

## THIRD DIVISION

**[ A.M. No. RTJ-99-1512, May 09, 2000 ]**

**POLICE CHIEF INSPECTOR NESTOR B. BELGA, COMPLAINANT,  
VS. JUDGE MAMERTO M. BUBAN, RESPONDENT.**

### DECISION

**GONZAGA-REYES, J.:**

Nestor B. Belga, then Chief of Police of Tabaco, Albay, filed an Information for Illegal Possession of Firearms against one Noel Bodota de Rama which was docketed as Criminal Case No. T-2497 and raffled to respondent Judge Mamerto M. Buban of the Regional Trial Court of Tabaco, Albay, Branch 18. Upon arraignment, accused pleaded not guilty.

The findings of fact by the trial court may be summarized as follows: On August 18, 1993, accused Noel Bodota de Rama was driving at a fast speed so that he almost sideswiped one of the policemen standing at the side of the road. The policemen, using the police car, chased the accused until they finally caught him at the intersection of the road. One of the policemen went near the accused and got his gun. A scuffle ensued for about 5 minutes. Finally, accused gave his gun, a .38 caliber, to the police. He was invited to the police station and was found to be positive for alcohol. He was likewise requested to produce any document to prove his authority to carry firearm. He presented a Mission Order No. 020, series of 1993 from the NBI which stated "Proceed to National Capital Region or Bicol." He had no permit to carry a firearm.

On October 29, 1995, respondent Judge Buban rendered a decision acquitting the accused for failure of the prosecution to prove his guilt beyond reasonable doubt.

The present administrative case, originally docketed as A.M. OCA IPI NO. 97-355-RTJ, was filed by complainant Nestor Belga charging respondent Judge Mamerto M. Buban of gross ignorance of the law and violation of Section 3 (e) of Republic Act No. 3019 (anti-Graft and Corrupt Practices Act) in rendering the judgment of acquittal.

Complainant avers that in acquitting the accused, respondent judge "caused undue injury to the government and gave the accused Noel Bodota de Ramas an unwarranted benefit(s), advantage or preference in the discharge of his judicial functions through manifest partiality and gross inexcusable negligence". He makes reference to the reasoning of respondent judge in acquitting the accused; the pertinent portion of the decision is quoted hereunder, to wit:

"Section 1, subparagraph 5 of P.D. 1866, states that the penalty of *prision mayor* shall be imposed upon any person who shall carry any licensed firearm outside his residence without legal authority therefor. It is, therefore, necessary to prove the existence of any authority to carry a firearm. The accused was caught carrying a firearm inside his jeep

because of his manner of driving. Had the accused been careful in his driving, his carrying of the gun could not have been enforced. The fact is, he had a gun in his jeep, a violation of the said section of P.D. 1866. His carrying of the gun is because of a mission order No. 020 S'93 duly issued to him by the National Bureau of Investigation (NBI), Legazpi City. Although, a certain Atty. Mamaril of the NBI, Manila testified that no such agent by the name of Noel de Ramas was ever registered in their office in Manila, however, Atty. Carillo of the NBI, Legazpi City testified that the Chief of office in any sub-office or regional offices, the Director himself, or the agent in charge are authorized to sign a mission order.

The Court is, therefore, mindful of the mission order issued. The accused could not produce such mission order by himself. The carrying of the gun was because of that mission order."

In his Comment, respondent Judge Buban alleges that no law was ignored in rendering the judgment of acquittal. He claims that the charge of "gross ignorance of the law" stemmed from the finding in the decision "that the accused had a mission order"; that while it is true that Atty. Rogelio Mamaril, head of the office of the NBI, Legazpi Agency, testified that the NBI Regional Director has no authority to issue a Mission Order to a civilian since that authority is vested only on the NBI National Director, respondent stated that he had to consider the testimony of Atty. Carlos Carillo, NBI Supervising Agent of Legazpi Agency to the effect that the Chief of Office in any sub-office or regional officer is authorized to sign a mission order; and that there being conflicting claims of two (2) lawyers from the NBI, the doubt had to be resolved in favor of the accused.

In compliance with the Court's Resolution dated November 15, 1999, the parties herein manifested that they are submitting the case for decision/resolution on the basis of the pleadings/records already filed and submitted.

The Court Administrator submitted his recommendation finding respondent judge guilty of ignorance of the law and negligence in the performance of his duties in rendering an "erroneous" decision in Criminal Case No. T-2497. The Court Administrator found that, while there may be no corruption involved in rendering the judgment of acquittal, the respondent judge was negligent in his study of the facts of the case and of the law and that upon a careful reading of the decision of respondent judge, no law or jurisprudence has been applied in arriving at the judge's conclusion. He is of the opinion that the respondent judge did not exert his utmost effort to study the law and jurisprudence on the matter as he merely relied on the existence of the mission order in acquitting the accused in the criminal case. The Court Administrator recommends that respondent judge be meted the penalty of fine in the amount of P10,000.00 with warning that a repetition of the same offense will be dealt with more severely.

At the outset, it should be emphasized that this Court, acting as an administrative tribunal, cannot review the trial court's decision. The main concern of this Court in the present administrative proceedings is to determine whether the respondent judge, in rendering the judgment of acquittal, was guilty of gross ignorance of the law.

From the facts, there is no question that accused Noel Bodota de Ramas is a civilian; his name does not appear in the records as an agent of the NBI. The