

**SPOUSES FLORENCIO & ESTHER CAUSIN, COMPLAINANTS, VS.
JUDGE LEONARDO N. DEMECILLO, REGIONAL TRIAL COURT,
BRANCH 24, CAGAYAN DE ORO CITY, RESPONDENT.**

A.M. No. RTJ-04-1860. September 08, 2004

Ponente: PUNO, J.

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PUNO, J.:

Before this Court is an administrative complaint filed on August 24, 2001 by spouses Florencio and Esther Causin, charging respondent Regional Trial Court (RTC) Judge Leonardo N. Demecillo, Branch 24 of Cagayan de Oro City, with bias and partiality, violation of the Code of Judicial Conduct for allowing another RTC judge to participate in a case pending before his sala as counsel for the plaintiff without authority from this Court, and for knowingly rendering an unjust decision.

The complaint stemmed from a 1994 case for quieting of title^[1] filed by Raul F. Lim, represented by his attorney-in fact Rita Lim, and Pryce Properties Corporation against complainant-spouses and one Omero T. Dampal. The case which involved the overlapping of boundaries of the adjacent lots of the parties was raffled off to the RTC, Branch 24 of Cagayan de Oro City, presided by respondent judge.

Complainant-spouses alleged that Judge Rodrigo Lim, Jr., then RTC Acting Judge of Branch 21, Cagayan de Oro City and a brother of plaintiff Raul Lim, acted as the latter's counsel in the civil case for quieting of title. They claim that Judge Lim attended the hearings in the case, cross-examined the witnesses, interposed objections at the trials, chose the hearing dates, and delivered oral arguments in court --- all without special authority from this Court; that when confronted by them, Judge Lim refused to confirm whether he was hired by the plaintiffs to represent them in said case; and, that respondent judge allowed Judge Lim to actively participate and intervene in the proceedings although he knew that the latter was not authorized by this Court to do so.

As to the charge of bias and partiality in favor of the plaintiffs and Judge Lim, complainant-spouses alleged that during the trial, respondent judge extended unwarranted consideration to the plaintiffs as follows: he would wait for the arrival of Judge Lim in court whenever the latter would be late for a hearing in said case; a scheduled hearing in the morning would be transferred by respondent judge in the afternoon when he would learn that Judge Lim could not make it in the morning session; respondent judge would reset the hearings based solely on the convenience of Judge Lim; all the unreasonable objections interposed by Judge Lim during the trial were sustained by respondent judge; and, when complainants moved for an ocular inspection of the subject lots to show to the court the actual location of the disputed boundary, respondent judge denied their request and sustained the objection of Judge Lim.

Finally, complainant-spouses charged that respondent judge knowingly rendered an unjust decision in the case when he awarded the disputed portion of the land to plaintiff Lim without considering the merits of their evidence.^[2]

In answer to the complaint,^[3] respondent judge denied the charges. He explained that he allowed Judge Lim to

appear as counsel for the plaintiffs as he presumed that the latter had sought prior authority to do so from this Court. He pointed out that under Section 21, Rule 138 of the Rules of Court, an attorney is presumed to be properly authorized to represent any cause in which he appears. Respondent judge also argued that the complainants failed to file a motion questioning the authority of Judge Lim to appear as counsel for the plaintiffs in said case.

On the charge of bias and partiality, respondent judge explained that: firstly, it has been his practice to move to the afternoon a hearing that is scheduled in the morning upon the request of either party rather than postpone or reset it to another day; secondly, he did not consider solely the convenience of Judge Lim in scheduling the hearing dates as he asked the parties to find a trial date convenient to them, as borne out by the transcripts of said case; finally, he did not grant complainants' request for an ocular inspection of the subject lots as he believed that the relocation survey of a licensed inspector would better determine if the two (2)-hectare disputed land belonged to the land of the plaintiffs or the defendants.

On the charge of knowingly rendering an unjust judgment, respondent judge stressed that he decided the case against the complainants based on the evidence and the law, guided by his deep sense of justice. He explained that he did not consider complainants' defense of prescription and laches for the following reasons: these were not put in issue in the pre-trial order; acquisitive prescription could not defeat the title of the registered owner of the land; and, the complainants failed to prove that plaintiffs incurred in delay in asserting their rights despite knowledge of the complainants' encroachment on their land.

