Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

MA. LIZA M. JORDA, City Prosecutor's Office, Tacloban City,
Complainant,

- *versus* -

JUDGE CRISOLOGO S. BITAS, Regional Trial Court, Branch 7, Tacloban City,
Respondent.

x - x

PROSECUTOR LEO C. TABAO,
Complainant,

- *versus* -

JUDGE CRISOLOGO S. BITAS, Regional Trial Court, Branch 7, Tacloban City
Respondent.

A.M. No. RTJ-14-2376
[Formerly OCA I.P.I. No. 11-3625-RTJ]

A.M. No. RTJ-14-2377
[Formerly OCA I.P.I. No. 11-3645-RTJ]

Present:

VELASCO, JR., *J.*, *Chairperson,*
PERALTA,
ABAD,
MENDOZA, and
LEONEN, *JJ.*

Promulgated:
March 5, 2014

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D E C I S I O N

PERALTA, *J.*:

Before this Court are Consolidated Complaints dated March 29, 2011[1] and March 25, 2011[2] filed by Prosecutor Leo C. Tabao, Office of the City

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1 *Rollo* (A.M. No. RTJ-14-2377), pp. 1-5.
2 *Rollo* (A.M. No. RTJ-14-2376), pp. 2-11.

Prosecutor, Tacloban City and Ma. Liza M. Jorda, Associate City Prosecutor, Tacloban City, respectively, against respondent Judge Crisologo S. Bitas (*respondent judge*), Presiding Judge, Regional Trial Court (*RTC*), Branch 7, Tacloban City, for Grave Abuse of Authority, Irregularity in the Performance of Official Duties, Bias and Partiality, relative to Criminal Case Nos. 2009-11-537,[3] 2009-11-538, 2009-11-539 entitled *People v. Danilo Miralles, et al*.

The antecedent facts of the case, as culled from the records, are as follows:

A.M. OCA I.P.I. No. 11-3645-RTJ
City Prosecutor Leo C. Tabao, Tacloban City v. Judge Crisologo S. Bitas, RTC, Branch 7, Tacloban City

The complaint stemmed from Criminal Case Nos. 2009-11-537; 2009-11-538 and 2009-11-539[4] for Qualified Trafficking and Violation of Article VI, Section 10 of Republic Act (R.A.) No. 7610, which were filed against Danilo Miralles (*Miralles*), *et al.* before the Regional Trial Court, Branch 7, Tacloban City where respondent Judge Bitas presides.

Complainant alleged that on January 15, 2010, accused Miralles, through counsel, filed a Motion for Judicial Determination of Probable Cause with Motion to Hold in Abeyance the Issuance of a Warrant of Arrest. On the same day, respondent Judge issued an order taking cognizance of the same and directed Prosecutor Anthea G. Macalalag to file her comment on the motion. The prosecution then filed its comment/opposition and moved for the issuance of the required warrant for the arrest of Miralles. No warrant of arrest was issued against Miralles.

On February 2, 2011, respondent judge issued an Order which states:

> After the prosecution presented their witnesses, the Court finds that there is probable cause to hold the accused for trial for Violation of 4 (a & e) of R.A. 9208 and, therefore, the court orders Lynna Brito y Obligar to file a bail bond of Forty Thousand Pesos (PhpP40,000.00) for her temporary liberty. Danilo Miralles is, likewise, ordered to put up a bail bond of Forty Thousand Pesos (₱40,000.00) for each of the three (3) cases.

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3 *Id*. at 12-13.
4 *Id*. at 16-17.

Subsequently, on February 4, 2011, Sheriff Jose Cabcabin of the Office of the RTC Clerk of Court issued a certification that Miralles surrendered to him to avail of his right to bail. The cash bail bond in the amount of ₱120,000.00 was approved by respondent judge on the same day.

Complainant lamented that respondent judge disregarded his duties and violated mandatory provisions of the Rules of Court when he did not issue a warrant of arrest against the accused Miralles, who was charged with two (2) non-bailable criminal offenses. As early as November 19, 2009, criminal complaints against Miralles for Qualified Trafficking were already filed, yet respondent judge never issued a warrant of arrest for Miralles despite accused's presence during the court hearings.

Moreover, respondent judge granted a reduced bail of ₱40,000.00 for accused Miralles even without any petition for the fixing of bail. In fact, complainant reiterated that even after respondent judge found probable cause to hold accused Miralles for trial, he did not order the arrest of the accused. Instead, respondent judge summarily granted a reduced bail in the absence of a motion to fix bail and the prosecution was not given the opportunity to interpose its objections. Complainant claimed that such acts of respondent judge were evident of his bias towards accused Miralles.

