

THIRD DIVISION

[A.M. No. MTJ-99-1234 (Formerly OCA IPI NO. 97-349-MTJ), October 16, 2000]

ATTY. JESUS G. CHAVEZ, COMPLAINANT, VS. JUDGE PANCRACIO N. ESCAÑAN, RESPONDENT.

D E C I S I O N

PURISIMA, J.:

In a sworn-letter complaint, dated April 8, 1997, complainant Jesus G. Chavez, who is one of the lawyers of the Public Attorney's Office in Butuan City, charged respondent Pancracio N. Escañan, Municipal Trial Court Judge of Buenavista, Agusan del Norte, with Gross Ignorance of the Law allegedly committed as follows:

1. In Criminal Case No. 3128, entitled "People vs. Dexon Umpad" for Homicide resulting to Reckless Imprudence, respondent Judge allegedly issued several Orders (dated August 12, 1996 and August 19, 1996) to implead the owner of the vehicle as an accused in the aforesaid criminal case;
2. In Criminal Case No. 7074, entitled "People vs. Ramil Alcover, et. al." for Frustrated Homicide, respondent Judge issued a warrant of arrest for Ramil Alcover based on the lone hearsay testimony of the victim's wife during the preliminary examination; and
3. In Civil Case No. 557 entitled "Umbelina dela Serna vs. Mr. & Mrs. Josito Mahubay" for Recovery of Possession, etc., respondent Judge denied in open court the motion to dismiss filed by complainant on the very day the Opposition was received despite complainant's Request for Time to File a Reply.

Further, on the scheduled pre-trial on March 31, 1997, the defendant was declared as in default because he and his counsel (herein complainant) arrived almost one (1) hour late. Complainant's Motion for Reconsideration filed immediately thereafter was denied by respondent judge on the very same day. While on an earlier date, respondent refused to declare plaintiff non-suited when his counsel failed to appear.

In his Comment dated August 20, 1997, respondent Judge denied the accusation, explaining thus:

1. In Criminal Case No. 3128, entitled "People vs. Dexon Umpad" for Homicide resulting to Reckless Imprudence, it was the provincial prosecutor who manifested in open court that he will file an Amended Complaint. It was because of this manifestation that the court issued the Omnibus Order dated August 19, 1996.

2. In Criminal Case No. 7074, entitled "People vs. Ramil Alcover, et. al." for Frustrated Homicide, the records will show that the case had already been forwarded to the Provincial Prosecutor's Office. Complainant was probably not aware that "probable cause may be decided in the light of the conditions obtaining in given situations and its existence depends to a large degree upon the finding or opinion of the Judge conducting the examination - Ortiz vs. Palaypayon, 234 SCRA 391." Moreover, he recalls that the victim was hovering between life and death at that time and he believed that there is necessity of placing the accused under immediate custody in order not to frustrate the ends of justice.

3. In Civil Case No. 557, entitled "Umbelina dela Serna vs. Mr. & Mrs. Josito Mahubay" for Recovery of Possession, etc., it was actually complainant himself as counsel for the defendant, who caused the delay due to his numerous postponements. Respondent Judge admits that he denied complainant's motion to dismiss and required him to answer the complaint instead. On March 31, 1997, defendant was declared in default for his and his counsel's (herein complainant) failure to appear in court despite notice. Complainant's motion for reconsideration, filed on the same day, was denied for lack of merit. The order of default was, however, subsequently lifted on April 22, 1997 after the defendant and the counsel for the plaintiff appeared before the court asking for its lifting.

As regards complainant's request for investigation on respondent Judge's legitimacy as a lawyer, the latter pointed out that he was recommended to the Judicial and Bar Council by the IBP Manila II Chapter which paved the way for his appointment.

In Reply, complainant admitted that respondent Judge unilaterally recalled the order of default in Civil Case No. 557, entitled "*Umbelina dela Serna vs. Mahubay*", but ordered the inclusion of the owner of the vehicle as an accused in Criminal Case No. 3180, entitled "*People of the Philippines vs. Nilo Bermudez, et. al.*" for Homicide, Multiple Injuries and Damage to Property through Reckless Imprudence despite the ruling in the case cited^[1] by respondent Judge himself, that the liability of the owner of the vehicle is purely civil in nature.

In compliance with the Court's Resolution, dated September 22, 1999, requiring respondent Judge to manifest whether he is submitting the case for decision, the latter sent a letter dated October 29, 1999, informing the Court that complainant is notorious in their area for indiscriminately filing cases and for threatening judges whenever a ruling appears not acceptable to him. According to respondent Judge his actuations were not motivated by fraud, dishonesty or corruption.

On October 12, 1999, complainant submitted a Supplemental Comment, also accusing respondent Judge as follows:

1. In Criminal Case No. 3342, entitled "People of the Philippines vs. Restituto Mapute, Jr., et al.", for Illegal Possession of Firearm and Ammunition, respondent Judge falsified the Order dated September 29, 1999, making it appear that the case was reset upon request of the

public prosecutor when in truth and in fact, respondent Judge failed to attend the hearing as he was in Nasipit attending the town fiesta;

2. In Civil Case No. 572, entitled "Candida Vda. de Sarsada vs. Concepcion Vda. de Malignat", for Unlawful Detainer, respondent Judge dismissed the complaint for mere failure of plaintiff to move for setting of pre-trial under Section 1, Rule 18 of the Rules of Court;

3. In Criminal Case No. 3330, entitled "People of the Philippines vs. Segundo Espina", for Illegal Possession of Firearm and Ammunition, respondent Judge issued an Order instead of Decision or Judgment and reduced the penalty one (1) degree even if there was only one (1) mitigating circumstance of plea of guilty;

4. In "People of the Philippines vs. Sonia Palomado" for Violation of B.P. 22 filed by the Rural Bank of Buenavista, respondent Judge dismissed the cause after his wife tried to borrow money from the said bank but failed to get the proceeds therefrom on the same day;

5. In Criminal Case No. 3204 entitled "People of the Philippines vs. SPO4 Mario Hidalgo" for Unlawful Arrest, respondent Judge dismissed the case outright on the presumption that official duties were regularly performed;

6. In Civil Case No. 557, entitled "Dela Serna vs. Mahubay", for Recovery of Possession, etc., respondent Judge ruled that the court has no power or authority to change or modify the official stenographer's notes nor correct her work. Further, he denied the Demurrer to Evidence on the ground that the complaint clearly defined plaintiff's right to a relief. Admittedly, however, said Order was the subject of a petition for certiorari before the Regional Trial Court (SP Civil Case No. 875) but the same was denied. The subsequent Motion for Reconsideration was likewise denied by the same Court.

As Comment to subject Supplemental Complaint, respondent Judge pointed out that the complainant has a behavioral problem and has even directed his ire to the wife of respondent, who is not connected with the court and whose business activities he (respondent Judge) does not interfere with. Respondent theorizes that the complainant is determined to intrude into the exercise of his (respondent's) judicial prerogative even though the parties involved have not questioned his (respondent's) actuations.

Respondent Judge will be compulsorily retired on May 12, 2003, at the age of seventy (70).

The Office of the Court Administrator, to whom the matter was referred, found that most of the charges against the respondent Judge are purely judicial matters, which involve the exercise of judicial function. However, OCA recommended that respondent Judge be fined Five Thousand (P5,000.00) Pesos for gross ignorance of the law, particularly concerning the liability of an owner of a motor vehicle which figured in a vehicular accident, which is purely civil in nature.

Pertinent portions of the Report of OCA dated February 14, 2000, read: