in thereafter issuing a warrant for the arrest of the complainant lawyer, Court Administrator Presbitero J. Velasco, Jr. recommended that he be fined Five Thousand (P5,000.00) Pesos for gross ignorance of the law in his report to the Court.<sup>[2]</sup>

We agree with the evaluation of the Court Administrator.

The power and authority of a court to hear, try and decide a case is defined as jurisdiction.<sup>[3]</sup> Elementary is the distinction between jurisdiction over the subject-matter and jurisdiction over the person. Clearly, respondent judge is not cognizant of the difference as he blatantly confused one with the other.

Jurisdiction over the subject-matter is conferred by the Constitution or by law.<sup>[4]</sup> It is so essential that erroneous assumption of such jurisdiction carries with it the nullity of the entire proceedings in the case. At the first instance or even on appeal, and although the parties do not raise the issue of jurisdiction, courts are not precluded from ruling that they have no jurisdiction over the subject-matter if such indeed is the situation.<sup>[5]</sup>

In contrast, jurisdiction over the person is acquired by the court by virtue of the party's or accused's voluntary submission to the authority of the court or through the exercise of its coercive processes.<sup>[6]</sup> To prevent the loss or waiver of this defense, the accused must raise the lack of jurisdiction seasonably by motion for the purpose of objecting to the jurisdiction of the court; otherwise, he shall be deemed to have submitted himself or his person to that jurisdiction.<sup>[7]</sup> In other words,