

FIRST DIVISION

[A.M. No. MTJ-01-1367, September 05, 2002]

**FREDESMINDA DAYAWON, COMPLAINANT, VS. JUDGE ZEIDA
AURORA B. GARFIN, MTCC, BRANCH 2, IRIGA CITY,
RESPONDENT.**

R E S O L U T I O N

YNARES-SANTIAGO, J.:

In a verified letter-complaint dated June 25, 1999, complainant Fredesminda Dayawon charged Judge Zeida Aurora B. Garfin of the Municipal Trial Court (MTC) of Iriga City, Branch II, with ignorance of the law and serious misconduct relative to Criminal Case Nos. 20420, 20424, 20426 and 20428, all entitled "*People of the Philippines v. Fredesminda Dayawon.*" Judge Garfin allegedly convicted complainant, who was the accused in said cases for violation of Batas Pambansa Blg. 22, without conducting a trial on the merits. As a result, complainant was deprived of her day in court and was found guilty of the crime charged without due process of law.

Complainant averred that after arraignment and in the course of proceedings in the criminal cases, her counsel filed a motion to dismiss^[1] (or a motion to quash) the informations on the ground that the amount of the four bouncing checks she issued have already been paid. Furthermore, no demands for payment have been made upon complainant and she was not given any notice of dishonor. The motion to dismiss was opposed by the prosecution on October 21, 1996.^[2]

On December 2, 1996, Judge Garfin issued an order setting the hearing on complainant's motion to dismiss on January 21, 1997. In the same order, complainant was also directed to present evidence of the alleged payment on the date set by the trial court.^[3]

Pursuant to the trial court's directive, complainant presented evidence in support of her motion to dismiss. Thereafter, the prosecution presented evidence in support of its opposition. On August 24, 1998, the motion was submitted for resolution.^[4]

On March 19, 1999, Judge Garfin rendered a joint judgment in the criminal cases, the dispositive portion of which reads:

In view of the foregoing, the Motion to Dismiss is hereby denied and accused is hereby found guilty beyond reasonable doubt of the offense charged in the four (4) informations and conformably with the penal provision of Batas Pambansa Bilang 22 is hereby sentenced to suffer the straight penalty of six (6) months imprisonment for each case and to indemnify the private complaining witness in the amount of P46, 664.60, her outstanding balance as of 26 August 1997.

SO ORDERED.^[5]

Apparently, Judge Garfin simultaneously resolved complainant's motion to dismiss and the criminal cases **on the merits** without setting the cases for trial.

Petitioner appealed the judgment to the Regional Trial Court (RTC) of Iriga City, Branch 34, citing as one of her grounds the fact that no trial was conducted by the MTC. At the same time, petitioner filed the present administrative case against Judge Garfin with the Office of the Court Administrator (OCA).

Pursuant to a directive,^[6] from then Court Administrator Alfredo L. Benipayo, Judge Garfin filed her comment,^[7] wherein she explained that during pre-trial of the criminal cases, complainant admitted having issued the bouncing checks and signified her desire to enter into a compromise agreement. However, upon the instance of her new counsel, she instead filed a motion to dismiss and, claimed that the full obligation had already been paid. Hence, Judge Garfin set the motion to dismiss for hearing, after which the prosecution and defense filed their respective memoranda.

In view of complainant's admission and the presentation of evidence for both parties at the hearing of the motion to dismiss, Judge Garfin maintained that the proceedings were converted into a full-dress hearing on the merits with the consent of both parties, who actively participated therein. Judge Garfin wrote:

Had I merely denied the Motion to Dismiss, instead of rendering a judgment, I would have set the case for trial on the merits where the prosecution and thereafter the defense will have to present anew the same respective evidence that they have already presented. This roundabout way of disposing cases is productive of considerable and unreasonable delays and is contrary to the provision of Section 3, Rule 1 of the Rules of Court x x x.^[8]

Judge Garfin further emphasized that with the admission made by complainant that she issued the bad checks, the burden of proving that she did not violate Batas Pambansa Blg. 22 shifted to her. Since there is no specific provision in the Rules of Court governing such a remedial situation, she applied Section 6, Rule 135, to wit:

Section 6. *Means to carry jurisdiction into effect.* – When by law jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer; and if the procedure to be followed in the exercise of such jurisdiction is not specifically pointed out by law or by these rules, any suitable process or mode of proceeding may be adopted which appears conformable to the spirit of said law or rules."

On October 7, 1999, complainant filed her reply,^[9] denying that she consented to the conversion of the hearing on the motion to dismiss into a trial on the merits of the criminal cases. According to complainant, there was no order to this effect. Judge Garfin merely adopted her own rules of procedure to the prejudice of complainant's constitutional right to due process. Had she known that the proceedings were already on the merits, complainant stated she would have endeavored to present other evidence in her defense.

By way of a rejoinder,^[10] respondent judge reiterated that there was nothing irregular in the procedure she adopted. She submitted that, in the remote event

that she indeed committed a procedural error, this did not warrant disciplinary action because the same was done without malice and in good faith. Besides, if there was any truth at all to complainant's assertion that there were other evidence for her exculpation, she should have filed a motion for reconsideration of the judgment and not simply appealed the same to the RTC where additional evidence may no longer be presented.

Complainant filed another letter^[11] on October 27, 1999, wherein she reiterated that the evidence presented in the criminal cases pertained only to the motion to dismiss. She argued that a motion for reconsideration would not have been a proper remedy against the judgment of conviction.

Subsequently, on May 9, 2000, the RTC rendered a decision, as follows:

WHEREFORE, the Judgment convicting the accused beyond reasonable doubt of the crimes charged in the four (4) informations is hereby vacated and set aside and the records of this case are ordered remanded to the Court of origin for further proceedings on the merits of each of the four cases.

SO ORDERED.^[12]

After the parties manifested their willingness to submit this case on the basis of the pleadings filed, the OCA submitted a report recommending that Judge Garfin be found guilty of gross ignorance of the law and grave misconduct. The OCA likewise recommended that Judge Garfin be ordered to pay a fine of P5,000.00 and warned sternly that a repetition of the same or similar act shall be dealt with more severely. According to the OCA:

It is clear from the foregoing that the accused was indeed denied of her right to due process. All throughout the aforesaid proceedings, the accused was made to believe that what was being litigated was her motion to dismiss. Indeed, she has reason to think so because all the orders of respondent, i.e. the November 15, 1996 order, the December 2, 1996 order and the August 24, 1998 order, pertain to the pending motion to dismiss. In fact, the latter order explicitly declares that the "MOTION TO DISMISS filed by the accused through counsel Atty. Vicente A. Estela is hereby submitted for resolution." Hence, when respondent, instead of confining her March 19 order to the resolution of the motion to dismiss, convicted the accused of the crime charged, she violated the accused's right to be heard on x x x the merits of the case, which is distinct from her right to be heard on her motion to dismiss.

The OCA's recommendation is well-taken.

Any judge should know that before an accused can be convicted of a crime charged, it is essential that he be given the chance to refute the allegations against him in a proper trial on the merits and not simply in a hearing on an incident of the case such as a motion to quash. The Rules of Court prescribe the procedure to be followed in criminal cases and respondent judge was not at liberty to disregard the rules on the flimsy excuse that the peculiarity of the criminal cases required the application of any suitable proceeding in accordance with Section 6 of Rule 135.