

ANDRES C. AGUILAR, COMPLAINANT, VS. HON. EZEKIEL S. GRAGEDA, RESPONDENT.*Adm. Case No. 148-J. June 30, 1972*

Ponente: BARREDO, J.

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Administrative complaint for serious misconduct and incompetence or inefficiency on fifteen counts filed by Hon. Andres C. Aguilar, Judge of the Court of First Instance of Pampanga, now retired, against Hon. Ezekiel S. Grageda, Judge of the Court of First Instance of Albay, which after being answered by respondent was referred to Hon. Juan P. Enriquez, Justice of the Court of Appeals, for the appropriate investigation. We are now called upon to act on the report of said investigation which recommends complete exoneration of respondent.

As stated in said report, the first five counts refer to the actuations of respondent in Civil Cases Nos. 2643, 3377 and 3387, the sixth to the eighth to those in Civil Case No. 1575, the ninth to those in Civil Case No. 1870, the tenth and eleventh to those in Civil Cases Nos. 512, 526 and 925, the twelfth to those in Civil Case No. 3564, the thirteenth to those in Civil Case No. 3359, the fourteenth to those in Naturalization Case No. 90 and the fifteenth to those in Civil Case No. 3377 also, all of the respondent's court.

Before he became judge of Pampanga, complainant was the lawyer of one Miguela Usurman, in whose favor he was able to secure in the above-mentioned Civil Case No. 2643 a judgment, which was subsequently assigned to one Miguela Macandog, also his client. After he became judge, his son-in-law, Atty. Jaime N. Hernandez, appeared in his stead, not only in said Case No. 2643, but subsequently, also in Civil Case No. 3377.

In connection with the judgment in Civil Case No. 2643 favorable to his client, complainant asked for execution thereof and when the defendants failed to pay the said judgment, certain properties of the defendants were sold by the Sheriff at public auction on January 7, 1967. Prior to this sale, however, or on December 28, 1966, the said defendants filed Civil Case No. 3377 against the Sheriff who had conducted the sale, alleging that said sheriff proceeded with said sale heedless of the fact, which was duly brought to his attention by letter of Atty. Antonio Azana, counsel for one of the defendants of December 20, 1966, that said defendants had already paid the full amount of the judgment against them, P13,269.26, to Dominador Macandog, husband of the assignee of said judgment, on December 12, 1966, for which reason, a "Satisfaction of Judgment" was filed on even date by said Dominador Macandog in Civil Case No. 2643. Complainant furnished the sheriff with legal counsel for said case. At this juncture, it is to be noted that whereas the judgment was for P13,269.26, complainant purchased the various properties of the defendants at the public auction sale held on January 7, 1967 for only P7,400.00, notwithstanding that their total assessed value alone was P16,700.00, as follows:

(1) A parcel of land with an area of 16,381 sq. m., with improvements, located at barrio Malidong, Pioduran, Albay, assessed at P620.00 for P 160.00

(2) A parcel of land, with improvements, having an area of 27,161 sq. m. situated at the same barrio, assessed

at P450.00 for P 200. 00

(3) A parcel of land containing an area of 21,613 sq. m. situated also at the same barrio and assessed at P410.00 for P 200.00

(4) A parcel of land, with improvements, having an area of 73,000 sq. m. situated at the same barrio and assessed at P2,130.00 for P 700.00

(5) A parcel of land, with improvements, containing an area of 248,492 sq. m. situated at the same barrio and assessed at P7,330 for P 2,400.00

(6) A residential lot of 272 sq. m. at Urdaneta St. in the poblacion of Guinobatan, Albay, assessed at P2,990.00 for P 2,000.00

(7) A commercial and residential lot, with improvements, situated at Centro, Jovellar, Albay, with an area of 456 sq. m. and assessed at P180.00 for P 700.00

(8) A parcel of cocal and residential land, with improvements, situated at the same barrio with an area of 35,100 sq. m. and assessed at P270.00 for P 350.00

(9) A parcel of cocal land, part uncultivated, with improvements, with an area of 109,112 sq. m. situated at Quipia, Jovellar and assessed at P1,120.00 for P 300.00

(10) A parcel of coconut land, with improvements, situated at the same barrio, having an area of 22,342 sq. m. and assessed at P740.00 for P 220.00

(11) A parcel of coconut land, with improvements, situated at Bautista, Jovellar, with an area of 6,642 sq. m. and assessed at P270.00 for P 60.00

(12) A parcel of coconut land, with improvements, situated at the poblacion, of Jovellar with an area of 11,505 sq. m., and assessed at P210.00 for P 110.00

(Excluding the residential lots, the total area of these properties is more or less 56 has.)