In his Answer, respondent judge reasoned that it was wrong to arrest Miralles, because the court was still in the process of determining whether there is sufficient evidence to hold the accused for trial. He explained that Miralles had always made himself available during the hearings for the determination of probable cause; thus, the court already acquired jurisdiction over the person of the accused.

After the hearing for the determination of probable cause, the court ruled that there is no strong evidence presented by the prosecution. On February 4, 2011, accused Danilo Miralles surrendered to Sheriff Jose Cabcabin and posted ₱40,000.00 bail for each of the three (3) cases, or a total of ₱120,000.00.

Respondent judge claimed that there was no more need for a petition for bail, because in the judicial determination of probable cause the court found that the evidence against accused was weak.[5]

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5 *Rollo* (A.M. No. RTJ-14-2377), p. 50.

Respondent judge further averred that complainant did not know the facts of the case and whether the evidence for the prosecution is strong, yet he was faulted for granting bail and for not issuing a warrant of arrest. He stressed that when the court has acquired jurisdiction over the person of the accused, there is no more need to issue a warrant of arrest. Respondent judge pointed out that Miralles always made himself available, hence, he believed that the ends of justice had not been frustrated. He insisted that there is no anomaly in the procedure because a warrant of arrest will be issued only upon the finding of probable cause. In this case, however, he was able to post his bail bond before a warrant of arrest can be issued against him. Thus, the warrant of arrest had become *fait accompli.*

A.M. OCA IPI No. 11-3625-RTJ
Ma. Liza M. Jorda, Associate City Prosecutor, Tacloban City v. Judge Crisologo S. Bitas, RTC, Branch 7, Tacloban City

This complaint, borne from the same criminal cases, has substantially the same facts involving accused Danilo Miralles referred to in A.M. OCA I.P.I. No. 11-3645-RTJ.

Complainant, Prosecutor Liza M. Jorda, Associate City Prosecutor, alleged that during the hearing on the Petition for Involuntary Commitment of the minor victim Margie Baldoza, to the Department of Social Welfare and Development (*DSWD*), respondent judge propounded a series of questions which appeared to mitigate Miralles' role in the crime charged. The pertinent portion of which is quoted as follows:

> Q. Did you see Danny shouting at you and get angry as what you have stated in the record of the court?
> A. No.
>
> x x x x
>
> Q. In other words, you are only for a presumption that it is Danny who is getting angry where in fact you have seen him at anytime?
> A. It was Lynna whom he was [scolding] because the women under her are stubborn.
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> Q. You have seen him scolding to (sic) your nanay Lynna?
> A. She would be called to the room in the Office and there she would be scolded.

> Q. You have not seen nanay Lynna and Danny Miralles in the office, you have not seen them?
> A. No.
>
> Q. Never have you (sic) seen them?
> A. No.
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> Q. So did you come to the conclusion that she [was] being scolded by Danny Miralles?
> A. Yes.[6]

Complainant pointed out that respondent judge's line of questions went beyond judicial authority and discretion. Upon investigation, complainant claimed to have discovered that the family members of respondent judge are close associates of Miralles.

Prompted by said events, complainant filed a motion for inhibition on December 14, 2009 against respondent judge. Respondent judge denied the motion. During the hearing on December 15, 2009, complainant alleged that respondent judge publicly humiliated her and exhibited his anger and animosity towards her for filing the motion for inhibition.[7] Respondent judge was quoted saying, among others things, that:

> "I don't want to see your face! Why did you file the motion for inhibition when it should have been Attorney Sionne Gaspay who should have filed the same[?]"
>
> "You better transfer to another court! You are being influenced by politicians. I am not a close family friend of the Miralles(es), it is my sister who is now in the United States who was close to the Miralles(es)."
>
> "So you are questioning the integrity of this court, you better transfer to another court."
>
> "I don't want to see your face."[8]

Complainant added that when she was supposed to conduct the cross-examination, respondent judge stated off-the-record: "*I don't want you to participate anymore,"* and refused to allow her to do the cross-examination.

In support of her allegation, complainant presented the Joint Affidavit[9] of Carmela D. Bastes and Marilou S. Nacilla, social workers who

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6 TSN, December 2, 2010, p. 31; *rollo* (A.M. No. RTJ-14-2376), p. 259,
7 *Id*. at 5.
8 *Id*. at 6.
9 *Id*. at 30-32.

were present during the December 15, 2009 hearing of the subject case, and corroborated that indeed respondent judge uttered the abovementioned statements to complainant in open court in the presence of court personnel and the lawyers of the parties.

