Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ESTHER P. MAGLEO, Complainant,	**A.M. No. RTJ-12-2336** **(Formerly A.M. OCA-IPI No. 11-3695-RTJ)**
	Present:
- versus -	CARPIO, *J.*, Chairperson, BRION, DEL CASTILLO, MENDOZA, and LEONEN, *JJ.*
PRESIDING JUDGE ROWENA DE JUAN-QUINAGORAN and BRANCH CLERK OF COURT ATTY. ADONIS LAURE, BOTH OF BRANCH 166, REGIONAL TRIAL COURT, PASIG CITY, Respondents.	Promulgated: NOV 12 2014

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DECISION

MENDOZA, *J.*:

This administrative case stemmed from a sworn Complaint-Affidavit,[1] dated July 12, 2011, filed by Esther P. Magleo *(complainant)* charging respondents Judge Rowena De Juan-Quinagoran *(respondent judge)* and Atty. Adonis A. Laure, Clerk of Court V *(respondent CoC)*, both of the Regional Trial Court, Branch 166, Pasig City *(RTC)*, with Gross Misconduct, Gross Partiality, Acts Unbecoming a Member of the Judiciary, Violation of the Code of Judicial Conduct, and Conduct Unbecoming a Court Personnel relative to Criminal Case No. 137860-PSG, entitled *People*

[1] *Rollo*, pp. 1-14.

of the Philippines v. Esther Magleo y Pampolina, for Estafa under Article 315, paragraph 1(b) of the Revised Penal Code.

Complainant is the accused in the aforementioned criminal case. She averred that in an Order, dated May 13, 2010, Judge Nicanor Manalo, Jr. *(Judge Manalo)* granted her demurrer to evidence and acquitted her of the charge of estafa. Thereafter, the prosecutor filed a motion to inhibit Judge Manalo from the case which was later re-raffled to Branch 166, RTC, Pasig City, presided over by respondent judge.

Complainant avers that, instead of *motu proprio* dismissing the case on ground of double jeopardy, respondent judge through her Order, dated November 4, 2010, overturned the order of acquittal and set the case for reception of defense evidence on February 23, 2011.[2] Complainant filed a motion for reconsideration, but it was denied by respondent judge in her February 2, 2011 Omnibus Order.

On February 11, 2011, complainant filed a petition for *certiorari* (With Prayer for Temporary Restraining Order) before the Court of Appeals *(CA)* questioning the propriety of the Omnibus Order.[3] Complainant asserts that the November 4, 2010 and February 2, 2011 orders of respondent judge were indicative of her gross partiality and lack of knowledge of the existing laws and jurisprudence, violating complainant's right against double jeopardy.

She further stated that she did not receive a notice of hearing for June 8, 2011.[4] Despite such omission, respondent judge still issued a warrant of arrest on June 9, 2011. She was surprised when agents of the National Bureau of Investigation *(NBI)* forcibly arrested her on June 15, 2011. She added that while on her way to the NBI office, a lady agent called the personnel of Branch 166, RTC, Pasig City, to inquire on the amount of the complainant's bail, but the personnel said that there was no bail indicated. The personnel was said to be reluctant in giving any information and asked, *"Nadampot ninyo na ba, nadampot nyo na ba siya."*[5]

According to complainant, she examined the order of arrest and it appeared that the amount of bail recommended was erased to bar her from posting the bond for her temporary liberty. She claimed that on the same day, she instructed her bondsman to proceed to Branch 166 to inquire about

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[2] Id. at 2.
[3] Id. at 3.
[4] Id.
[5] Id. at 4.

the proper amount of bail. Respondent CoC and the staff, however, treated the bondsman with hostility, annoyance and indifference.[6]

The next day, on June 16, 2011, complainant's son and her lawyer talked to respondent judge and the latter agreed to fix the amount of bail at □40,000.00. Respondent judge, however, initially refused to sign the order and advised them to file a motion to lift the warrant of arrest. Complainant averred that when her son inquired why the same was not signed, the court secretary arrogantly said, *"Huwag mo na ako tanungin, yun ang order ni Judge makikipagtalo ka pa e sumunod ka na lang, wala ka namang magagawa."*[7] Thereafter, upon filing of an *ex-parte* Motion to Lift Warrant of Arrest, respondent judge granted the same and complainant was released from NBI custody around 5:30 o'clock in the afternoon of the same day. To aggravate her ordeal, police officers proceeded to complainant's house on June 27, 2011 to enforce anew the warrant of arrest, but her counsel sent an e-mail to the arresting officer, furnishing him a copy of the order lifting the order of arrest.[8]

Complainant avers that these acts show how cruel, ignorant and unorganized respondent judge is in running her office. It would also show that respondent clerk of court and the court staff exhibited hostility, partiality and wanton disregard of respect.

