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SECOND DIVISION

[A.M. No. RTJ-03-1813, November 21, 2003]

ATTY. ANTONIO D. SELUDO, COMPLAINANT, VS. JUDGE ANTONIO J. FINEZA, RESPONDENT.

D E C I S I O N

PUNO, J.:

The incident which gave rise to this administrative case occurred in the course of the proceedings of People of the Philippines vs. Alfonso De Villar, Errol De Villar and Rodeo Lerio, Criminal Case No. C-58093 for attempted murder, before respondent Judge Antonio J. Fineza, Branch 131 of the Regional Trial Court of Caloocan City.

The respondent judge was charged administratively by Atty. Antonio D. Seludo, counsel for the accused, before the Office of the Court Administrator of the Supreme Court, with the following offenses: (1) gross ignorance of the law, (2) oppression in office, (3) grave abuse of authority, and (4) conduct unbecoming of a judge.[1]

It was alleged that on November 27, 2002, respondent judge ordered the arrest of complainant "for the failure of accused, Errol De Villar and Rodeo Lerio, as well as their counsel, Atty. Antonio Seludo, to appear in today's promulgation of (the) decision despite due notice, x x x."[2] The Order of Arrest[3] commanded any officer of the law to arrest complainant and to keep him in jail until the decision in Criminal Case No. 58093 shall have been promulgated.

Complainant averred that he was the defense counsel in two separate Criminal Cases: (1) Nos. 178462-64 before Judge Edwin B. Ramizo and (2) No. C-58093 before respondent judge. On November 11, 2002, complainant received an order from respondent setting the promulgation of the decision in Criminal Case No. 58093 on November 18. The promulgation did not push through as respondent judge was confined in a hospital. On November 25, complainant received another order setting the promulgation at 8:30 a.m. of November 27. However, upon checking his calendar, complainant noticed that on the said date and time, he had a previously-set hearing of Criminal Case Nos. 178462-64 before Judge Ramizo. Due to the conflicting schedule, he instructed his secretary to inform the office of respondent judge that he could not attend the promulgation of his decision. He was thus surprised to receive on November 28, the aforementioned order directing his arrest and detention.

Upon his arrest, complainant requested permission to go to the court of respondent judge to ask for reconsideration. In court, respondent judge refused to see him. Complainant waited and was able to talk to respondent judge when the latter went out of his chambers and walked to his car. Complainant pleaded with respondent judge, who opened the windows of his car and, in the presence of the police officers, said, "*kung gusto mo, pumunta ka sa harap ng kotse ko at sasagasaan na lang*

kita."[4]

Complainant spent the night in jail. The next day, he was brought to court for the promulgation of the decision. However, Prosecutor Eulogio Mananquil, Jr., the public prosecutor, came late and was improperly dressed. Respondent judge flared up, fined him and held the promulgation in abeyance until Prosecutor Mananquil paid the cashier the one thousand peso (P1,000.00)-fine meted on him. Atty. Eduardo Rodriguez, the lawyer assisting complainant, requested for a written order to be presented to the cashier as basis for the payment of the imposed fine, but respondent merely told him, "If you want an order, I will sign that order on Monday." [5] Fortunately, Prosecutor Mananquil was able to pay the fine. The decision was promulgated on the same afternoon and complainant was released from jail.

Complainant claimed that he attended all scheduled hearings of Criminal Case No. 58093 before respondent judge, and that it was only the promulgation set on November 27 that he missed due to a conflict in schedule. He alleged that due to his incarceration, he failed to attend to the hearing of his cases involving six paying clients set in the morning of November 29.

In his comment, respondent judge denied the allegations of the complaint. He called the complainant a "fact fabricator," a "congenital liar," and an "Indian," meaning, he failed to comply with his commitment.[6] He averred that he ordered the incarceration of complainant to avoid delay in the promulgation of the decision in Criminal Case No. 58093. Allegedly, complainant failed to attend the first scheduled date of promulgation. He emphasized his fast disposal of cases such that for the years 1993, 1994, 1997, 1999, 2000 and 2002, his inventory of pending cases showed a zero balance. He likewise denied the car incident and alleged that he merely asked complainant, "*umalis ka diyan at baka masagasaan iyong paa*,"[7] since complainant was leaning on the left side of his car.

Complainant replied stating that his secretary called respondent's office on November 18, and was told that all hearings scheduled for the day were cancelled due to respondent's hospitalization. He denied he was delaying the case.

The report of the Office of the Court Administrator is adverse to the respondent judge, *viz*:

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> The arrest of the complainant was, therefore, not only illegal, but also oppressive, and it violated his constitutional right to due process. Complainant was arrested and detained without giving him the opportunity to be heard. In so doing, respondent judge, wittingly or unwittingly, committed arbitrary detention defined and penalized under Article 124 of the Revised Penal Code when the order of arrest was issued for complainant (who) was not committing a crime
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> In his COMMENT, respondent judge used the words: fact fabricator, congenital liar, Indian who fails to comply with his commitment and dim-

witted lawyer, as descriptive of the complainant. These words are inflammatory which should have been avoided. In explaining why he issued the order of arrest against the complainant, the use of intemperate and insulting rhetorics is not necessary, if only to maintain the dignity of, and respect for, the court as an institution.[8]

The OCA recommended that respondent judge "be penalized to pay a FINE in the amount of twenty thousand pesos (P20,000.00) for gross ignorance of the law, oppression, grave abuse of authority and violation of Rule 8.01,[9] Canon 8 and Rule 10.03,[10] Canon 10 of the Code of Professional Responsibility."[11]

We agree with modification.

In the case at bar, respondent based his authority in ordering complainant's incarceration on Section 14, Rule 119 of the Revised Rules of Court, which provides:

> **Sec. 14.** *Bail to secure appearance of material witness.* - When the court is satisfied, upon proof or oath, that a material witness will not testify when required, it may, upon motion of either party, order the witness to post bail in such sum as may be deemed proper. Upon refusal to post bail, the court shall commit him to prison until he complies or is legally discharged after his testimony has been taken.

It does not need a keen intellect to hold that the rule relied upon by the respondent cannot be used as basis for the detention of complainant since he is a counsel and not a material witness to a case.

Section 6, Rule 120 of the Rules of Court is likewise of no help to the respondent. It does not require the presence of the counsel during the promulgation of a judgment, *viz*:

> **SEC. 6.** *Promulgation of judgment* - The judgment is promulgated by reading it in the presence of the accused and any judge of the court in which it was rendered. However, if the conviction is for a light offense, the judgment may be pronounced in the presence of his counsel or representative. When the judge is absent or is outside the province or city, the judgment may be promulgated by the clerk of court.
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> If the accused is confined or detained in another province or city, the judgment may be promulgated by the executive judge of the Regional Trial Court having jurisdiction over the place of confinement or detention upon the request of the court which rendered the judgment. The court promulgating the judgment shall have authority to accept the notice of appeal and to prove the bail bond pending appeal; provided, that if the decision of the trial court convicting the accused changed the nature of the offense from non-bailable to bailable, the application for bail can only be filed and resolved by the appellate court.
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> The proper clerk of court shall give notice to the accused personally or through his bondsman or warden and counsel, requiring him to be present at the promulgation of the decision. If the accused was tried *in absentia* because he jumped bail or escaped from prison, the notice to