Due to the continued hostility of respondent judge towards complainant during the subsequent hearings of the case, complainant opted to transfer to another court, pursuant to an office order issued by City Prosecutor Ruperto Golong.

In a Supplemental Complaint-Affidavit[10] dated April 8, 2011, complainant raised the possibility of "misrepresentation." She alleged that it was made to appear that a hearing on the subject case was conducted on February 2, 2011, when in fact there was none. She claimed that the Order dated February 2, 2011 appeared to have been inserted in the records of the case, when in fact no hearing transpired that day.

On April 7, 2011, the Office of the Court Administrator (*OCA*) directed respondent judge to comment on the complaint against him.[11]

In his Answer and Comment[12] dated May 10, 2011, respondent judge denied the allegations in the complaint and contended that complainant was piqued when he blamed her for making baseless assumptions. He claimed that complainant was incompetent as showed by the lack of evidence against Miralles.

Respondent judge further averred that, contrary to complainant's allegation that it was her option to transfer to another court, it was he who caused her transfer. He accused complainant of lacking in knowledge of the law and that she appeared for politicians and not for the Republic of the Philippines.

Regarding complainant's accusation that he was close to the Miralleses, respondent judge explained that it was his sister who was a classmate of one Nora Miralles. He claimed that he is unaware of any personal relation between Nora Miralles and the accused Danilo Miralles. He insisted that complainant merely assumed things even if she has no evidence that he knew Danilo Miralles.

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10 *Id*. at 41-43.
11 *Id*. at 110.
12 *Id*. at 60-63.

Respondent judge also admitted that he indeed stopped complainant from conducting a cross-examination on the witness during the hearing for involuntary commitment, because the lawyer for petitioner DSWD should be the one actively participating in the case, and not the prosecutors. He, however, added that the court had already ordered that minor Margie Baldoza be committed to the DSWD Home for Girls pending resolution of the criminal cases.

As to the other allegations in the Complaint, respondent judge commented that these were mere rehash of the complaint filed in A.M. OCA I.P.I. No. 11-3645-RTJ and reiterated that the evidence found against accused Miralles during the judicial determination of the existence of probable cause in the trafficking case was weak. Therefore, he ordered the posting of ₱40,000.00 bail by the accused. Respondent judge claimed that he merely acted upon the evidence presented and made a resolution on what was right for the case.

In her Reply[13] dated May 21, 2011, complainant refuted respondent judge's allegation of incompetence against her and insisted on respondent's apparent bias in favor of Miralles. She argued that respondent judge granted bail to the accused even when there was no motion to fix bail and no hearing was conducted thereon. Despite the finding of probable cause, respondent judge did not issue a warrant of arrest against the accused. Complainant also reiterated the controversy surrounding the appearance of an Order dated February 2, 2011, when in fact no hearing transpired that day.

In his 2nd Indorsement[14] dated June 14, 2011, respondent judge denied that he falsified any document. He explained that his stenographer made a mistake in placing the date as February 2, 2011 instead of February 3, 2011, the date when the hearing was conducted. He attached the affidavits[15] of his court stenographer and court interpreter in support of his explanation.

On May 11, 2001, the OCA directed Judge Bitas to file his Comment on the instant complaint.

In a Resolution[16] dated September 12, 2011, upon the recommendation of the OCA, the Court referred A.M. OCA I.P.I. No. 11-3625-RTJ to an Associate Justice of the Court of Appeals, Cebu City, for investigation, report and recommendation.

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13 *Id*. at 113-118.
14 *Id*. at 134.
15 *Id*. at 135-137.
16 *Id*. at 195.

On October 12, 2011, the Court, in a Resolution,[17] resolved to consolidate A.M. OCA I.P.I. No. 11-3645-RTJ (*Prosecutor Leo C. Tabao v. Judge Crisologo S. Bitas, RTC, Branch 7, Tacloban City*) with A.M. OCA I.P.I. No. 11-3625-RTJ (*Ma. Liza M. Jorda v. Judge Crisologo S. Bitas, Regional Trial Court, Branch 7, Tacloban City*).

In its Report and Recommendation[18] dated February 14, 2013, Associate Justice Carmelita Salandanan-Manahan, Court of Appeals, Cebu City, found respondent judge guilty of grave abuse of authority and gross ignorance of the law, and recommended that respondent judge be fined in the amount of ₱20,000.00 for A.M. OCA I.P.I. No. 11-3645-RTJ and fined anew in the amount of ₱20,000.00 for A.M. OCA I.P.I. No. 11-3625-RTJ.