In their Joint Comment,[9] dated August 10, 2011, the respondents stated that when the case was re-raffled to Branch 166, RTC, Pasig City, in view of the inhibition of Judge Manalo, there was a pending motion for reconsideration of the May 13, 2010 Order granting complainant's Demurrer to Evidence. In her February 2, 2011 Omnibus Order, respondent judge emphasized the reasons for overturning the order granting the demurrer to evidence. In its pertinent parts, the Omnibus Order reads:

> Clearly, when the accused filed the demurrer to evidence, the prosecution has not rested its case yet. Thus, the granting of the demurrer to evidence is not proper considering that it was filed *prematurely*.
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> The reason why the defense is not allowed to file a demurrer to evidence before the prosecution rests its case is best articulated in the case of Valencia vs. Sandiganbayan. The Supreme Court discussed that:

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[6] Id. at 5.
[7] Id. at 7.
[8] Id.
[9] Id. at 92-102.

> [a] demurrer to evidence tests the sufficiency or insufficiency of the prosecution's evidence. As such, a demurrer to evidence or a motion for leave to file the same must be filed after the prosecution rests its case. But before an evidence may be admitted, the rules require that the same be formally offered, otherwise, it cannot be considered by the court. A prior formal offer of evidence concludes the case for the prosecution and determines the timeliness of the filing of a demurrer to evidence.
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> As held in Aquino v. Sison [G.R. No. 86025, November 28, 1989, 179 SCRA 648, 651,-652], the motion to dismiss for insufficiency of evidence filed by the accused after the conclusion of the cross-examination of the witness for the prosecution, is *premature* because the latter is still in the process of presenting evidence. The chemistry report relied upon by the court in granting the motion to dismiss was disregarded because it was not properly identified or formally offered as evidence. Verily, until such time that the prosecution closed its evidence, the defense cannot be considered to have seasonably filed a demurrer to evidence or a motion for leave to file the same.
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> Thus, the filing of the demurrer to evidence before the prosecution could rest its case and the subsequent granting thereof effectively denied the prosecution's right to due process.[10] [Emphases supplied]

The complainant filed a petition for *certiorari* with the Court of Appeals *(CA)* questioning the November 4, 2010 and February 2, 2011 Orders, but it was dismissed by said appellate court on August 15, 2011 for lack of merit.[11]

The respondents further stated that contrary to the allegations of complainant, the latter and her counsel were duly notified of the hearing on June 8, 2011, as evidenced by: (1) the February 23, 2011 Constancia[12] with return card[13] showing that the notice was duly received by complainant and

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[10] Id. at 110.
[11] Id. at 136-142.
[12] Id. at 115.
[13] Id. at 116-117.

her counsel; (2) the court calendar for June 8, 2011;[14] and (3) the certification issued by the post office.[15]

The respondents also averred that complainant failed to identify the court personnel who allegedly said *"Nadampot ninyo na ba, nadampot nyo na ba siya."* Moreover, they claimed that there was nothing wrong even if the court personnel indeed asked the same.[16] With respect to the allegation that the court personnel treated the bondsman with hostility, they claimed that no bondsman went to their branch that day. Even assuming that the bondsman indeed went to their branch, the court personnel were justified in not divulging any information due to the confidentiality of the court records.[17]

The respondents likewise stressed that the order of arrest did not state a bond for complainant's temporary liberty because she jumped bail by failing to appear in court for the June 8, 2011 hearing. Thus, the original bail bond in the amount of □40,000.00 was forfeited and an order of arrest was issued.[18]

Respondent judge explained that she did not immediately sign the draft order granting bail because she could not *motu proprio* lift the warrant of arrest as there was no motion filed by the complainant's lawyer.[19] When complainant's lawyer, however, filed the proper motion to lift the order of arrest, she promptly acted on the motion and complainant was released immediately from NBI custody. She also stated that it was already beyond the control of the court if the PNP officers attempted to serve the warrant of arrest despite the order lifting the same.

