

REGINA PERALTA, PETITIONER, VS. JUDGE GEORGE E. OMELIO, IN HIS CAPACITY AS THE PRESIDING JUDGE OF BRANCH 14 OF THE REGIONAL TRIAL COURT OF DAVAO CITY, THE PEOPLE OF THE PHILIPPI...

Ponente: CONTRERAS, J.

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CONTRERAS, J.:

The Case

Before us is a Petition for Certiorari under Rule 65 of the Revised Rules of Court, assailing the Order^[1] of the Regional Trial Court (hereafter RTC) denying the “Urgent pro se Motion for Recusal” filed by Regina Peralta (hereafter Peralta) against RTC Presiding Judge George E. Omelio (hereafter Judge Omelio) of Branch 14 in Davao City.

A Motion for Reconsideration was likewise denied.^[2]

The Facts

The records reveal the following antecedents:

Peralta, a resident of Davao City, is one of the accused in Criminal Case No. 65,463-09 for estafa under article 315, par. 1(b) and par. 2 (a) of the Revised Penal Code. Such case was filed sometime in May 2008 before Branch 14 of the RTC in Davao City.^[3] The estafa case was instituted by the spouses Johnny and Carmen Go (hereafter spouses Go) who are also residents of Davao City against Peralta and a certain Mark Sia (hereafter Sia). Judge Omelio was then the Presiding Judge of Branch 14.^[4]

The spouses Go alleged that on June 18, 2010, a compromise agreement was executed by the parties where Peralta and her co- accused Sia promised to pay a minimal amount of Twenty Thousand Pesos (PHP 20,000.00) each month until the full obligation amounting to Three Million Pesos (PHP 3,000,000.00) will be settled. Peralta and Sia were able to comply with only the first three payments. So the spouses Go filed an urgent motion to reinstate the estafa case against both accused on January 10, 2011.

In the meantime, on June 11, 2010, Peralta instituted an administrative complaint against Judge Omelio for gross ignorance of the law for his conduct in another civil case involving her and the Land Bank of the Philippines. The complaint alleged that Judge Omelio issued a Temporary Restraining Order without hearing, despite the prior denial of an ex parte 72-hour TRO by the Executive Judge in civil case no 33,291-10.^[5]

On January 17, 2011, the administrative case was referred to the Court of Appeals in Cagayan de Oro city for investigation, report and recommendation.

On February 14, 2011, Peralta filed an Urgent pro se Motion for Recusal^[6] asking Judge Omelio to inhibit from the estafa case due to the pendency of the investigation of her administrative complaint against him. Peralta alleged that Judge Omelio was biased against her; thus, she cannot hope for the impartiality that the Constitution

guaranteed to her as an accused.

In their opposition,[7] spouses Go are asking that Judge Omelio be retained and invoked substantive justice, asserting that the inhibition of the judge would cause a great disservice and create needless delay in the administration of justice, in the absence of a valid ground for the inhibition.

Judge Omelio denied Peralta's motion, stating that various adverse rulings against Peralta and the pendency of the administrative complaint she filed against him do not qualify as grounds for inhibition since it is "not the clear and convincing evidence that would sufficiently prove bias and prejudice. XXX To prove bias and prejudice on the part of the respondent judge, petitioners (Peralta and Sia) harp on the alleged adverse and erroneous rulings of respondent judge on their various motions. By themselves, however, they do not sufficiently prove bias and prejudice to disqualify respondent judge." [8] In the same order of denial, Judge Omelio also set the resumption of the hearing of the estafa case on June 28, 2011.

Peralta filed a Motion for Reconsideration,[9] arguing that the right of the accused to an impartial trial is constitutional in origin and that she does not believe she will be accorded an impartial and fair trial due to the pending administrative case she filed against Judge Omelio. Peralta also argued that a judge must not only be impartial but must also appear to be impartial to preserve the trust and faith of party litigants in the judiciary.

A hearing was conducted to determine the propriety of the inhibition. Spouses Go presented the common law husband of Peralta to testify on her pattern of behavior constituting delaying tactics in various cases against her. It was allegedly Peralta's scheme to file motions for inhibition of the judges who will handle her cases, change counsel, or raise the issue of prejudicial question to delay the proceedings so that among the several cases filed against her, so far none went on trial.[10] Similarly, this case was still in its pre-trial stage four (4) years after its institution.[11]

On February 15, 2012, Judge Omelio denied the Motion for Reconsideration. Judge Omelio ruled that Peralta is "virtually engaged in forum-shopping by having her case transferred from one sala to another via motion for inhibition to delay or perhaps to look for a court that can sympathize with her cause." [12]

The Order[13] pertinently provides:

"Under the circumstances, however, to affirm his Order of inhibition would open the floodgates to a form of forum- shopping, in which litigants would be allowed to shop for a judge more sympathetic to their cause. Such action would be antithetical to the speedy and fair administration of justice (underlining deleted).

