451 Phil. 472

SECOND DIVISION

[A.M. No. RTJ-03-1751, June 10, 2003]

COMMISSIONER ANDREA D. DOMINGO, COMPLAINANT, VS. EXECUTIVE JUDGE ERNESTO P. PAGAYATAN, RTC, BRANCH 46, SAN JOSE, OCCIDENTAL MINDORO, RESPONDENT.

R E S O L U T I O N

AUSTRIA-MARTINEZ, J.:

In a letter-complaint dated December 7, 2001 filed with the Office of the Court Administrator, Commissioner Andrea D. Domingo of the Bureau of Immigration (BOI) charged Executive Judge Ernesto P. Pagayatan of the Regional Trial Court of San Jose, Occidental Mindoro (Branch 46) with Gross Ignorance of the Law relative to Criminal Case No. R-5075 for Estafa, entitled *People of the Philippines vs. Ernesto M. Peñaflorida.*

Complainant alleged: On September 14, 2001, the Bureau of Immigration (BOI) Board of Commissioners (BOC) issued Summary Deportation Order (SDO) No. ADD-2001-057 against Ernesto M. Peñaflorida, a U.S. citizen, after finding that he is an overstaying and undocumented alien, in violation of Section 37(a)(7) of Commonwealth Act No. 613, otherwise known as the Philippine Immigration Act of 1940. Peñaflorida is also a fugitive from justice since he stands indicted in the United States for health care fraud which resulted in more than $1,376,000.00 losses to the U.S. Federal Government. No appeal was filed with the Office of the President. The SDO became final and executory on October 15, 2001. On the same date, respondent issued a Notice of Arraignment requiring the production of Peñaflorida on November 19 and 20, 2001. On the scheduled hearing of November 19, 2001, respondent denied the P40,000.00 bail recommended by the Provincial Prosecutor for the provisional release of the accused on the ground that the crime Peñaflorida was charged with involved large scale estafa, a non-bailable offense. Respondent ordered the commitment of Peñaflorida to the Provincial Jail in Magbay, San Jose, Occidental Mindoro. However, later on that same day, the BOI received information that respondent had allowed the release from detention of Peñaflorida, who is an alien federal fugitive, without the interdepartmental courtesy of affording prior notice to the BOI of such action. She is appalled not only by the respondent's employment of legal subterfuges in ordering the release of Peñaflorida whose Summary Deportation Order had already become final and executory, but also by the respondent's bad faith in deceiving them into surrendering the custody of an undesirable alien federal fugitive to the

Provincial Jail at Magbay, San Jose, Occidental Mindoro.[1]

In his Comment, dated March 22, 2002, respondent explained: On November 20, 2001, Peñaflorida filed an urgent motion to fix bail. When the prosecution and the defense jointly manifested that it would be fair and just if the court would fix the bail bond for the provisional release of the accused Peñaflorida at P250,000.00, he granted the motion to fix bail on November 21, 2001; and, at the time he issued the Order fixing the bail bond of the accused at P250,000.00, he was not aware that a deportation order had already been issued by the BOI against the latter.[2]

In a Resolution dated January 15, 2003, the Court re-docketed the administrative complaint as a regular administrative matter and required the parties to manifest within ten days from notice if they are willing to submit the case for decision based on the pleadings filed by the parties.[3]

In compliance, the complainant and the respondent manifested their willingness to submit the case on the basis of the pleadings.[4] In addition to his manifestation, however, respondent averred: Upon learning that an order of deportation was issued against Peñaflorida, he ordered the cancellation of the bail bond posted by Peñaflorida and issued a warrant for the latter's arrest on April 26, 2002; and that Peñaflorida voluntarily surrendered himself on October 24, 2002 and is presently detained at the Provincial Jail of Occidental Mindoro.[5]

In its Evaluation Report, the Office of the Court Administrator (OCA) recommends to the Court that respondent be fined P5,000.00 for Gross Ignorance of the Law, reasoning that:
After going over the records of the case, it is very evident that respondent Judge acted with undue haste in issuing the order granting bail considering the fact that in his earlier Order dated November 19, 2001, he did not grant a bail of P40,000.00 which the Provincial Prosecutor had previously recommended for the provisional release of the accused. His denial was based on the ground that the case filed against the accused could be considered large-scale Estafa, an unbailable offense. Respondent Judge should not have granted bail simply on the lack of readiness on the part of the prosecution to present any witness to prove that the evidence of guilt of the accused was strong but should have endeavored to determine the existence of such evidence.

Under the present rules, a hearing is required before granting bail whether it is a matter of right or discretion. The prosecution must always be given an opportunity to present within a reasonable time, all the evidence that it may desire to introduce before the Court may resolve the motion for bail. If the prosecution refuses to adduce evidence or fails to interpose an objection to the motion for bail, it is still mandatory for the court to conduct a hearing or ask searching and clarificatory questions.