In her 31 August 2011 Reply,[20] complainant reiterates the allegations she made in her complaint, claiming she did not receive any copy of the notice of the hearing for 08 June 2011. In their 07 September 2011 Joint Rejoinder,[21] respondents counters that complainant was duly informed of the 08 June 2011 hearing. On September 16, 2011, the OCA received complainant's Comment[22] on the Joint Rejoinder with the attached affidavit of Ronald P. Magleo, her son, narrating the 15th and 16th June 2011 incidents. On September 23, 2011, the OCA received the Joint Reply[23] to the

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[14] Id. at 118.
[15] Id. at 119.
[16] Id. at 95.
[17] Id. at 96.
[18] Id. at 97.
[19] Id.
[20] Id. at 143-146.
[21] Id. at 166-168.
[22] Id. at 169-176.
[23] Id. at 178-182.

Comment (on the Joint Rejoinder filed by the respondents). Finally, on October 4, 2011, complainant's Comment[24] on Respondent Judge Joint Rejoinder was filed with the OCA.

The OCA then recommended that the administrative case be referred to the Presiding Justice of the Court of Appeals, who shall cause the same to be raffled among the Justices of the said Court, for investigation, report and recommendation .[25]

The Court's Ruling

The issue in this case is whether the respondents committed transgressions in the performance of their duties warranting the imposition of disciplinary penalties.

The Court rules in the negative.

At the outset, this Court finds that there is no need to refer the administrative case to the CA as the facts and arguments stated in the pleadings are sufficient for proper adjudication of this case.

Claim of Gross Partiality for reversing an Order Granting the Demurrer to Evidence

Complainant asserts that respondent judge committed gross ignorance of the law and evident partiality when she overturned the order granting the demurrer to evidence because it would constitute as a violation to her constitutional right against double jeopardy. Complainant argues that a dismissal due to such order is considered as acquittal which bars a subsequent opening of the criminal case.

This Court is convinced that respondent judge acted in accordance with the law and jurisprudence. It was the February 2, 2011 Omnibus Order[26] which elucidated the clear legal basis why respondent judge continued the criminal case despite the earlier order granting the demurrer to evidence. Generally, if the trial court finds that the prosecution evidence is not sufficient and grants the accused's Demurrer to Evidence, the ruling is an

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[24] Id. at 183-189.
[25] Id. at 198.
[26] Id. at 107-111.

adjudication on the merits of the case which is tantamount to an acquittal and may no longer be appealed.[27]

The current scenario, however, is an exception to the general rule. The demurrer to evidence was *premature* because it was filed before the prosecution rested its case. The RTC had not yet ruled on the admissibility of the formal offer of evidence of the prosecution when complainant filed her demurrer to evidence.[28] Hence, respondent judge had legal basis to overturn the order granting the demurrer to evidence as there was no proper acquittal. The complainant elevated the matter to the CA via a petition for *certiorari* but it sustained her ruling.[29] The CA decision reads:

> Indubitably, an order granting an accused's demurrer to evidence is a resolution of the case on the merits, and it amounts to an acquittal. Generally, any further prosecution of the accused after an acquittal would violate the constitutional proscription on double jeopardy. To this general rule, however, the Court has previously made some exceptions.[30]
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> **People v. Tan**[31] eruditely instructs that double jeopardy will not attach when the trial court acted with grave abuse of discretion amounting to lack or excess of jurisdiction, such as where the prosecution was denied the opportunity to present its case or where the trial was a sham. In addition, in **People v. Bocar**,[32] this Court rule that there is no double jeopardy when the prosecution was not allowed to complete its presentation of evidence by the trial court.
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> The circumstances obtaining in this controversy placed it within the realm of the exception.
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> The records demonstrate that the prosecution, with respondent Oilink International Corporation as private complainant, had not yet rested its case when the *Demurrer to Evidence* was filed and eventually granted by the RTC Branch 161.
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> x x x x
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> The RTC Branch 161 should have ruled on the prosecution's *Formal Offer of Evidence* before acting on petitioner's *Demurrer to Evidence.* Having failed to do so, there is nary a doubt that no double jeopardy attached. Petitioner's blind insistence that she is made to face trial after having been acquitted carries no conviction.[33]

