

## THIRD DIVISION

[ A.M. No. RTJ-94-1135, January 29, 1998 ]

**SALAM NAGA PANGADAPUN, COMPLAINANT, VS. JUDGE AMER R. IBRAHIM, RTC, BRANCH 9, MARAWI CITY, RESPONDENT.**

### RESOLUTION

**FRANCISCO, J.:**

In a letter complaint addressed to the Supreme Court thru the Court Administrator, dated November 6, 1993, herein complainant Salam Naga Pangadapun charges herein respondent Judge Amer R. Ibrahim, RTC, Branch 9 of Marawi City "with gross ignorance of the law, serious misconduct and grave abuse of authority – all in violation of the law. Canon 3 of the Code of Judicial Conduct and the Rules of Court."

[1] Acting thereon, the Court referred the case to the Court of Appeals, "for investigation, report and recommendation."<sup>[2]</sup> The factual antecedents aptly stated by his Honor, Ruben T. Reyes, Associate Justice of the Court of Appeals, in his Investigation Report which we have verified to be duly supported by the record are as follows:

#### "THE CHARGES

"Complainant charges respondent with gross ignorance of the law, serious misconduct and grave abuse of authority – all in violation of the law, Canon 3 of the Code of Judicial Conduct and the Rules of Court.

"The triple charges sprang from an order of respondent Judge directing the release of a convicted prisoner.

"Four reasons were advanced to support the charges, to wit:

"1. The order of release was issued when respondent Judge had lost jurisdiction over the case, the judgment having become final and executory and Bilao having commenced to serve his sentence.

"2. The release order was issued on a Muslim Public Holiday, June 29, 1993, as per proclamation by the Mayor of Marawi City.

"3. There is no such thing as a petition for relief from a judgment in a criminal case.

"4. Respondent Judge's issuance of said order reflects a gross ignorance or the law.

#### "THE FACTS

"From the complaint and affidavit of complainant submitted to the Court Administrator, the following facts are disclosed:

"On February 26, 1993, respondent Judge Amer R. Ibrahim convicted a certain Lominog Bilao (alias Rolly Bilao) of attempted murder and grave threats.

"The decision was promulgated in the absence of the accused who failed to appear despite due notice, per Order of March 30, 1993. Pursuant to the Rules, the Clerk of Court was directed to record the disposition in the criminal docket and to furnish a copy of decision to the accused and/or counsel. By a separate order on the same date, respondent further confiscated the bond and directed the bondsman to explain within (30) days from receipt thereof why no final judgment should be rendered against the bond.

"According to complainant, copy of the decision was served upon by the accused and counsel on April 13 and 12, 1993, respectively, but nobody signed for the receipt, per Process Server's return.

"On June 26, 1993 Bilao was arrested and committed by the Clerk of Court to the City Warden. PNP City Jail, Marawi City under a mimeographed form for 'Detention During Pendency of the case' (Convicted).

"On June 29, 1993, Bilao's counsel filed a 'Relief From Judgment And/Or Motion For New Trial Or Reconsideration' praying for reconsideration of the decision, reinstatement of the bail bond and his release from custody of the law. On the same day, respondent issued the questioned order, reading as follows:

`ORDER

`In this incident, accused Lominog Bilao through counsel moves for new trial and/or reconsideration/relief from judgment of the decision of this court in the above entitled cases for reasons therein stated. Counsel further prays for provisional release of accused Lominog Bilao from custody on the basis of his bailbond. This motion cannot be acted upon ex-parte and is therefore set for hearing.

`Considering, however, that no final judgment against the bond has been handed down, pending hearing of this incident, said bailbond is hereby ordered re-instated and the accused Lominog Bilao is therefore meantime allowed to stay under its legal effects."

`The City Warden is therefore directed to release said accused Lominog Bilao from his official custody by reason of these cases, unless he is detained for some other legal cause.

'Let the hearing of this motion be set on July 22, 1993 at 8:30 o'clock in the morning.

'SO ORDERED.'

"Complainant alleged that the release of Bilao posed a danger to her life and limb as well as to her family, including her husband, Judge Pagadapun, because Bilao has organized a terrorist group. Thus, on Saturday, September 4, 1993 at around 10:00 o'clock in the morning, Bilao reportedly fired several shots from his M-16 armalite about 30 meters away from complainant's residence. This necessitated the detail of two (2) PNP men and one (1) army soldier to protect complainant's family.

#### "RESPONDENT'S DEFENSE

"In his comment on record respondent pointed out that the twin cases against Bilao were tried in absentia because of the difficulty or failure of the accused to find a lawyer from the area, the complainant being the family of an RTC Judge and the lawyers being apprehensive of what Judge Pangadapun might do to the cases of their clients pending before his court. The plight of the accused is reflected in the decision (page 3, Annex "A", complaint) where respondent judge, in part, stated:

'The defense deliberately failed to present their evidence despite repeated notifications for them to present the same. For after they waived their presence at the beginning of the trial of these cases in 1991, accused did not attend trials anymore.'

"Considering this circumstance, the return of service of Process Server Comiling Dicali, a relative of Judge Pangadapun, on April 14, 1993 alleging that copy of the decision was served upon the accused became doubtful to respondent vis-à-vis the allegation in the motion for new trial/reconsideration of accused Bilao that he could have filed the motion immediately had he been duly notified of the judgment. This motion was followed by a 'Manifestation' dated July 2, 1993, stating that the accused 'learned of the judgment of conviction only on June 26, 1993 (date of his arrest) which prompted (him) to file the motion for new trial/reconsideration.'

"Respondent explained:

'While the undersigned respondent is aware of the presumption of regularity in the performance of official duty by the said process server, such presumption 'may not by itself prevail against the constitutional presumption of innocence accorded the accused' (People vs. Yutuc , 188 SCRA 1), and as was held in Pamintuan vs. IAC, 186 SCRA 83, 'where the trial court's decision was not properly served on the private respondent, the same has not yet become final and executory.'

'The peculiar circumstances obtaining in these cases prompted the undersigned respondent to set the defense' motion of June 29, 1993 for