

QUERY OF EXECUTIVE JUDGE ESTRELLA T. ESTRADA, REGIONAL TRIAL COURT OF MALOLOS, BULACAN, ON THE CONFLICTING VIEWS OF REGIONAL TRIAL COURT – JUDGES MASADAO AND ELIZAGA RE: CRIMIN...

Adm. Matter No. 87-9-3918-RTC. October 26, 1987

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The issue before us brings to mind the words of Eugen Ehrlich, philosopher, who stated: "There is no guaranty of justice except the personality of a judge." (Ehrlich, "Freedom of Decision", The Science of Legal Method, 0 Mod. Leg. Philos, Ser. 65, 1917 trans. by Bruncken). Indeed, judicial integrity is the first and highest qualification a judge must possess - integrity maintained especially in cognizance of the limits of man. In this wise, we cite the oft quoted himself so as to preserve the prized ideal of "the cold neutrality of an impartial judge" implicit in the guarantee of due process (*Mateo, Jr. v. Villaluz*, 50 SCRA 18).

Submitted for the consideration of this Court is the question of who shall resolve a motion for reconsideration filed against the decision of Judge Roy A. Masadao, Jr., after he had voluntarily inhibited himself from further sitting in Criminal Case No. 4954-M of the Regional Trial Court of Bulacan, Branch 9, Malolos entitled "People of the Philippines v. Jaime Tadeo".

The following facts gave rise to the present controversy:

On May 4, 1987, Judge Roy A. Masadao, Jr., rendered a decision in the aforementioned criminal case finding the accused guilty of the crime of estafa as follows:

"WHEREFORE, premises considered, the Court finds accused JAIME TADEO guilty beyond reasonable doubt as principal of the crime of ESTAFA as charged in the Information and hereby sentences him to suffer an indeterminate period of imprisonment of SIX (6) YEARS and ONE (1) DAY to EIGHT (8) YEARS OF prison mayor, as minimum, to TEN (10) YEARS and ONE (1) DAY to TWELVE (12) YEARS of prison mayor, as maximum, and all the accessory penalties provided by law, with costs de oficio." (p. 10, Annex "A").*

On July 11, 1987, counsel for the accused, Atty. Efren C. Moncupa, filed a motion for reconsideration which was submitted without arguments.

On July 23, 1987, retired Justice J. B. L. Reyes entered his appearance for the accused, wherefore, on July 30, 1987, Judge Masadao issued an order inhibiting himself from further sitting in the case on the ground that retired Justice J. B. L. Reyes had been among those who had recommended him to the Bench. Judge Masadao directed that the case be transmitted to Executive Judge Estrella T. Estrada for re-raffling among the other branches of the court for further proceedings.

On August 6, 1987, a raffle was conducted and the case was assigned to Branch No. 10 of the Regional Trial

Court of Bulacan, presided over by Judge Luciano G. Elizaga.

On August 7, 1987, Judge Elizaga returned the records of the case with an accompanying letter stating his refusal to act on the aforesaid motion for reconsideration and assailing the re-raffling of the case as impractical and uncalled for.

On August 13, 1987, Judge Masadao replied by way of a second Indorsement justifying his decision and standing pat on his order of inhibition, unless and until overruled by judicial authorities of higher rank. Wherefore, Executive Judge Estrada certified the matter to us.

Section 1, Rule 137 of the Revised Rules of Court embodies the rule on disqualification and inhibition of judges.

The rule on disqualification provides:

"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 civil law, or in which he has been executor, administrator, guardian, trustee or counsel, in which he has presided in any inferior court when his ruling or decision is the subject of review, without written consent of all the parties in interest, signed by them and entered upon the record (Par. 1, Sec. 1, Rule 137, Revised Rules of Court).

On the other hand, where no grounds for disqualification as above enumerated exist, as in the case at bar, the rule on inhibition provides:

"A judge may, in the exercise of his discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above (Par. 2, Sec. 1, Rule 137, supra).

The exercise of this discretion and the validity of the reasons for inhibition are now put in issue before us.

It is clear from a reading of the law that intimacy or friendship between a judge and an attorney of record of one of the parties to a suit is no ground for disqualification. In *Vda. de Bonifacio v. B.L.T. Bus Co., Inc.* (34 SCRA 618, 631), we held that the fact "that one of the counsels in a case was a classmate of the trial judge is not a legal ground for the disqualification of said judge. To allow it would unnecessarily burden other trial judges to whom the case would be transferred. Ultimately, confusion would result, for under a different rule, a judge would be barred from sitting in a case whenever one of his former classmates (and he could have many) appeared." Likewise, the rule applies when the lawyer of the defendant was a former associate of the judge, when he was practising law (*Austria v. Masaquel*, 20 SCRA 1247, 1255).

Judge Elizaga correctly commented on the dilemma with which his colleague was faced: "x x x this is one rare opportunity for the presiding Judge of RTC, Branch 9 to show - (1) that Justice J.B.L. Reyes who recommended him to the Bench did not err in so recommending him for his competence and known probity; (2) that he has conducted himself with the cold impartiality of an impartial judge; and (3) that no one can sway his judgment whoever he may be."

Indeed, as President Manuel L. Quezon had advised: "Once you are appointed, do not be influenced by the recommendations of your sponsor or patron, for if you do, he will be the first to lose confidence in you" and former Chief Justice Paras adds: "x x x that is good policy for our judges to remember" (Paras, *Consent and Dissent*, p. 38).

However, where the relationship between the judge and an attorney for a party is such that there would be a natural inclination to prejudice the case, the judge should be disqualified in order to guarantee a fair trial (*State Ex. Rel. Turner v. Marshall*, 176 N.E. 454, 123 Ohio St., 586).

A judge should strive to be at all times wholly free, disinterested, impartial, and independent. Elementary due process requires a hearing before an impartial and disinterested tribunal. A judge has both the duty of rendering a just decision and the duty of doing it in a manner completely free from suspicion as to its fairness and as to his integrity (*Geotina v. Gonzales*, 41 SCRA 73-74).

However, men of the Bench are not without imperfections. A judge too, experiences the "tug and pull of purely personal preferences and prejudices which he shares with the rest of his fellow mortals" (*Azucena v. Munoz*, 33 SCRA 722, 723). The second paragraph of Section 1, Rule 137 of the Revised Rules of Court "made clear to the occupants of the Bench that outside of pecuniary interest, relationship or previous participation in the matter that calls for adjudication, there may be other causes that could conceivably erode the trait of objectivity, thus calling for inhibition. That is to betray a sense of realism, for the factors that lead to preferences or predilections are many and varied." (*Mateo, Jr. v. Villaluz*, 50 SCRA 18) Among these may be the Filipino "utang na loob".

Judge Masadao expounds on the matter thus: "For Filipinos, in particular, a sense of gratitude is one trait which invariably reigns supreme over any and all considerations in matters upon which such tender sentiment may somehow inexorably impinge. Generally, whoever owes a debt of favor endeavors to repay the same in any discernible fashion as soon as the opportunity therefore emerges."

Judge Masadao is not necessarily stretching the Filipino "utang na loob" - gratitude which renders a man beholden to another, a sense of obligation which is valued as highly as pride and honor - beyond its proper limits. The best way to show one's "utang na loob" to whoever recommended him is to do honor to the position, not only in rendering just, correct, and impartial decisions but doing so in a manner free from any suspicion as to their fairness and impartiality and as to the integrity of the judge. (See *Martinez v. Gironella*, 6 SCRA 245).

Judge Elizaga is correct in rhetorically asking - "In the remote possibility that a Motion for Reconsideration is filed in a case to every final order or decision of a judge by one who recommended him to the bench, should he escape responsibility by inhibiting himself from any further action and pass the buck to other judges?" The answer is a categorical NO. The judge should not evade his responsibility.

Inhibition is not allowed at every instance that a friend, classmate, associate or patron of a presiding judge appears before him as counsel for one of the parties to a case. "Utang na loob", per se, should not be a hindrance to the administration of justice. Nor should recognition of such value in Philippine society prevent the performance of one's duties as judge. However, where, as in this case, the judge admits that he may be suspected of surrendering to the persuasions of utang na loob or he may even succumb to it considering that he "and the members of his family, no less, shall ever remain obliged in eternal gratitude to Justice Reyes", the negative answer to the question of Judge Elizaga yields to exceptions in extraordinary cases.

The circumstances before Judge Masadao are not ordinary ones. Justice J.B.L. Reyes, one of the most distinguished legal scholars of our country and a towering paragon (to use the words of Judge Masadao), highly respected during his stints in the Office of the Solicitor General, Court of Appeals, and Supreme Court and through his post-retirement life, is no ordinary sponsor. The accused is an activist leader of peasant and farmer groups involved in rather controversial confrontations. Compelled to act in this case, Judge Masadao may be inclined to rule against his sponsor to demonstrate independence. Either way, the resulting impressions would not be salutary to the judicial system.

We apply the guideline expressed in *Pimentel v. Salanga* (21 SCRA 160, 167-168):

xxx xxx xxx

"x x x A judge may not be legally prohibited from sitting in a litigation. But when suggestion is made of record

that he might be induced to act in favor of one party or with bias or prejudice against a litigant arising out of circumstances reasonably capable of inciting such a state of mind, he should conduct a careful self-examination. He should exercise his discretion in a way that the people's faith in the courts of justice is not impaired. A salutary norm is that he reflect on the probability that a losing party might nurture at the back of his mind the thought that the judge had unmeritoriously tilted the scales of justice against him. That passion on the part of a judge may be generated because of serious charges of misconduct against him by a suitor or his counsel, is not altogether remote. He is a man, subject to the frailties of other men. He should, therefore, exercise great care and caution before making up his mind to act or withdraw from a suit where that party or counsel is involved. He could in good grace inhibit himself where that case could be heard by another judge and where no appreciable prejudice would be occasioned to others involved thereon. On the result of his decisions to sit or not to sit may depend to a great extent that all-important confidence in the impartiality of the judiciary. If after reflection he should resolve to voluntarily desist from sitting in a case where his motives or fairness might be seriously impugned, his action is to be interpreted as giving meaning and substance to the second paragraph of Section 1, Rule 137. He serves the cause of the law who forestalls miscarriage of justice."

We repeat. There are certain circumstances when a case could well be heard by another judge and no appreciable prejudice would be occasioned to others involved therein, where a voluntary inhibition may prove to be the better course of action.

In that case, his fellow judges should be ready to help preserve the reality and the appearance of an impartial administration of justice.

The administrative matter before us differs from most petitions involving a judge's disqualification. Here, a judge voluntarily inhibits himself and, instead of a party or both parties filing a motion on the matter, it is another judge who insists that he continue with the case.

A judge's decision to refuse to act on account of some disqualification is not conclusive, and his competency may be determined on an application for mandamus to compel him to act. However, as much as possible, the judge to whom a case is transferred should not resist too much the order of recusal unless the motives for inhibition are suspect. The prerogative more properly pertains to the parties to a suit whose rights are directly affected thereby. To accommodate every objection which a judge, to whom a case is transferred, may have, after the voluntary inhibition of a presiding judge, would not only disrupt administrative procedures of courts but would likewise entail further delay in the final resolution of cases. Internal wranglings between judges questioning each other's motivations should be avoided.

We are not unmindful though of the burdens that may be imposed on other trial judges to whom such cases may be reassigned. Judge Elizaga's objections are not without their own merit. In certain cases, inhibition could amount to judges being recreant to their trust. However, even with all such considerations in mind, there is still cogency in the approach that would look with favor in the exercise of discretion in favor of disqualification, given the likelihood that bias or prejudice is unavoidable (*Palang v. Zosa*, (58 SCRA 776). The dictates of the due process guarantee of a fair and impartial tribunal override these concerns.

Judge Masadao's actuations are within the terms of Paragraph 2, Section 1, Rule 137 of the Revised Rules of Court. The records do not indicate any improper exercise of a prerogative conferred on him by law. And, absent any abuse of discretion or manifest error, we hesitate to reverse his decision holding himself disqualified. Nor will the wisdom of such inhibition be delved into where the reasons therefor are concededly subjective. We also suggest that judges of equal standing should be reticent in passing judgment upon a matter of discretion and in refusing to act on cases referred to them on account of such discretion.

WHEREFORE, IN VIEW OF THE FOREGOING, Judge Roy A. Masadao, Jr.'s order of voluntary inhibition in all further proceedings in Criminal Case No. 4954-M of the Regional Trial Court of Bulacan, Branch 9, is hereby upheld. Judge Luciano G. Elizaga is hereby ordered to take cognizance of the said case as re-raffled to his sala.

SO ORDERED.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, and Cortes, JJ., concur.

* The Court calls attention to the indeterminate nature of the minimum and maximum terms of the indeterminate penalty.

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