

SECOND DIVISION

[A.M. No. MTJ-96-1074, June 20, 1996]

**SPOUSES ALFREDO AND FELINA BIO, PETITIONERS, VS. JUDGE
REDENTOR VALERA, RESPONDENT.**

D E C I S I O N

PUNO, J.:

The case at bar involves a sworn complaint^[1] filed by spouses **ALFREDO and FELINA BIO** charging respondent **JUDGE REDENTOR VALERA**, presiding judge of the Municipal Trial Court of Bangued, Abra, with violation of R.A. 3019 (Anti-Graft and Corrupt Practices Act) relative to Criminal Case No. 5853.

The records show that complainant-spouses were charged with Qualified Theft in Criminal Case No. 5853 which was filed in the sala of respondent judge. It appears that since 1979, complainant-spouses have been a tenant of an agricultural land owned by Nenita Vasquez. In June 1994, Victorino Valera, a second cousin of respondent judge and a brother of landowner Nenita Vasquez, sold portions of the subject land to Silvestre Castillo and Nida Enrile. Complainant spouses questioned the transfer of ownership of said land and filed a case at the Agrarian Office for legal redemption.

On September 16, 1994, while the agrarian case was still pending, the new landowner **SILVESTRE CASTILLO** executed an Affidavit alleging that complainant spouses and their 14-year old son, Fred Bio, cut trees and shrubs on his land without his knowledge or permission. The trees and shrubs, approximately worth P2,000.00, were used by the Bio family for their personal consumption. The Affidavit supported Castillo's complaint for Qualified Theft against the Bio family. It was subscribed before respondent judge.

On September 19, 1994, a complaint was filed by Castillo before the sala of respondent judge. On September 22, 1994, respondent judge took the statement of Castillo and examined his witness. Respondent judge then issued an Order finding probable cause to hold the Bio family liable for qualified theft. He likewise issued a warrant of arrest against the Bio spouses and their son and fixed their bail at P5,000.00 each. They were arrested on the same day, at 2:35 in the afternoon.

Complainant-spouses charge that respondent judge gave undue benefit to Silvestre Castillo. They allege that the complaint for qualified theft was filed by Castillo himself and not by a police officer, and that the order for their arrest was issued precipitately for they were denied their right to file their Counter-Affidavit by the respondent judge.

On May 10, 1995, the Office of the Court Administrator (OCA), this Court, received the Comment^[2] of respondent judge. Respondent judge admits that Criminal Case

No. 5853 for Qualified Theft against the Bio spouses and their son was filed in his sala. He conducted a preliminary investigation and examined complainant Castillo and his witness. He found probable cause and issued a warrant of arrest pursuant to Section 6, paragraph b of the 1985 Rules of Criminal Procedure. Accused were forthwith apprehended but filed their bond. They pleaded not guilty upon arraignment. At the trial, he discovered that the acts of accused fall under a more serious offense, i.e., violation of Section 68 of P.D. 705. Thus, he forwarded the case to the Office of the Provincial Prosecutor. After a preliminary investigation, the Provincial Prosecutor filed a criminal case against the Bio family for violation of Section 68 of P.D. 705 before the Regional Trial Court.

On February 14, 1996, Deputy Court Administrator Reynaldo L. Suarez submitted his evaluation and recommendation. He found that respondent judge exceeded his jurisdiction when he took cognizance of the case for qualified theft. He recommended that respondent judge be penalized for gross ignorance of the law and grave abuse of discretion.^[3]

We affirm the findings of the Deputy Court Administrator.

Section 32 (2) of B.P. 129, as amended by R.A. 7691, provides that **Municipal Trial Courts, inter alia, shall have jurisdiction over criminal cases where the offense is punishable with imprisonment not exceeding six (6) years, irrespective of the amount of the fine.**^[4]

The penalty for qualified theft, as provided under Article 310, in relation to Article 309, of the Revised Penal Code is **the penalty next higher by two (2) degrees than *prision correccional* in its medium and maximum periods.**

Clearly then, respondent judge, as presiding judge of the Municipal Trial Court of Bangued, Abra, has no jurisdiction to try the complaint for qualified theft (Criminal Case No. 5853) filed by Silvestre Castillo in his sala. **He should have only conducted its preliminary investigation** in accord with the procedure provided in Section 3, Rule 112 of the 1985 Rules of Criminal Procedure.^[5] This procedure was not followed by respondent judge. He merely took the statement of complainant Castillo and his witness. He did not subpoena the Bio family, attaching thereto the complaint for qualified theft filed against them. He did not give them the opportunity to submit their counter-affidavits and other supporting documents. They were not given the chance to examine the complaint and evidence submitted by complainant Castillo. Indeed, on September 22, 1994, respondent judge issued a warrant for the arrest of the Bio family, the same day the statement of Castillo's witness was taken.^[6] In the very same afternoon, the members of the Bio family were arrested and detained. To cap it all, respondent judge did not draft a resolution of the preliminary investigation for transmission to the provincial fiscal. Instead, respondent judge assumed jurisdiction over the case and proceeded with the **arraignment** of the three (3) accused. The case was referred to the provincial fiscal only after respondent discovered **during the trial** that a more serious crime, i.e., violation of Section 68, P.D. 705, has been committed.

These acts of respondent judge betray his ignorance of the law governing the scope of his court's jurisdiction and the proper procedure for the conduct of preliminary investigation. His precipitate acts and orders in conducting the preliminary