RULING

We adopt the findings of the Investigating Justice, except as to the recommended penalty.

As a matter of public policy, not every error or mistake of a judge in the performance of his official duties renders him liable. In the absence of fraud, dishonesty or corruption, the acts of a judge in his official capacity do not always constitute misconduct although the same acts may be erroneous. True, a judge may not be disciplined for error of judgment, absent proof that such error was made with a conscious and deliberate intent to cause an injustice. This does not mean, however, that a judge need not observe propriety, discreetness and due care in the performance of his official functions.

In the instant case, Miralles was charged with Qualified Trafficking, which under Section 10 (C) of R.A. No. 9208 is punishable by life imprisonment and a fine of not less than Two Million Pesos (₱2,000,000.00) but not more than Five Million Pesos (₱5,000,000.00). Thus, by reason of the penalty prescribed by law, the grant of bail is a matter of discretion which can be exercised only by respondent judge after the evidence is submitted in a hearing. The hearing of the application for bail in capital offenses is absolutely indispensable before a judge can properly determine whether the prosecution's evidence is weak or strong.[19]

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17 *Id*. at 275-276.
18 *Id.* at 315-332.
19 *People v. Dacudao*, 252 Phil. 507 (1989).

As correctly found by the Investigating Justice, with life imprisonment as one of the penalties prescribed for the offense charged against Miralles, he cannot be admitted to bail when evidence of guilt is strong, in accordance with Section 7, Rule 114 of the Revised Rules of Criminal Procedure.[20]

Here, what is appalling is not only did respondent judge deviate from the requirement of a hearing where there is an application for bail, respondent judge granted bail to Miralles without neither conducting a hearing nor a motion for application for bail. Respondent judge's justification that he granted bail, because he found the evidence of the prosecution weak, cannot be sustained because the records show that no such hearing for that purpose transpired. What the records show is a hearing to determine the existence of probable cause, not a hearing for a petition for bail. The hearing for bail is different from the determination of the existence of probable cause. The latter takes place prior to all proceedings, so that if the court is not satisfied with the existence of a probable cause, it may either dismiss the case or deny the issuance of the warrant of arrest or conduct a hearing to satisfy itself of the existence of probable cause. If the court finds the existence of probable cause, the court is mandated to issue a warrant of arrest or commitment order if the accused is already under custody, as when he was validly arrested without a warrant. It is only after this proceeding that the court can entertain a petition for bail where a subsequent hearing is conducted to determine if the evidence of guilt is weak or not. Hence, in granting bail and fixing it at ₱20,000.00 *motu proprio*, without allowing the prosecution to present its evidence, respondent judge denied the prosecution of due process. This Court had said so in many cases and had imposed sanctions on judges who granted applications for bail in capital offenses and in offenses punishable by *reclusion perpetua, or life imprisonment,* without giving the prosecution the opportunity to prove that the evidence of guilt is strong.[21]

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[20] Sec. 7. *Capital offense or an offense punishable by reclusion perpetua or life imprisonment,not bailable.* - No person charged with a capital offense punishable by *reclusion perpetua* or life imprisonment, shall be admitted to bail when the evidence of guilt is strong, regardless of the stage of the criminal prosecution.

[21] *Libarios v. Dabalos*, 276 Phil. 53 (1991); *Carpio v. Maglalang*, 273 Phil. 240 (1991); *People v. Calo*, 264 Phil. 1007 (1990); *People v. Dacudao*, *supra* note 19; *People v. Sola*, G.R. Nos. L-56158-64, March 17, 1981, 103 SCRA 393; *Mendoza v. CFI of Quezon*, G.R. Nos. L-35612-14, June 27, 1973, 51 SCRA 369; *People v. Bocar*, 137 Phil. 336 (1969); *People v. San Diego*, 135 Phil. 514 (1968); also *Pico v. Combong*, A.M. No. RTJ-91-264, November 6, 1992, 215 SCRA 421.