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[27] *Bautista v. Cuneta-Pangilinan*, G.R. No. 189754, October 24, 2012 684 SCRA 521, citing *People v. Laguio, Jr.*, 547 Phil. 296 (2007).
[28] *Rollo*, pp. 109-110.
[29] Id. at 136-142.
[30] *People v. Laguio, Jr.*, 547 Phil. 296, 310 (2007).
[31] G.R. No. 167526, July 26, 2010, 625 SCRA 388, 396-397, citing *People v. Laguio, Jr.,* 547 Phil. 296, 310 (2007).
[32] 222 Phil. 468 (1985).
[33] *Rollo*, p. 140.

Though the CA decision has not reached finality, it only goes to show that the respondent judge acted in good faith as she merely followed precedents.

Claim of Violation of the Code of Judicial Conduct for not serving the Notice of Hearing

In the February 2, 2011 Omnibus Order of respondent judge, it was stated that the next scheduled hearing was on February 23, 2011.[34] On the said date, however, respondent judge was on leave of absence due to an illness. The Constancia, dated February 23, 2011, stated that the trial was to resume on June 8, 2011.

Complainant asserts that she did not receive the February 23, 2011 Constancia and, for said reason, she was not able to attend the June 8, 2011 hearing. The respondents, however, were able to submit numerous documentary proofs stating that complainant indeed received the notice of hearing, to wit: (1) Certified true copy of the subject Constancia, dated February 23, 2011; together with the two return cards pasted on the back thereof; (3) the certified true copy of the court calendar for June 8, 2011; and (4) the Post Office Certification that complainant and her counsel were notified about the said hearing date.

Between the bare allegations of complainant that she did not receive the Constancia and the substantiated claim of the respondents that the notices were served, the Court tends to believe the latter. Thus, complainant has no acceptable excuse to be absent on the June 8, 2011 hearing. Her failure to attend now seems to be a deliberate attempt to ignore such important trial date and the consequences of her absence are attributable to her alone.

Claim of Violation of the Code of Judicial Conduct for issuing a Bench Warrant

It must be noted that complainant was only granted provisional liberty when she applied for bail. Such provisional liberty could be taken away if she would violate any of the undertakings stated therein. One of the

[34] Id. at 111.

conditions for bail is that the accused shall appear before the proper court whenever required by the court or the Rules of Court.[35]

As a consequence of failing to attend the trial when so required, a bench warrant was issued against complainant. A bench warrant is defined as a writ issued directly by a judge to a law-enforcement officer, especially for the arrest of a person who has been held in contempt, has disobeyed a subpoena, or has to appear for a hearing or trial.[36] The provision on bench warrant is expressed under Section 9, Rule 71 of the Rules of Court which states that "[w]hen a respondent released on bail fails to appear on the day fixed for the hearing, the court may issue another order of arrest or may order the bond for his appearance to be forfeited and confiscated, or both." (Underscoring supplied)

Jurisprudence dictates that the primary requisite before a bench warrant shall be issued is that the absent-party was duly informed of the hearing date but unjustifiably failed to attend so.[37] As stated above, complainant was undeniably notified of the June 8, 2011 hearing but she failed to attend.

Complainant also averred that respondent judge committed erroneous conduct (1) when she issued a bench warrant without specifically stating the amount of bail bond and (2) for not *motu proprio* lifting the bail bond when complainant's son and lawyer showed their willingness to apply for bail.