Finally, respondent judge argued that if complainant-spouses doubted his impartiality, they should have filed a motion to inhibit him and he would have readily granted it. Likewise, he pointed out that if they had objected to the participation of Judge Lim in the proceedings, it would have given him reason to inquire from Judge Lim whether he was authorized to appear in said case. Respondent judge stressed that complainant-spouses did neither and put the blame on him after losing their case.

In their Reply,[4] complainant-spouses reiterated their charge that respondent judge was guilty of bias and partiality when he allowed RTC Judge Lim to actively participate in the trial of said case without entering his appearance as plaintiffs' counsel. They stressed that there was no special purpose for Judge Lim to appear as counsel for his brother, plaintiff Raul Lim, as the latter had already sold his land, subject of the case, to co-plaintiff Pryce Properties Corporation. Thus, they charged that the participation of Judge Lim in the proceedings served no other purpose than to influence respondent judge in deciding the case in plaintiffs' favor. They insisted that respondent judge should not have allowed Judge Lim to be involved in the proceedings as he was not a party to the case, he was not hired by the plaintiffs to represent them and he was not authorized by this Court to do so. It was not incumbent upon them to inquire into Judge Lim's authority as, being laymen, they did not know that a member of the bench is not allowed to practice his profession.

For his part, Executive Judge Rodrigo Lim, Jr. admitted that he did not secure from this Court an authority to appear in the proceedings of the case. He explained that his appearance at the trial of September 20, 1995 was only for the purpose of cross-examining the complainants' witness, Pedro Tellafer, who was a tenant of his father, the original owner of plaintiffs' lot. He allegedly participated in the hearings of said case in good faith as he had personal knowledge of the witness' background. Moreover, it was a family case --- his brother was one of the plaintiffs and his wife acted as his brother's attorney-in-fact. He argued that he did not engage in the illegal practice of law as the phrase connotes payment of a fee and he did not receive remuneration for his participation in the case. Finally, he claimed that the complaint was ill-motivated and was filed by disgruntled litigants to get even with the Lim family after losing the case, as evidenced by the fact that it was only filed six (6) years later.[5]

After the issues were joined, the Court referred the case to the Court of Appeals for investigation, report and recommendation. At the hearings conducted, complainant-spouses and respondent judge testified. The case was then submitted for decision.[6]

After evaluating the case, the investigating Justice made the following observations:

(1) On the charge of bias and partiality, there is no basis to warrant disciplinary action against respondent judge as complainants failed to prove their charge by convincing evidence.

(2) On the charge of knowingly rendering an unjust decision, the respondent judge cannot be held liable as the impugned decision was affirmed on appeal by the Court of Appeals and this Court.

(3) On the charge of violation of the Code of Judicial Conduct, respondent judge is liable as he allowed a fellow RTC judge to appear as counsel for one of the parties in a case pending before his sala without authority from this Court. He rejected respondent judge's explanation that he was busy with the case that it escaped his attention that Judge Lim was an incumbent RTC judge, prohibited from appearing as counsel in the case.

Thus, the investigating Justice recommended: (1) that the charges of bias and partiality, and knowingly rendering an unjust judgment be dismissed for lack of merit; and, (2) that a fine of P5,000.00 be imposed against respondent judge for violation of Canon 2, Rule 2.01 and Rule 2.03 of the Code of Judicial Conduct for allowing the unauthorized appearance of Judge Lim in the trial of the case, with a stern warning that a repetition of similar act of impropriety or any misconduct shall be dealt with more severely.[7]

We uphold the findings of the investigating Justice of the Court of Appeals.

On the charge of bias and partiality, we rule that there is a dearth of evidence on record to prove complainant-spouses' charge. The transcript of records attached by complainant-spouses to their complaint clearly shows that in ruling on the objections during the trial, respondent judge would at times sustain or overrule the objection of the lawyer of either party. Thus, from the records, we cannot discern any pattern of partiality committed by respondent judge in favor of the plaintiff or Judge Lim. The questions sparingly propounded by respondent judge to the witnesses were mostly clarificatory in nature. We quote the pertinent portions of the September 20, 1995 TSN of said case, thus:

ATTY. JARDIN

We offer the testimony of our witness, Mr. Tellaper, Your Honor, to prove that he is the brother of Salvacion Tellaper Relano, and her husband Miguel Relano, as the caretaker of the land owned by the late Rodrigo Lim, Sr., and he will also testify that Miguel Relano told him to plant monuments at the boundary per instruction of Rodrigo Lim, Sr. to Miguel Relano.