Moreover, since the accused was accompanied by the personnel of the Bureau of Immigration when brought to the RTC, Branch 46, San Jose, Occidental Mindoro, for his arraignment in Criminal Case No. R-5075respondent Judge could have easily verified from his escort if the

former was being detained for other crimes aside from the one where he was being arraigned in respondent's sala. Had he done so, respondent could have been informed outright by the B.I. personnel escort that the accused had already been the subject of a Summary Deportation Order and, thus, he could have deferred action on the latter's (accused) Motion to Fix Bail and afforded the Bureau of Immigration the chance and opportunity to interpose their objection to the grant thereof.[6] (Citations omitted).
The Court agrees with the findings and recommendation of the OCA.

Under the rules on bail, a hearing is mandatory in granting bail whether it is a matter of right or discretion.[7] A hearing is indispensable for the court to ask searching questions from which it may infer the strength of the evidence of guilt, or the lack of it, against the accused, in cases where the offense is punishable by death, *reclusion perpetua* or life imprisonment.[8] After hearing, the court's order granting or refusing bail must contain a summary of the evidence for the prosecution and based thereon, the judge should then formulate his own conclusion as to whether the evidence so presented is strong enough as to indicate the guilt of the accused.[9] Otherwise, the order granting or denying the application for bail may be invalidated because the summary of evidence for the prosecution which contains the judge's evaluation of the evidence may be considered as an aspect of procedural due process for both the prosecution and the defense.[10]

The herein respondent granted bail to the accused Peñaflorida without conducting a hearing despite his earlier pronouncement in the Order dated November 19, 2001 denying bail as he considered the crime the accused Peñaflorida was charged with to be a non-bailable offense. The manifestation of the prosecutor that he is not ready to present any witness to prove that the prosecution's evidence against the accused is strong, is never a basis for the outright grant of bail without a preliminary hearing on the matter.[11] A hearing is required even when the prosecution refuses to adduce evidence or fails to interpose an objection to the motion for bail.[12]

The joint manifestation of the prosecution and the defense that it would be fair and just if the court would fix the bail bond for the provisional release of the accused at P250,000.00 does not justify the granting of bail without a hearing in a case involving a non-bailable offense. A hearing is necessary for the court to take into consideration the guidelines in fixing the amount of bail[13] set forth in Section 9, Rule 114 of the Revised Rules of Criminal Procedure, which reads:
SEC. 9. ***Amount of bail; guidelines.*** — The judge who issued the warrant or granted the application shall fix a reasonable amount of bail considering primarily, but not limited to the following factors:nona
(a) Financial liability of the accused to give bail;

(b) Nature and circumstance of the offense;

(c) Penalty for the offense charged;

(d) Character and reputation of the accused;

(e) Age and health of the accused;

(f) Weight of the evidence against the accused;

(g) Probability of the accused appearing at the trial;

(h) Forfeiture of other bail;

(i) The fact that the accused was a fugitive from justice when arrested; and

(j) Pendency of other cases where the accused is on bail. Excessive bail shall not be required."

Needless to stress, judicial discretion is the domain of the judge and the duty to exercise discretion cannot be reposed upon the will or whim of the prosecution or the defense. Respondent should have ascertained personally whether the evidence of guilt is strong and endeavored to determine the propriety of the amount of bail recommended. To do away with the requisite bail hearing "is to dispense with this time-tested safeguard against arbitrariness."[14] It must always be remembered that imperative justice requires the proper observance of indispensable technicalities precisely designed to ensure its proper dispensation.[15]

There is no evidence of malice or bad faith on the part of respondent when he granted bail to Peñaflorida. Complainant failed to prove that respondent had prior knowledge of the existence of a deportation order or that the latter was informed by the BOI of the deportation order dated September 14, 2001. The deportation order became final only on October 15, 2001. Prior thereto, respondent issued on September 18, 2001 a hold-departure order against Peñaflorida. Respondent directed the BOI not to allow Peñaflorida from leaving the country since a warrant for his arrest was already issued by the court.[16] On October 15, 2001, the Notice of Arraignment in Criminal Case No. R-5075 was served to Peñaflorida through the BOI.[17] In the hearing of November 19, 2001, the personnel of the BOI escorted Peñaflorida by reason of the warrant of arrest and hold departure order issued by the court.[18]

From these facts, we cannot simply conclude that respondent had prior knowledge of the deportation order and maliciously thwarted its effect by granting bail to Peñaflorida. However, respondent cannot escape administrative liability by invoking unawareness of the deportation order. Absent evidence of malice, respondent's lack of knowledge of the deportation order will only free him from administrative liability for gross misconduct but not for gross ignorance of the law for disregarding the rules on bail.