According to respondent judge, the June 9, 2011 order of arrest failed to state a bail bond because complainant jumped bail by failing to appear in court for hearing on June 8, 2011. The Court finds this acceptable because when an accused fails to appear in person as required, the bond shall be declared forfeited.[38] Also, it is not required by the Rules of Court that the amount of new bail bond be stated in the bench warrant. The Court cannot chastise respondent judge for an act not required by the Rules. Absent any abuse of discretion, it is sufficient that the bail bond was fixed after complainant was arrested. Such would be the proper time for the judge to consider whether to increase, decrease or retain the amount of bail based on the guidelines.[39]

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[35] Section 2(b), Rule 114, Rules of Court.
[36] Black Law's Dictionary, 9th Ed., p. 1722 (2009).
[37] *Office of the Court Administrator v. Judge Lorenzo*, 595 Phil. 618 (2008); *Talag v. Judge Reyes*, A.M. No. RTJ-04-1852, June 3, 2004, 430 SCRA 428; *Ang v. Judge Quilala*, 444 Phil. 742 (2003).
[38] Section 18, Rule 114, Rules of Court
[39] Section 9, Rule 114, Rules of Court.

Moreover, there is nothing in the Rules which mandates a judge to *motu proprio* lift the bench warrant once the accused expresses his intent to be released on bail. Without any provision to the contrary, Section 1, Rule 15 of the Rules of Court[40] governs such that a motion must be filed to seek affirmative relief. In the present case, respondent judge acted within the scope of her authority when she required complainant's son and lawyer to file an *ex parte* motion to lift the order of arrest. When the motion was filed and the prosecutor did not express any objection, respondent judge deemed it fit to impose the same amount of bail at □40,000.00. Respondent judge immediately entertained complainant's son and lawyer when they came to her branch despite her scheduled hearing and as a result, complainant was released on that same day.

In the absence of a showing that the acts complained of were done with malice or intention to violate the law or disregard the Rules of Court or for some corrupt motive, they would, at best, constitute errors of judgment which do not amount to serious misconduct.[41]

Claim of Performing Acts Unbecoming of a Judge and Court Personnel due to the court personnel's discourtesy

Complainant claims that respondent CoC and some court personnel were disrespectful in conversing with her bondsman, her son, and her lawyer. During her arrest, one of the court personnel said *"Nadampot ninyo na ba, nadampot nyo na ba siya."* When the bondsman visited the branch, he claimed to have been snubbed by the personnel. Also, complainant's son received an arrogant remark from the court secretary stating *"Huwag mo na ako tanungin, yun ang order ni Judge makikipagtalo ka pa e sumunod ka na lang, wala ka namang magagawa."* On the other hand, the respondents denied that their court personnel made those rude remarks, and claimed that even assuming that those remarks were indeed made, these were justified remarks under the circumstances of the situation.[42]

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[40] Section 1. *Motion defined.* A motion is an application for relief other than by a pleading.
[41] *De Villa v. Judge Reyes*, 525 Phil. 485, 502 (2006), citing *Cruz v. Alino-Hormachuelos*, A.M. No. MTJ-03-1489, March 31, 2004, 426 SCRA 573.
[42] *Rollo*, pp. 95, 96, 101.

While the allegations of complainant were not fully substantiated, the Court disagrees with the respondents that disrespectful remarks made by court personnel should be tolerated and even considered "justified remarks." The respondents, and all court personnel for that matter, should be reminded that the image of the Judiciary is mirrored in the kind of conduct, official or otherwise, which the personnel within its employ display, from the judge to the lowliest clerk. Impolite language and improper tone should be avoided. Professionalism, respect for the rights of others, good manners and right conduct are expected of all judicial officers and employees. Thus, all employees are required to preserve the Judiciary's good name and standing as a true temple of justice.[43] For such improper remarks, the respondents and their court personnel are admonished.

WHEREFORE, the complaint against respondents Judge Rowena De Juan-Quinagoran and Branch Clerk of Court Atty. Adonis Laure is **DISMISSED** for lack of merit.

Respondents and their court personnel, however, are hereby **ADMONISHED** to be always courteous in dealing with litigants and the public in the performance of official duties.

SO ORDERED.

JOSE CATRAL MENDOZA
Associate Justice

[43] *Judge Mariano v. Mondala*, 591 Phil. 33, 41 (2008), citing *Casanova, Jr. v. Cajayon*, 448 Phil. 573, 582 (2003).

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

ARTURO D. BRION
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice