

SECOND DIVISION

[A.M. No. MTJ-00-1275, June 08, 2000]

CARLITO C. AGUILAR, COMPLAINANT, VS. JUDGE VICTOR A. DALANAO, RESPONDENT.

D E C I S I O N

MENDOZA, J.:

This is a complaint against respondent Judge Victor A. Dalanao of the Municipal Circuit Trial Court in Luna, Kalinga for abuse of authority committed while he was acting judge of the Municipal Trial Court in Tabuk, Kalinga. In his complaint^[1] dated October 14, 1998, complainant Carlito Aguilar alleges the following:

1. Abuse of authority arising from bias, partiality and personal interest:

Facts:

While Criminal Case No. 3385, for the offense of Malicious Mischief, (concocted criminal acts) was pending for a few months, the respondent Judge Victor A. Dalanao, suddenly issued a Warrant of Arrest against herein complainant and served by PNP personnel on a Friday March 7, at 4:30 P.M.

The arresting officers hauled undersigned to the Office of the respondent Judge Victor A. Dalanao but he was allegedly gone. It must be stated that the distance of complainant's house where he was arrested was six (6) kilometers more or less. So, undersigned requested the Police Officers to accompany him to the residence or any place where the Judge could be located. The wife of complainant followed to bring the cash amount she borrowed to post for any bond. Luckily we found the respondent Judge and undersigned was released.

As a well informed citizen, undersigned complainant knows very well that the Judge should not issue warrants of arrest at weekends most especially in a light case but I was informed from the talk of the police that the purpose to arrest undersigned was to have me detained during the week end.

The above acts of the respondent Judge made me conclude that he abused his power and discretion because he is one among the hoodlums in robes as President Estrada calls.

2. Abusive acts of a Judge in taking over a case that was already dismissed case by another Judge and revived it.

Facts:

This refers to Case No. 483 for Forcible Entry, which was filed by Editha Apita, et al. over the same parcel of land against the complainant for the case filed before the Regional Trial Court docketed as Civil Case No. 405 for Recovery of Possession and Annulment of Spurious Documents.

1) The case was dismissed already by Judge Martha J. Dugayon. Her Decision or Order was not reversed by her. All of a sudden respondent Judge Victor A. Dalanao took over and rendered a Decision among others as follows:

a. Stating in the Decision that Civil Case No. 405 was already dismissed. This statement is grossly false. As a matter of fact the Decision as promulgated is a falsification.

b. While the case is only a Forcible Entry, the respondent Judge decided issues within the jurisdiction of Civil Case No. 405 which is pending up to the present.

c. Actually Judge Dalanao made a resolution that are still pending to be resolved by Judge Milnar Lammawin of the Regional Trial Court.

d. The above acts are clearly to help the defendants in Civil Case No. 405 to make it appear as already resolved.

e. All the above acts appear to have been done for some material interest to help the parties who are defendants in the Regional Trial Court.

2) When the respondent Judge verbally ordered complainant's counsel to prepare his position paper on Civil Case No. 483 for Forcible Entry, he acted with grave abuse of discretion.

Facts:

On July 13, 1998 after the respondent Judge conducted his preliminary investigation on PP vs. Josephine Doctor for Falsification Case No. 3453, he verbally ordered complainant's counsel to prepare his position paper and same was complied but when complainant went to submit said position paper complainant was informed that the case was already decided and was given a copy of the Decision which was made ahead on July 10, 1998.^[2]

Respondent filed a comment dated March 25, 1999.

1. He alleged that when Criminal Case No. 3385 was transferred to him from Judge Martha Dugayon, he found "no explicit order of the Court then placing this case under the coverage of the Revised Rules on Summary Procedure, and considering the previous action of the Court, [he] was made to believe that the case will be heard under the ordinary procedures, . . . and in order to acquire jurisdiction of the person of the accused, [he] directed the issuance of the warrant of arrest."^[3]

2. Anent the charge of reviving a case which was already dismissed by his predecessor, respondent claims that the order of dismissal, dated November 28, 1996, in Civil Case No. 483 had not become final in view of the filing of a motion for reconsideration by plaintiff therein. In fact, complainant, as defendant in that case, filed an opposition to the motion and there was no objection to the motion for reconsideration on the ground that it was not allowed. Hence, complainant should be considered to have waived his objection based on this ground.^[4]

3. Respondent admits that he decided Civil Case No. 483 without waiting for the position paper of defendant therein (complainant in this case). He claims, however, that he rendered his decision after a considerable period within which complainant could have filed his position paper.^[5]

The Office of the Court Administrator to which this case was referred, while finding the charge of abuse of authority to be without merit, nonetheless finds respondent guilty of gross ignorance of the law. For this reason, it recommends:

1. that the instant administrative complaint be RE-DOCKETED as an administrative matter;
2. that respondent Judge Victor A. Dalanao, Acting Judge, MCTC, Luna Kalinga be FINED the sum of One Thousand Pesos for being ignorant of the basic laws and principles. He is further WARNED that a repetition of the same or similar acts in the future will be dealt with more severely.
3. that the other charges be DISMISSED for lack of merit and for being judicial.

Except for the amount of penalty, we find this recommendation to be well taken.

Respondent's claim that Criminal Case No. 3385 was not subject to the 1991 Rule on Summary Procedure because he found no order in the records of the case declaring it covered by the Rule is plainly untenable. The case is for Malicious Mischief under Arts. 327 and 329 of the Revised Penal Code, for which the penalty is *arresto mayor* in its medium and maximum periods, or 2 months and 1 day to 6 months, since the amount of the damage alleged was P2,000.00. The 1991 Revised Rule on Summary Procedure covers "criminal cases where the penalty prescribed by law for the offense charged is imprisonment not exceeding six months or a fine not exceeding one thousand pesos (P1,000.00), or both, irrespective of other imposable penalties, accessory or otherwise, or of the civil liability arising therefrom."^[6] Although the Rule does not apply "to a criminal case where the offense charged is necessarily related to another criminal case subject to the ordinary procedure,"^[7] there is nothing to show in this case that there was a related criminal case subject to the ordinary rules of criminal procedure. Consequently, Criminal Case No. 3385 was covered by the Rule on Summary Procedure. The absence of an order declaring the case subject to the Rule was immaterial. Section 2 of the Rule provides:

Determination of applicability. - Upon the filing of a civil or criminal action, the court shall issue an order declaring whether or not the case shall be governed by this Rule.