COURT

Any comment, Pañero?

ATTY. ACHAS: [plaintiffs' counsel of record]

We object [to] the offer of the testimony of witness, on the aspect that he was told by the late Rodrigo Lim, Sr. to plant the monuments is a hearsay.

ATTY. JARDIN

He was the one [who] told to plant the monuments.

ATTY. ACHAS

The person who allegedly told him is already dead.

ATTY. JARDIN

He was instructed and he planted the Ipil-Ipil trees.

COURT

What are you trying to prove, Pañero?

ATTY. JARDIN

The Ipil-Ipil trees were planted among the monuments at the boundary of the land.

JUDGE LIM

Why not present the sister?

ATTY. JARDIN

He was the one who planted, and in fact there was no dispute prior to this case.

COURT

Alright, we will hear from the witness.

x x x

Q

Mr. Witness, you said earlier that in the land owned by Sr. Lim, there is an adjoining land owned by the defendants Causin, did you not know the boundary of Causin and Lim?

JUDGE LIM

No basis, Your Honor.

COURT

Lay the basis, Pañero.

ATTY. JARDIN

Q

You said earlier, that you resided in the land of Sr. Lim for 30 years, do you confirm that Mr. Witness?

A

Yes, sir.

Q

Mr. Witness, did you know the owners of the land adjoining the land of Sr. Lim?

ATTY. ACHAS

We object, no basis.

ATTY. JARDIN

He is a resident of that place.

JUDGE LIM

He has to lay the basis.

ATTY. JARDIN

If the witness knows, Your Honor.

JUDGE LIM

He do[es] not know the boundary.

COURT

If witness knows

A

Yes, sir.

x x x

A

Sr. Lim instructed that the boundary should be planted with Ipil-Ipil trees.

Q

Who was told to plant Ipil-Ipil trees along the boundaries, Mr. Witness?

A

My brother-in-law, Miguel Relano.

Q

And, who did the planting of Ipil-Ipil trees along the boundary?

A

The two of us.

ATTY. ACHAS

May we petition that the previous answer of witness be [stricken] off the record because it is only a hearsay?

COURT

Q

Alright, do you know who planted the Ipil-Ipil seeds?

A

Miguel was the one who plowed and I was the one who sowed the Ipil-Ipil trees.

x x x

Q

Mr. Witness, in your 30 years that you stayed in that area, was there a boundary dispute between [the] adjoining owners, Lim and Causin?

ATTY. ACHAS

Incompetent, your Honor.

ATTY. JARDIN

If he knows.

COURT

Q

Alright, is that boundary not the subject of the conflict?

A

Before there was none.

ATTY. JARDIN

Q

What about now?

A

As of now, there is a conflict.

Q

Did you know when the conflict started, Mr. Witness?

A

I did not know.

Q

But in your 30 years of stay in that area, was there a conflict in that area?

JUDGE LIM

Already answered, "I did not know."

ATTY. JARDIN

Q

Mr. Witness, what is the thing that you do not know about the conflict?

JUDGE LIM

Counsel is trying to cross-examine his own witness.

ATTY. JARDIN

The Witness, Your Honor, is not highly educated.

COURT

He does not know, Pañero.

x x x

JUDGE LIM

May I conduct the cross-examination, Your Honor.

COURT

Proceed, Pañero.

x x x

ATTY. JARDIN
RE-DIRECT EXAMINATION

Q

Mr. Witness, did you ask for a compensation when you left the area?

A

Yes, we asked.

Q

Please tell the Honorable Court, why you asked for compensation?

A

Because of our plants.

Q

Aside from the plants, did you ask for compensation?

JUDGE LIM

There was already an answer.

COURT

Q

Alright, aside from the plants?

A

No more, sir.

ATTY. JARDIN

That would be all, Your Honor.

COURT

Any re-cross?

JUDGE LIM

Yes, Your Honor.

COURT

Proceed, Pañero.

JUDGE LIM
RE-CROSS

Q

You said that you were paid or compensated for the plants that you were able to plant on that land, is that correct?

