

SECOND DIVISION

[A.M. No. RTJ-97-1385, January 08, 1998]

RAMON T. ARDOS, COMPLAINANT, VS. JUDGE LOLITA O. GAL-LANG AND CLERK OF COURT NENITA R. GRIJALDO, BRANCH 44, REGIONAL TRIAL COURT, MANILA, RESPONDENTS.

DECISION

MENDOZA, J.:

This is a complaint against Judge Lolita O. Gal-Lang of the Regional Trial Court at Manila, Branch 44, for grave abuse of authority, manifest bias, gross ignorance of the law, knowingly rendering an unjust judgment and grave misconduct and Atty. Nenita R. Grijaldo, branch clerk of court, for grave misconduct, gross ignorance, disrespect for the Rules of Court, malfeasance, and misfeasance in public office.

Complainant was complainant in Criminal Case No. 95-146559 for illegal recruitment, which was assigned to respondent Judge Gal-lang. The prosecutor initially recommended bail for P8,000.00 for the provisional release of the accused but later changed his recommendation to "no bail."

On December 11, 1995, the accused filed a motion for reinvestigation and prayed that in the meantime issuance of the warrant of arrest be held in abeyance. It appears, however, that the warrant had already been issued on that day, although it could not be served on the accused (Rene C. Tabia, Ruben S. Fajardo, Per Jurgensen, Birger Jurgensen, Jose M. Nieto, Edwin Marasigan, Franklin Roger Lee Sun, Ricardo J. Romulo and Ramon Espejo, of the Maersk Tabacalera Crewing Agency) as they were not at the Maersk office on 900 Romualdez St., Ermita, Manila.

Upon learning of the issuance of the warrant against them, the accused filed on December 13, 1995 an Urgent Motion to Recall the Warrant of Arrest. They alleged that the warrant of arrest had been prematurely issued because they had a pending opposition to the issuance of a warrant of arrest and motion for reinvestigation. The accused argued that some of them were not officers and members of the board of the Maersk Tabacalera yet when the act being complained of was allegedly committed.^[1]

Since the prosecutor was present and had been furnished copy of the motion, the judge decided to hear the motion on the same day it was filed. Complainant also happened to be in court at that time to file a motion for the issuance of a hold order and an entry of appearance as private prosecutor. He was persuaded by respondent clerk of court, Nenita Grijaldo, to attend the hearing on the motion.

Complainant appeared in court but requested that the hearing be reset on another day because he had not been informed of the hearing nor furnished copies of the

motion beforehand. He cited the absence of his counsel. But Judge Gal-lang proceeded with the hearing.^[2]

On December 14, 1995, respondent judge granted the motion of the accused and recalled the warrant of arrest, even as she ordered a reinvestigation of the case.

On December 20, 1995, complainant, as private prosecutor, moved for a reconsideration of the court's ruling. The hearing on his motion was held on December 22, 1995. An order purporting to have been made on the same day was later issued, denying complainant's motion. Complainant claims that he received a copy of the order only on January 18, 1996 despite the fact that he had been asking the court for a copy many times before. He accuses respondent judge of antedating her order to make it appear it had been made shortly after the hearing.

Complainant also takes respondent judge to task for holding a hearing on the motion of the accused for the recall of the warrant of arrest despite the fact that it was served only on the day of the hearing. Complainant claims that clerk of court Grijaldo, in collusion with the counsel of the accused, inveigled him to attend the hearing.

In their comment, respondents allege that Judge Gal-lang heard the motion to recall warrant of arrest on December 13, 1995 because of its urgent character. She points out that anyway the public prosecutor had been furnished copy of the motion and was present, as were the counsel for the accused and the complainant himself. Respondents further contend that complainant and his counsel filed a motion for reconsideration of the order recalling the warrant of arrest without the conformity of the public prosecutor, who had control of the prosecution of cases, and that during the hearing of his motion complainant made offensive gestures at the court for which his counsel had to make an apology.

Respondent judge denies she antedated her order of December 22, 1995 denying complainant's motion for reconsideration. She claims that she prepared the order in the afternoon of December 22, 1995 but it was released only on January 3, 1996 because December 22, 1995 was a Friday and, on the next business day, she went on vacation leave. Copy of the order was sent to complainant and his counsel by registered mail on January 3, 1996, presumably after respondent had returned from her vacation. Respondents claim that when complainant followed up the resolution of his motion by phone on January 8, 1996, he was told that the order had been sent by mail.

Respondents deny that they were prejudiced against complainant. They claim that anyway respondent judge has inhibited herself from the consideration of the criminal case and there should be no further question regarding this case. On June 19, 1997 they informed the Court that the criminal case against the accused had been dismissed by the Regional Trial Court of Manila, Branch 49. The dismissal was based on the resolution of the Secretary of Justice reversing and setting aside the resolution of the City Prosecutor of Manila and ordering the withdrawal of the information filed in court against the accused.

The Office of the Court Administrator finds respondent judge guilty of abuse of discretion in hearing the motion to recall the warrant of arrest on the same day the motion was filed and recommends that respondent be admonished to be more