Clearly, in the instant case, respondent judge's act of fixing the accused's bail and reducing the same *motu proprio* is not mere deficiency in prudence, discretion and judgment on the part of respondent judge, but a patent disregard of well-known rules. When an error is so gross and patent, such error produces an inference of bad faith, making the judge liable for gross ignorance of the law.[22]

Likewise, we are convinced that respondent judge's actuations in the court premises during the hearing of the petition for commitment to the DSWD constitute abuse of authority and manifest partiality to the accused. Indeed, respondent judge's utterance of: *"I don't want to see your face!"; "You better transfer to another court!; You are being influenced by politicians"* was improper and does not speak well his stature as an officer of the Court. We note the improper language of respondent judge directed towards complainants in his Answers and Comments where he criticized them for their incompetence in handling the subject case. Respondent Bitas' use of abusive and insulting words, tending to project complainant's ignorance of the laws and procedure, prompted by his belief that the latter mishandled the cause of his client is obviously and clearly insensitive, distasteful, and inexcusable. Complainants, likewise, cannot be blamed for being suspicious of respondent's bias to the accused considering that the former can be associated with the accused following his admission that his sister was a classmate of one Nora Miralles. Considering the apprehension and reservation of the complainants, prudence dictates that respondent should have inhibited himself from hearing the case. Such abuse of power and authority could only invite disrespect from counsels and from the public.[23]

In pending or prospective litigations before them, judges should be scrupulously careful to avoid anything that may tend to awaken the suspicion that their personal, social or sundry relations could influence their objectivity. Not only must judges possess proficiency in law, they must also act and behave in such manner that would assure litigants and their counsel of the judges' competence, integrity and independence.[24] Even on the face of boorish behavior from those he deals with, he ought to conduct himself in a manner befitting a gentleman and a high officer of the court.[25]

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22 *Id*.

23 See *Correa v. Judge Belen*, A.M. No. RTJ-10-2242 (Formerly OCA I.P.I No. 97-291-RTJ), August 6, 2010, 627 SCRA 13, 18.

24 *Molina v. Paz*, A.M. No. RTJ-01-1638 (Formerly OCA I.P.I. No. 09-3149-RTJ), December 8, 2003, 417 SCRA 174, 181.

25 *Re: Anonymous Complaint dated February 18, 2005 of a "Court Personnel" Against Judge Francisco C. Gedorio, Jr., RTC, Branch 12, Ormoc City*, 551 Phil. 174, 180 (2007).

The use of intemperate language is included in the proscription provided by Section 1, Canon 4 of the New Code of Judicial Conduct, thus: "Judges shall avoid impropriety and the appearance of impropriety **in all the activities** of a judge." It bears stressing that as a dispenser of justice, respondent should exercise judicial temperament at all times, avoiding vulgar and insulting language. He must maintain composure and equanimity.

This Court has long held that court officials and employees are placed with a heavy burden and responsibility of keeping the faith of the public. Any impression of impropriety, misdeed or negligence in the performance of official functions must be avoided. This Court shall not countenance any conduct, act or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability and diminish the faith of the people in the Judiciary.

We come to the imposable penalty.

Under Section 8, Rule 140 of the Rules of Court, as amended by A.M. No. 01-8-10-SC, gross ignorance of the law or procedure is classified as a serious charge. Under Section 11 (A) of the same Rule, as amended, if respondent judge is found guilty of a serious charge, any of the following sanctions may be imposed:

> 1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations; Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;
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> 2. Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
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> 3. A fine of more than ₱20,000.00 but not exceeding ₱40,000.00.

This is not the first time that respondent judge was found guilty of the offense charged. In the case of *Valmores-Salinas v. Judge Crisologo Bitas*,[26] the Court had previously imposed a fine of ₱10,000.00 on

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[26] A.M. No. RTJ-12-2335 (Formerly OCA I.P.I. No. 12-3829-RTJ), March 18, 2013.

respondent judge for disregarding the basic procedural requirements in instituting an indirect contempt charge, with a stern warning that a repetition of the same or similar act shall be dealt with more severely.

The provisions of the Revised Penal Code on bail are so clear and unmistakable that there can be no room for doubt or even interpretation. There can, therefore, be no excuse for respondent judge's error of law. It hardly speaks well of the legal background of respondent judge, considering his length of service when he failed to observe procedural requirements before granting bail. To top it all, the actuations of respondent judge towards the complainants, as shown by his use of abusive and insulting words against complainants in open court, and his correspondence with the Court, are evident of his partiality to the accused. All these taken into consideration, respondent judge deserves a penalty of suspension of three (3) months and one (1) day for the two (2) cases, instead of ₱20,000.00 fine for each of the cases, as recommended by the Investigating Justice.

WHEREFORE, respondent **JUDGE CRISOLOGO BITAS,** Presiding Judge of the Regional Trial Court, Branch 7, Tacloban City, is hereby **SUSPENDED** from the service for a period of **THREE** (3) **MONTHS** and **ONE** (1) **DAY** without pay, and **WARNED** that a repetition of the same or similar offense will warrant the imposition of a more severe penalty.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

ROBERTO A. ABAD
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
Associate Justice