

CLEMENCIO C. SABITSANA, JR., COMPLAINANT, VS. JUDGE ADRIANO R. VILLAMOR, RTC, BRANCH 16, NAVAL, LEYTE, RESPONDENT.

A.M. Nos. RTJ No. 90-474 & RTJ No. 90-606. February 07, 1992

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PER CURIAM:

Before the Court is Respondent's Motion for Reconsideration of our Per Curiam Decision promulgated on 04 October 1991, wherein we decreed:

"WHEREFORE, the Court RESOLVED to DISMISS respondent Judge Adriano R. Villamor, Jr. of the Regional Trial Court, Branch 16, Naval, Leyte, from the service, with forfeiture of all his accrued retirement benefits, leave and other privileges, if any, and with prejudice to re-employment in any branch, agency or instrumentality of the government, including government-owned or controlled corporations.

"Let a copy of this Decision be spread in his personal record."

The foregoing disposition was premised on our findings that:

"Upon the facts and the evidence, we can not but hold respondent guilty (1) of having made untruthful statements in his Certificates of Service, of inexcusable negligence and gross inefficiency in connection with missing records in his Sala, and of utter indifference to the directives of this Court; and (2) of serious misconduct for undue interest in a pending criminal case before a lower Court over which he exercised supervision, all in violation of the Code of Judicial Conduct. The dilapidated condition of the Courthouse of the RTC, Branch 16, also betrays a lack of management capabilities desired of a Presiding Judge and an insensitiveness to the needs of a Court of justice worthy of its name. All told, we find him unfit to continue with his membership in the Bench."

Prefatorily, Respondent submits that "although the caption of the decision of this Court, dated October 4, 1991, shows that it is only for RTJ-90-474, the narration of the facts, discussion, findings and conclusion shows that it is, in reality, a decision on two (2) cases filed against the respondent, namely, RTJ-90-474 and RTJ-90-606."

That is so. The issue in RTJ-90-606 for Serious Misconduct was raised by Complainant as a supplemental charge in RTJ-90-474, which we referred to the Court of Appeals for investigation, report and recommendation, and the resolution of which we included in our Per Curiam Decision above referred to. A joint judgment must, therefore, be deemed to have been promulgated in the two cases, which are considered consolidated.

Now, for the specific points that Respondent raises in his Motion for Reconsideration.

In A.M. No. RTJ 90-474

1. With respect to the fifteen (15) cases which Complainant listed as having been unresolved by Respondent within the 90-day period, Respondent claims that except for four (4) of the listed cases, all have been decided.

Respondent also maintains that he had complied with this Court's directive of 9 May 1991, reiterated on 6 August 1991, in his Compliance, dated 11 September 1991, but that it was received by this Court only on 3 October 1991, a day before the Decision of this Court.

2. Regarding the eighty-six (86) unresolved cases as reported by Deputy Court Administrator Bernad, Respondent maintains that upon his appointment on 1 February 1983, he had inherited 332 pending cases "most of which had barely started" and that "he was actually servicing Branch 11 also which had at that time no Judge." Additionally, he avers that the stenographic notes were not complete in those cases; that he has an uncooperative, hostile and belligerent Clerk of Court, and that he "lacked financial and moral support from the local government which made it extremely difficult to function more effectively."

3. Insofar as the missing Court records are concerned, Respondent claims that they "were never really lost although they could not at that moment be located because of the sad state of the clerk of court's office," x x x "compounded by the incompetence and lack of cooperation, if not unconcern, of the Clerk of Court."

4. Respondent admits that he has erred but avers that the penalty is too harsh for the offense. He claims that he has "only been guilty of negligence and not deliberate misconduct. And he has since taken remedial measures and mended his ways."

Respondent then pleads that we "consider the mitigating circumstances in his favor and to be more lenient and merciful to him," as this Court has been in the cases that he has cited.