A

Yes, sir.

Q

And the total amount that you, your sister Salvacion Relano and Miguel Relano, and the rest of your relatives, and the relatives of the husband of your sister, was so high that the Lims refused to pay it?

ATTY. JARDIN

Objection, Your Honor.

COURT

Q

How much did you ask?

X X X

JUDGE LIM

That is all, Your Honor.

COURT

Any more witnesses to be presented?

ATTY. JARDIN

Yes, Your Honor, in the person of Domingo Gilot.

x x x

ATTY. JARDIN
DIRECT EXAMINATION

x x x

ATTY. ACHAS
CROSS-EXAMINATION

x x x

ATTY. JARDIN

Objection, Your Honor, it is vague.

COURT

Q

Alright, why [were you] dismissed by the Causins?

x x x

Q

And, this land that you said where Dampal took over was located in Maitom, Mambatangan?

A

Yes, sir.

Q

And not in Cagayan de Oro?

ATTY. JARDIN

Objection, Your Honor, witness is incompetent.

COURT

Is this area in Bukidnon or in Cagayan de Oro?

A

The address there is Mambatangan, Bukidnon.

x x x

Q

Mr. Witness, you said that you were only informed by Mencede that these Ipil-Ipil trees at the boundary between the lands of Lims and Causins, is that correct?

A

Yes, because I asked them where the boundary is.

Q

And you did not ask Causin the owner of the property?

A

Because at that time the Causins were not here.

Q

Because he was staying abroad?

A

I do not know, but at that time, Causin was not here.

Q

So, you never got to ask him?

A

I have asked his eldest son.

ATTY. ACHAS

We move to strike off from the record the answer of witness as irresponsible.

COURT

As to tenor, let it remain.

ATTY. ACHAS

Q

And this Rey Causin, do you know him?

A

Yes, sir.

Q

How old was he in 1978?

ATTY. JARDIN

Objection, Your Honor, witness is incompetent.

COURT

He is not competent, Pañero.

ATTY. ACHAS

Q

But, he was very young at that time?

A

He was not the one I asked at that time, it was his elder brother.

Q

You said that you asked Mencede of the boundary?

ATTY. JARDIN

Already answered, Your Honor.

COURT

Already answered, Pañero.

x x x

Q

But this is only the belief of Mencede not of Arnold, the older brother of Rey?

A

Yes, I also inquired the Lims through Salvacion and Miguel Relano, and they told me that that was the boundary.

Q

But you never got to ask the Causins, because they were not around at that time?

ATTY. JARDIN

Misleading, Your Honor, at the first question, he answered that he was not able to ask...

COURT

You did not ask him, because they were not there but when they returned, you asked them?

A

When they returned, I was no longer there.

x x x

COURT

Are you still presenting another witness, Pañero?

ATTY. JARDIN

We have no more witness to present, Your Honor, however, may we ask time to submit our written offer of exhibits.

COURT

Alright, fifteen days.

x x x

ATTY. JARDIN

We would like also to move, Your Honor, for an ocular inspection to be made by this Court.

JUDGE LIM

What is the purpose, it is already testified to by the witness...

ATTY. JARDIN

We will just see the monuments and the Ipil-Ipil trees, Your Honor.

JUDGE LIM

We object, Your Honor, there is already a sketch plan and it has been surveyed, there is no need for an ocular inspection considering that these documents had been presented to this Court.

ATTY. JARDIN

I don't think the documents will suffice.

COURT

Alright, make your motion in writing, Pañero, and we will resolve. [8] (emphases supplied)

Indeed, from a reading of the transcript, we cannot evince bias or partiality on the part of respondent judge during the proceedings in the case.

