43 Phil. 212

**[ . March 20, 1922 ]**

***IN RE* IMPEACHMENT OF HONORABLE ANTONIO HORRILLENO, JUDGE OF FIRST INSTANCE OF THE TWENTY-SIXTH JUDICIAL DISTRICT.**

**D E C I S I O N**

**MALCOLM, J.:**

Charges against the Honorable Antonio Horrilleno, judge of first instance of the Twenty-sixth Judicial District have been aired by Abundio Enrile before the Wood-Forbes Mission, the Governor-General, and the Supreme Court of the Philippine Islands. Judge Horrilleno has joined with his accuser in asking for an official investigation and this has now been concluded by the Attorney-General. The law officer of the Government, in his report to this court, submits the evidence presented, with the recommendation that the charges laid against Judge Horrilleno be dismissed. It is, therefore, for the court to determine from the record before it, including the petition of the complainant Enrile, the answer to the same made to the Secretary of Justice by Judge Horrilleno, and the record of the official investigation, if sufficient cause exists under the law for the court to recommend the removal of Judge Antonio Horrilleno to the Governor-General.

The charges made by Abundio Enrile against Judge Antonio Horrilleno, as understood by the latter, were (1) In negligently and carelessly delaying the case No. 21 of the Court of First Instance of Zamboanga, entitled, *Abintestato del finado Nicolas Nunez y Enrile* (Intestate Estate of Nicolas Nunez y Enrile, deceased), and (2) in that Judge Horrilleno was a political judge. The specification of misconduct last mentioned has not been

pressed.

The allegations of negligence and carelessness (*negligencia y descuido*) have to do with the civil case, *Abintestato del finado Nicolas Nunez y Enrile*, begun on April 23, 1912, and still in litigation. The complainant charges that the respondent judge has wilfully delayed the hearing- of this case and has taken no action, although his attention has repeatedly been called to the numerous irregularities committed by the administrator in the performance of his duties. It is said that six cases, which were submitted for adjudication to the respondent much later than that in which the complainant is interested, have already been decided. Insinuations-are also made that the judge has lived on a parcel of land constituting a portion of the property involved in the action.

Among the conceded facts, which tend to dissipate completely the allegations of the complainant, there can be mentioned the following: Judge Horrilleno was appointed auxiliary judge of the seventh group which includes the Twenty-sixth Judicial District in March, 1919; case No. 21 of the Court of First Instance of Zamboanga entitled, "Abintestato del finado Nicolas Nunez y Enrile," was first submitted to him on July 1, 1919; and the various continuances granted by the judge have been either on account of the petition of the parties themselves or on account of the court being able to hold sessions in Zamboanga for short periods at a time. While it is admitted that respondent lived on lot 3, of block No. 26, cadastral case No. 7888 of the municipality of Zamboanga, he had no means of knowing that the land would become involved in a suit about to be heard by him and he has paid the customary rental therefor.

With the foregoing the outstanding facts of record, we should next turn to the Philippine law on the subject of removal and suspension of judges of first instance (sec. 173, Administrative Code), in order to determine therefrom whether or not it is our duty to ask the Chief Executive to remove the respondent judge from office.

The grounds for removal of a judge of first instance under Philippine law are two: (1) Serious misconduct and (2) inefficiency. The latter ground is not involved in these proceedings. As to the first, the law provides that "sufficient cause" must exist in the judgment of the Supreme Court involving "serious misconduct." The adjective is "serious;" that is, important, weighty, momentous, and not trifling. The noun is "misconduct;" that is, a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. The word "misconduct" implies a wrongful intention and not a-mere error of judgment. For serious misconduct to exist, there must be reliable evidence showing that the judicial acts complained' of were corrupt or inspired by an intention to violate the law, or were in persistent disregard of well-known legal rules. People [1874], 74 111., 228; Citizens' Insurance Co. vs. Marsh [1861], 41 Pa., 386; Miller vs. Roby [1880], 9 Neb., 471; Smith vs. Cutler [1833], 10 Wend. [N. Y.], 590; U. S. vs. Warner [1848], 28 Fed. Cas. No. 16643; *In re* Tighe [1904], 89 N. Y. Supp., 719.)

The procedure for the impeachment of judges of first instance has heretofore not been well defined. The Supreme Court has not as yet adopted rules of procedure, as it is authorized to do by law. In practice, it is usual for the court to require that charges made against a judge of first instance shall be presented in due form and sworn to; thereafter, to give the respondent judge an opportunity to answer; thereafter, if the explanation of the respondent be deemed satisfactory, to file the charges without further annoyance for the judge; while if the charges establish a *prima facie* case, they are referred to the Attorney-General who acts for the court in conducting an inquiry into the conduct of the respondent judge. On the conclusion of the Attorney-General's investigation, a hearing is had before the court *en banc* and it sits in judgment to determine if sufficient cause exists involving the serious misconduct or inefficiency of the respondent judge as warrants the court in recommending his removal to the Governor-General.

Impeachment proceedings before courts have been said, in other jurisdictions, to be in their nature highly penal in character and to be governed by the rules of law applicable to criminal cases. The charges must, therefore, be proved beyond reasonable doubt. (State *ex rel*. Attorney-General vs. Hasty [1913], 184 Ala., 121; State vs. Hastings [1893], 37 Neb., 96.)

Serious misconduct on the part of Judge Horrilleno has not here been proved by a preponderance of the evidence, much less beyond a reasonable doubt. The most that can be said for the charges made by complainant, would be that the judge may have been careless in the performance of his judicial duties. There is extant absolutely no proof that the respondent judge has acted partially, or maliciously, or corruptly, or arbitrarily, or oppressively. On the contrary, the testimony of the most prominent citizens of Mindanao and Sulu including the Sultan of Sulu, Senator Hadji Butu, Datu Ussman, Governor Charles M. Moore, and practically the entire bar of Zamboanga, Jolo, and Davao is unanimously in favor of the excellent reputation of Judge Horrilleno. Sufficient of the cases tried by Judge Horrilleno have been elevated to this court for all of us to have become conscious of the careful performance of his onerous and responsible duties, and familiar with the excellent quality of his judicial output. We would be remiss ourselves if, knowing of the publicity which has been given to the attacks on the good name of Judge Horrilleno, we should not as publicly announce our faith in his judicial character. Judge Horrilleno justly merits and is granted complete exoneration.

It results that in the judgment of the Supreme Court of the Philippine Islands, sufficient cause does not exist involving serious misconduct or inefficiency on the part of Honorable Antonio Horrilleno, judge of first instance of the Twenty-sixth Judicial District, as justifies the court in recommending his removal to the Governor-General. Without further action, therefore, the papers in these proceedings against Judge Horrilleno shall be filed, and a copy of this decision shall be forwarded to him through official channels. So ordered.

. March 20, 1922

*Araullo, C. J., Avanceña, Villamor, Ostrand,* and *Johns, JJ.,* concur.

*Romualdez, J.,* did not take part.

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