In A.M. No. RTJ-90-606

1. As initially stated, the issue in this case of undue interest in a pending criminal case was included as a supplemental charge in A.M. No. RTJ-90-474 and referred to Justice Fermin A. Martin, Jr. of the Court of Appeals for investigation, report and recommendation. Hearings were held by him at which Complainant and his witnesses and Respondent himself appeared in support of their respective positions.

Respondent, however, invites this Court's attention "to a critical procedural miscommunication which respondent believes is a denial of his right to due process, and if given due course would have tilted the preponderance of evidence to his side." He refers to the fact that when he adopted his Comment as his testimony-in-chief during the hearings in the Court of Appeals, what was considered was his Comment in A.M. No. RTJ-90-474 alone; and that when he submitted his Comment in A.M. No. RTJ-90-606, he had not seen MCTC Judge Pitao's Affidavit relative to the undue influence Respondent is said to have exerted on him in connection with a pending criminal case in his (Judge Pitao's) Court, for which reason he could make no reference thereto.

Respondent, however, has not been prejudiced thereby. There was no element of surprise insofar as he was concerned. In the Court's Resolution of 22 January 1991, we already noted that Affidavit. Respondent made no request to be furnished with a copy thereof. Again, the referral of the case to the Court of Appeals in our Resolution of 9 May 1991 specifically required the "presentation of evidence to establish the genuineness of Respondent's letter to Judge Pitao and the taking of testimony of the latter in connection with the affidavit of the latter" (p. 91, Rollo). Further, in the hearings before Justice Martin, Judge Pitao testified with respect to his said Affidavit, with every opportunity given Respondent to cross-examine him. Respondent can not justifiably claim, therefore, that he was denied due process. After all, due process requires nothing more and nothing less than the embodiment of the sporting idea of fair play (See *Ang Tibay v. CIR*, 69 Phil. 635 [1940]).

2. In respect of Respondent's handwritten note to Judge Pitao relating to a criminal case before the latter's Sala, it will be recalled that in this Court's referral Resolution to the Court of Appeals, we had required the presentation of evidence to establish the genuineness of that note to Judge Pitao in connection with the criminal case entitled "*People v. Lipango*" pending before the latter. The Investigating Justice having found this to have been sufficiently established, we found Respondent guilty of "serious misconduct for undue interest in a pending criminal case before a lower Court over which he exercised supervision, all in violation of the Code of Judicial

Conduct."

In his Motion for Reconsideration, Respondent does not deny the authenticity of the note. He avers, however, that "he believed in good faith that there was nothing wrong in his having written the note. His intentions were good and honest." Quoting Justice Martin, Jr., Respondent maintains that the former's Report specifically stated that the contents of the letter did not directly exhort the addressee to decide the case in favor of one party.

We can give Respondent the benefit of the doubt that "he never admitted having made personal follow-ups of the case with Judge Pitao nor having made a remark that he "better acquit him." However, as Judge Pitao testified, during the hearings before Justice Martin, Jr., in response to questions propounded by Respondent himself:

"Q. In fact you can not find any line or word in that note Exh. 'A' which is immoral or unethical or illegal.

"A. In my own personal knowledge of evaluating the note, it implies, the note was an implied influence on your part.

x x x x x

"Q. I was influencing you to what?

"A. I believe that you want the accused to be acquitted." (TSN, July 15, 1991, pp. 31-33)

There is also the additional fact that after Judge Pitao had decided the criminal case and convicted the accused, on appeal, Respondent decided it in record time of sixteen (16) days and acquitted the accused, compared to the many other cases in his docket which had taken years for him to resolve despite several Motions for the early resolution thereof. That decision in the appealed criminal case was rendered despite the fact that no notice had yet been sent by the Branch Clerk of Court to the parties of the receipt of the entire record to enable them to submit memoranda as required by Rule 21 of the Interim Rules and Guidelines. This provides:

"(a) All cases decided by metropolitan trial courts, municipal trial courts and municipal circuit trial courts may be appealed to the regional trial court exercising jurisdiction over the area to which they pertain.

"(b) Within five (5) days from the perfection of the appeal, it shall be the duty of the clerk of court to transmit the original record, or the record on appeal as the case may be, to the appropriate regional trial court.