As to the denial of the request of complainant-spouses for an ocular inspection of the lots, respondent judge reasonably exercised his discretion in ordering instead the conduct of a relocation survey by a licensed inspector. It is the better means to determine who between the parties encroached on the boundary of the adjacent lands. Bias and partiality can never be presumed. Bare allegations of partiality will not suffice in the absence of clear and convincing proof that will overcome the presumption that the judge dispensed justice according to law and evidence, without fear or favor.[9]

Neither is there basis to hold respondent judge liable for knowingly rendering an unjust decision in said case. The key word is "knowingly." For liability to attach, the assailed decision must not only be found erroneous. As a rule, the acts of a judge which pertain to his judicial functions are not subject to disciplinary power unless they are committed with fraud, dishonesty, corruption or bad faith.[10] To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice

can be infallible in his judgment.[11]

In the case at bar, complainant-spouses failed to prove that the judgment is contrary to law or unsupported by evidence. The records disclose that the assailed decision of respondent judge had been affirmed on appeal by the Court of Appeals[12] and by this Court.[13] Neither was it shown that the judgment was made with deliberate malice or injustice. Thus, their claim is more speculative than a product of concrete proof. Delayed filing of the complaint against respondent judge after complainants lost the case on appeal likewise casts doubt on the motive of the complainants.

Nonetheless, we find respondent judge guilty of violating Canon 2 of the Code of Judicial Conduct which prescribes that a judge should avoid impropriety and the appearance of impropriety in all activities. Rule 2.01 provides that a judge should behave at all times as to promote public confidence in the integrity and impartiality of the judiciary. In the case at bar, the records reveal that respondent judge allowed Judge Lim, then acting RTC Judge of Branch 21 of Cagayan de Oro City, to actively participate and intervene in the case for quieting of title pending in Branch 24 of the same court, without authority from this Court. The prohibition for a judge to appear in a case as counsel for one of the parties is based on public policy. In allowing Judge Lim to actively involve himself in the trial of the case, represent the interests of the plaintiff therein, cross-examine the witnesses and register his objections during the trial, the complainants and the public were given the impression that Judge Lim might or could unduly influence the conduct and outcome of the litigation. It undermined and compromised in the eyes of the public the integrity and independence of his court. It was incumbent upon respondent judge to inquire from Judge Lim whether he obtained authority from this Court to appear in said case. The rule that a lawyer is presumed to be authorized to appear before a court applies only to lawyers, not judges. Judges are prohibited from being personally involved in a case unless he himself is a party thereto. Respondent judge transgressed the rule pertaining to the avoidance, not only of actual impropriety, but even the appearance of impropriety.[14] He failed to comport himself in a manner that his conduct could bear the most searching scrutiny of the public that looks up to him as an epitome of integrity and justice. This Court has stressed in countless cases that judges ought not only to be impartial but should also appear to be impartial.[15] They should continuously encourage and uphold safeguards for the discharge of judicial duties to reinforce public confidence in the judicial process which is fundamental to the maintenance of judicial integrity.

Be that as it may, we approve the recommendation of the OCA that the penalty of fine in the amount of one thousand pesos (P1,000.00) and a warning be imposed against respondent judge. The records disclose that the same penalty was meted by this Court to Judge Lim in the separate administrative case filed against him by the complainant-spouses for his active participation as counsel in the civil case which was decided by respondent judge.

IN VIEW WHEREOF, respondent Judge Leonardo N. Demecillo is meted the penalty of fine in the amount of one thousand pesos (P1,000.00) for violation of Canon 2, Rule 2.01 and Rule 2.03 of the Code of Judicial Conduct, with a stern warning that a repetition of similar infractions shall be dealt with more severely.

SO ORDERED.

Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.
Austria-Martinez, J., on official leave.

[1] Civil Case No. 94-278.

[2] Complaint; Rollo at 14-17.

- [3] 2nd Indorsement dated September 21, 2001; Rollo at 68-75.
- [4] Rollo at 85-90.
- [5] Rejoinder of Judge Lim, Jr., dated November 29, 2001; Rollo at 10-12.
- [6] Resolution dated November 18, 2002; Rollo at 210.
- [7] The OCA agreed with the said findings and recommendations but recommended a lesser penalty.
- [8] Pp. 33-34.
- [9] Chin vs. Court of Appeals, G.R. No. 144618, August 15, 2003.
- [10] De Guzman vs. Dy, A.M. No. RTJ-031755, 405 SCRA 311 (2003).
- [11] Sacmar vs. Judge Reyes-Carpio, A.M. No. RTJ-03-1766, March 28, 2003.
- [12] Decision dated January 17, 2001; Rollo at 91-108.
- [13] Resolution dated November 12, 2001; Rollo at 110-135.
- [14] Gragera vs. Francisco, 405 SCRA 17 (2003).
- [15] Gacayan vs. Pamintuan, 314 SCRA 682 (1999).

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