The Court has held that a judge cannot be held administratively liable for an erroneous ruling on first impression, and malice cannot be inferred from his having rendered a decision rectifying an earlier impression without proof beyond doubt of a conscious and deliberate intent on his part to commit an injustice by such acts.[20] Nonetheless, so basic and fundamental is it to conduct a hearing in connection with the grant of bail that it would amount

to judicial apostasy for any member of the judiciary to disclaim knowledge or awareness thereof.[21] Having accepted the exalted position of a judge, respondent owes the public and the court the duty to be proficient in the law. When a judge displays utter lack of familiarity with the basic rules of law, he erodes the public's confidence in the competence of our courts.[22]Ignorance of the law excuses no one — certainly not a judge.[23]

Respondent's explanations that he ordered the cancellation of the bail bend posted by the accused Peñaflorida and issued a warrant for the latter's arrest on April 26, 2002 upon learning that an order of deportation was issued against the latter;[24] that accused Peñaflorida voluntarily surrendered himself on October 24, 2002 and that he is presently detained at the Provincial Jail of Occidental Mindoro,[25] cannot serve to exonerate him or even mitigate the penalty due him. Significantly, the order of revocation was made only on April 26, 2002, or five months after the issuance of the erroneous Order of November 21, 2001 which was sought to be corrected. It is unfathomable that respondent realized his fallacious granting of bail only after he filed his Comment herein dated March 22, 2002. The Order of April 26, 2002 is but a futile attempt to evade respondent's administrative liability which had already attached five months before when he granted bail without the required hearing. Fundamental knowledge of the law and a reasonable understanding of recent jurisprudence ought to have guarded respondent against the precipitate and unjustified granting of bail or should have at least prompted him to invalidate the same immediately thereafter,[26] not five months later after a complaint against him had been filed by BOI Commissioner Domingo.

As to the recommended penalty by the OCA, the amount of P5,000.00 appears to be commensurate with respondent's infraction which amounts to gross ignorance of law. Under Section 8 of A.M. No. 01-8-10-SC amending Rule 140 of the Rules of Court on the Discipline of Justices and Judges, which took effect on October 1, 2001, gross ignorance of the law is classified as a serious charge which carries with it a penalty of either dismissal from service, suspension or a fine of more then P20,000.00 but not exceeding P40,000.00. However, considering that malice or bad faith on the part of respondent has not been established by the complainant, and, in the absence of a showing that respondent had earlier been found to have committed an administrative offense,[27] the Court deems it just and reasonable to impose upon respondent a fine of P5,000.00.

WHEREFORE, respondent Executive Judge Ernesto P. Pagayatan of the Regional Trial Court of San Jose, Occidental Mindoro (Branch 46) is found guilty of Gross Ignorance of the Law and is hereby **FINED** the amount of Five Thousand Pesos (P5,000.00). He is further **STERNLY WARNED** that the commission of similar acts in the future shall be dealt with more severely by this Court.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, and *Callejo, Sr., JJ*., concur.

[1] Rollo, pp. 2-3.

[2] Rollo, pp. 7-8.

[3] Rollo, pp. 19-20.

[4] Rollo, pp. 21-25.

[5] Rollo, p. 25.

[6] Rollo, pp. 15-18.

[7] Bangayan vs. Butacan, 345 SCRA 301, 306 (2000).

[8] Santos vs. Ofilada, 245 SCRA 56, 64 (1995).

[9] Marzan-Gelacio vs. Flores, 334 SCRA 1, 18 (2000).

[10] Narciso vs. Sta. Romana-Cruz, 328 SCRA 505, 516-517 (2000).

[11] Directo vs. Bautista, 346 SCRA 223, 227 (2000).

[12] Cortes vs. Catral, 279 SCRA 1, 14 (1997).

[13] People vs. Gako, Jr., 348 SCRA 334, 351 (2000).

[14] Tabao vs. Espina, 309 SCRA 273, 286 (1999).

[15] Office of the Court Administrator vs. Alvarez, 287 SCRA 325, 331 (1998).

[16] Rollo, p. 9.

[17] Annex "B" of the letter-complaint.

[18] Annex "C" of the letter-complaint.

[20] Castaños vs. Escaño, 251 SCRA 174, 193-194 (1995).

[21] Basco vs. Rapatalo, 269 SCRA 220, 244 (1997).

[22] Vileña vs. Mapaye, A.M. No. MTJ-02-l424, April 24, 2002, p. 4.

[23] Cabatingan, Sr. vs. Arcueno, A.M. No. MTJ-00-1323, August 22, 2002, p. 9; Espino vs. Salubre, 352 SCRA 668, 675 (2001).

[24] Rollo, p. 27.

[25] Rollo, p. 28.

[26] Bantuas vs. Pangadapun, 292 SCRA 622, 628 (1998).

[27] See Berin vs. Barte, A.M. No. MTJ-02-1443, July 31, 2002, p. 6; Esguerra vs. Loja, 338 SCRA 1, 4 (2000); Conducto vs. Monzon, 291 SCRA 619, 637 (1998).