As stated in the report of Justice Enriquez, the first five counts alleged herein against respondent refer to his actuaciones, unfavorable to the interests of complainant, in relation to the purchase by him of the above properties at the execution sale. As first count, it is charged that respondent failed to order the joinder of complainant in Civil Case No. 3377, respondent knowing that because he is the vendee of the above properties and the suit was for the annulment of the sale thereof to him, he was an indispensable party in said action. As second count, complainant's charge is of the same tenor as that in the first with the sole difference that it refers to Civil Case No. 3387, in which the properties involved were personal ones. The third count is the alleged impropriety of the respondent's having ordered the personal appearance of complainant, who was then still judge of Pampanga, in respondent's court in Albay to substantiate his motion for reconsideration and intervention filed after the rendition of respondent's decision setting aside and annulling the sales made to complainant. As fourth count, it is charged that respondent not only entertained an objection by the defendants in Civil Case No. 2643 to complainant's motion for the delivery to him of the possession of the above properties he had purchased at the auction sale but even heard evidence of the parties which more or less was the same as the evidence in Civil Cases Nos. 3377 and 3387, thereby making it necessary for complainant to file a special civil action with this Supreme Court against

respondent to restrain said actuations. And as fifth count, complainant charges that respondent denied his said motion for delivery of properties notwithstanding the decision or resolution of this Court which according to him authorizes the same.

We agree with the investigator that none of these charges has sufficient basis. Although earlier joinder of complainant in Civil Cases Nos. 3377 and 3387 would have been better, respondent did not hesitate to set aside his decision to correct the omission after the proper showing of the necessity for such joinder was made before him. Under the circumstances confronting respondent when complainant filed his motion for reconsideration and intervention, We cannot discern any reason for his objection to the requirement of the court that he substantiate the allegations of his motion, it appearing that the usual period for the finality of the decision to which said motion referred had already expired and, moreover, complainant charged in his motion collusion between the judgment debtors and the sheriff but he did not support his allegations with the corresponding verification. There was certainly nothing wrong with respondent's receiving evidence and hearing arguments on complainant's motion in Civil Case No. 2643 for immediate delivery to him of the properties he had purchased at the auction sale and much less could the refusal of respondent to accede to said motion be faulted. In fact, when complainant came to this Court in G.R. No. L-29918 to question the said actuations, We denied not only his petition but even his motion to declare respondent in contempt. Indeed, complainant's insistence to find fault with respondent as regards the latter's acts already sustained by this Court would be incomprehensible, if one did not liberally consider his feelings of frustration and disappointment, not really justified, to be sure, in failing to induce a fellow judge to grant his prayers and request.

In this connection, in the light of the circumstances surrounding the purchase in question, We cannot but express Our disapproval of complainant's having made the same. Not only does the Civil Code contain injunctive provisions that might be applicable thereto in its Article 1491, but considering that at the time of the public auction sale on January 7, 1967, complainant was already aware of the suit filed by the defendants on December 28, 1966 and the "Satisfaction of Judgment" filed by Dominador Macandog on December 12, 1966, and further, that he knew that the total amount of the judgment was P13,269.26, the total assessed value of the properties sold was P16,700 and their total area more or less 56 hectares, whereas his winning bid was only in the total sum of P7,400, We find it difficult to say that complainant acted with the absolute good faith, equity and fairness demanded of him as a member of the bar.

As to the rest of the counts, We find them either unsubstantiated or too trivial for Us to take action on. Complainant's pose as regards his sixth and seventh counts has been found to be without merit by the Court of Appeals in CA G.R. No. 41970-R. His allegation in his eighth count that respondent had violated the injunctive writ of the Court of Appeals in the case just mentioned has no basis, according to the investigator. As regards the ninth count, Justice Enriquez' finding is that the impugned order of respondent is justified under the rules. So also was respondent's approval of the appeal bonds in Civil Cases Nos. 512, 526 and 925, subject of the tenth count. Likewise, the delay in the transmittal of the records of Civil Cases Nos. 925, 1575 and 3359, referred to in the eleventh, thirteenth and fourteenth counts, has been found not attributable to respondent. Upon examination of the records, We are persuaded, all of these findings of the administrator are correct. We also accept the investigator's view that respondent's dismissal of Civil Case No. 3564 and his failure to set Civil Case No. 3377 were sufficiently warranted by the circumstances obtaining in said cases.

PREMISES CONSIDERED, the complaint herein is dismissed and the respondent is completely exonerated. In view of the circumstances attending the purchase made by the complainant of the properties involved in the first five counts alleged by him against respondent, the Solicitor General is hereby directed to take appropriate steps leading to the filing of the corresponding administrative complaint against herein complainant as a member of the

bar, if after proper investigation he finds grounds therefor.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Ruiz Castro, Fernando, Teehankee, Makasiar, and Antonio, JJ., concur.

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