"(c) Upon receipt of the original record, or of the record on appeal, and the transcripts and exhibits, the clerk of court of the regional trial court shall notify the parties of such fact.

"(d) Within fifteen (15) days from receipt by the parties of the notice referred to in the preceding paragraph, they may submit memoranda and/or briefs, or be required by the regional trial court to do so. After the submission of such memoranda and/or briefs, or upon the expiration of the period to file the same, the regional trial court shall decide the case on the basis of the entire record of the proceedings had in the court of origin and such memoranda and/or briefs, as may have been filed."

Respondent would now blame his Clerk of Court for not having sent said notice to the parties. The provision is clear, however, that the RTC shall decide the case after the submission of memoranda and/or briefs, or upon the expiration of the period to file the same. No notice having been sent, no period could have expired because it had not begun to run. Clearly, Respondent himself was also wanting in compliance with the Rules.

There is also evidence on record that if said notice had not been sent to the parties by the office of the Clerk of Court of Respondent's Branch, it was because upon receipt of the records from the MCTC of Biliran, it was not immediately docketed. As testified to by the Clerk of Court, one Antonio Superable immediately intercepted the records/folder of the case, upon Respondent's behest, when it was received at the office of the Clerk of Court on

November 23, 1988 even before it could be entered in the Court's docket. That is the reason why the case was entered only on 5 December 1988 when the folder was released by Respondent to the Office of the Clerk of Court, but already with a notice of promulgation set for 9 December 1988.

So that, even if Respondent vehemently denies any interest in the case, the above considerations render that claim dubious.

Overall, therefore, while it may be conceded (1) that the greater part of the missing records had been duly accounted for; (2) that the unavailability of the records may be attributable, in part, to the negligence of the personnel-in-charge and the fact that the Judge's chambers and the office of the Clerk of Court are housed in separate buildings; (3) that Respondent had, in fact, complied with the directives of this Court, although it is to be noted that it took two Resolutions, that of 9 May 1991 and 6 August 1991, before Respondent submitted his Compliance on 11 September 1991, and that even in his Compliance in A.M. No. RTJ-90-606, he was remiss in signing his Comment despite requirement therefor thereby necessitating the imposition of a reprimand from this Court; (4) that he has tried his best to decide cases unresolved within the 90-day period, although the Court notes that, contrary to what he claims that they were mostly inherited cases, the Report of the Deputy Court Administrator shows that there were only two (2) "inherited cases tried and submitted for decision before the predecessors of Judge Villamor;" (Report, DCA Bernad, p. 88, Rollo); and (5) that since 1 February 1990 he has not violated the 90-day rule for deciding cases, although, in actuality, this rule has been in effect since the Judiciary Act of 1948, the fact remains that he had made untruthful statements in his Certificates of Service and can not lay the blame on his personnel, for it was incumbent upon him to have verified the correctness thereof; and (6) that he had shown undue interest in a pending criminal case before a lower Court over which he exercised jurisdiction, which is the heavier infraction that can not be countenanced for being in violation of the Canons of Judicial Ethics (Canon 2, Rule 2.04).

Nonetheless, heeding Respondent's plea for compassion and mercy he may enjoy the benefits that he has earned during the period of his government service. His name in the dispositive portion of the Per Curiam Decision also has to be modified by deleting the term "Jr." from his name.

ACCORDINGLY, the dispositive portion of this Court's Decision of 04 October 1991 is hereby amended to read as follows:

"WHEREFORE, the Court RESOLVED to DISMISS respondent Judge Adriano R. Villamor of the Regional Trial Court, Branch 16, Naval, Leyte, from the service, with prejudice to re-employment in any branch, agency or instrumentality of the government, including government-owned or controlled corporations. He may, however, enjoy all vacation and sick leave benefits that he has earned during the period of his government service (Amendments underlined).

"Let a copy of this Decision be spread in his personal record."

SO ORDERED.

Narvasa, C.J., Melencio Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., Romero, and Nocon, JJ., concur.

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