WHEREFORE, and in view of the foregoing, the instant motion for reconsideration of the accused is DENIED.

The instant motion for reconsideration is just that, a form of forum shopping."

Unperturbed, Peralta expressed her fear that she will be unable to get a fair trial because she alleged that Judge Omelio has shown unbridled bias against her; thus, he will no longer be the impartial tribunal that was guaranteed to her by the Constitution.

Hence, this petition.

The Issue

The issue raised by Peralta was whether there was grave abuse of discretion amounting to lack or excess of jurisdiction when Judge Omelio denied the Motion for Recusal and Reconsideration despite the pendency of an administrative case filed against him.

Our Ruling

The parameters set in Rule 137 of the Rules of Court, encompass the controversy at hand:

SEC.1. Disqualification of Judges. No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has been presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above.[14]

In *Garcia vs. de la Peña*,[15] the Supreme Court expressly stated that the first paragraph of Section 1, Rule 137 of the Rules of court was compulsory. This portion pertains to the disqualification of judges. As to the second paragraph, it is a “matter of conscience and is addressed primarily to the sense of fairness and justice of the judge concerned. Thus, the mere filing of an administrative case against respondent judge is not a ground for disqualifying him from hearing the case, for if on every occasion the party apparently aggrieved would be allowed to either stop the proceedings in order to await the final decision on the desired disqualification, or demand the immediate inhibition of the judge on the basis alone of his being so charged, many cases would have to be kept pending or perhaps there would not be enough judges to handle all the cases pending in all the courts.”[16]

However, considering that on November 7, 2012, Judge Omelio issued an Order[17] voluntarily inhibiting himself from this case, the issue is now deemed moot and academic.

Hence, the petition must be dismissed.

As defined by jurisprudence, “a moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical value. As a rule, courts decline jurisdiction over such case, or dismiss it on the ground of mootness.”[18] Thus it will be a futile endeavor to discuss the merits whether there was grave abuse of discretion amounting to lack or excess of jurisdiction on the part of Judge Omelio since the there is no more inhibition left to be invoked.

The voluntary inhibition of Judge Omelio is such supervening event that “rendered this case moot and academic and subject to dismissal.”[19] It will be a pointless exercise to discuss the issue presented, in light of the reason given by Judge Omelio, which was the oral order from the Office of the Court Administrator urging him to recuse from further hearing the case.

Absent any fact or any urgent matter that, as a way of exception, would necessitate a review of the facts or issues raised to merit further elucidation, this Court must therefore dismiss this case.

WHEREFORE, premises considered, the petition is DISMISSED for being moot and academic.

SO ORDERED.

Lloren, J., Ch., and Santos, JJ., concur.

[1] Rollo, pages 33-35. Order dated April 29, 2011 denying Peralta’s pro se Motion for Recusal.

[2] Rollo, pages 36-37. Order dated February 15, 2012.

[3] Rollo, page 180.

- [4] Rollo, page 6.
- [5] Rollo, page 39.
- [6] Rollo, page 93.
- [7] Rollo, pages 95-100.
- [8] Rollo, pages 33-35 Order dated April 29, 2011 denying Peralta's Pro se Motion for Recusal.
- [9] Rollo, pages 38-48.
- [10] Rollo, pages 110-150.
- [11] Rollo, page 108.
- [12] Rollo, page 37.
- [13] Rollo, page 37.
- [14] Rules of Court of the Philippines, Section 1, Rule 137.
- [15] 229 SCRA 766, February 9, 1994. as cited in the Extended Explanation of Inhibition by Justice Artemio Panganiban in Estrada vs. Desierto G.R. No. 146710-15, March 2, 2001
- [16] Rosello vs. Court of Appeals, 168 SCRA 459, December 14, 1988
- [17] Rollo, page 308.
- [18] Gunsí, Sr., vs. Commissioners, the Commission on Elections, G.R. No. 168792, February 23, 2009, 580 SCRA 70, 76 as cited in Mendoza, et. al., vs. Villas et.al., G.R. No. 187256 February 23, 2011
- [19] Mendoza, et. al., vs. Villas et.al., G.R. No. 187256 February 23, 2011

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