

**THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON.
CONSTANTE A. ANCHETA, AS PRESIDING JUDGE OF THE CIRCUIT
CRIMINAL COURT, FIFTH JUDICIAL DISTRICT, ROLANDO JAVIER,
ROLANDO FAJA...**

G.R. No. L-39993. May 19, 1975

Ponente: FERNANDO, J.

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FERNANDO, J.:

This certiorari and prohibition proceeding to disqualify respondent Judge Constanter A. Ancheta[1] appears to be traceable to deeply-felt misgivings about his partiality for the three accused in a pending criminal case[2] for frustrated homicide. The allegations in the petition, while not overly impressive, amounting at the most to equivocal circumstances which could be the basis for suspicion, led this Court to require comment from respondents and to issue in the meanwhile a restraining order. Such a response was prompted by the oft-repeated judicial pronouncement that every litigant "is entitled to nothing less than the cold neutrality of an impartial judge." [3] In the Comment of respondent Judge, there was not only a vehement denial of the allegation of partiality, but also a show of indignation in view of what he considered to be the unfairness of his character being traduced from evidence which did not rise above the level of hearsay. Nonetheless, so strong is the commitment to the ideal of impartiality that the parties were duly heard. What became rather evident was that the private prosecutor, no doubt fired by the zeal expected of counsel, did tend to identify active participation of respondent Judge in examining witnesses as well as rumors coming from one of his own witnesses as sufficient basis for disqualification. We do not see it that way. The petition must fail.

The petition discloses that at present, pending before respondent Judge is a case for frustrated homicide, with respondents Rolando Javier, Rolando Fajardo and Alberto Caparas as the accused, [4] It was then alleged that on December 27, 1974, one of the witnesses for the prosecution Flordeliza Tuazon, in the course of a conversation with a woman engaged in selling pieces of jewelry, was informed that a certain Mila delos Santos, with a store at the back of the Malolos Provincial Capitol, was a good friend of respondent Judge and that this lady would be approached to influence the latter for the purpose of obtaining a verdict of acquittal. [5] The next day, the father of complainant Edgardo Guarin was duly informed. While it was asserted that at first, the prosecution was not inclined to take the matter seriously, "believing as it did in the integrity and impartiality of the respondent judge," there did transpire "a quick succession of events immediately following the December 27 incident [which] altered the situation: a. on January 2, 1975 — or only five (5) days thereafter — at about 2:00 o'clock in the afternoon, the respondent judge conducted an ocular inspection of the place in Plaridel, Bulacan where the incident, subject-matter of the criminal prosecution took place, and surprisingly, Mila delos Santos who is not a party to the case and who is not even a resident of Plaridel, Bulacan, was conspicuously present and was even having a lively conversation with the mothers of accused Rolando Javier and Rolando Fajardo at the front door of the house of Rolando Javier, [with the] criminal incident [having] occurred almost in front of said house; b. At the resumption of the trial of Criminal Case No. V-1009 in the morning of January 3, 1975, Mila delos Santos — instead of

dutifully attending to her store nearby — was again present in Court as if she was making her presence felt; c. During the trial of the case on January 2 and 3, 1975, the respondent judge showed unusual interest in cross-examining the witnesses for the prosecution at great length — a fact which did not happen prior thereto — . . . ; d. When the prosecution moved to inhibit the respondent judge from continuing with the trial of the case on January 7, 1975 and despite its plea that it be given time to elevate the matter to the Supreme Court after the denial of the motion, said respondent judge proceeded with the hearing thereby further exhibiting his unusual interest in the case."[6]

In the Comment submitted by respondent Judge, there was a reference to that portion of the petition which could, according to him, "reflect upon his actuations"[7] but which "is pure hearsay." [8] Then came this portion: "The last sentence, however, which at the expense of being repetitious we hereby quote: Mila delos Santos is supposed to be close to the respondent Judge' is a downright falsity, for the truth of the matter is that the respondent Judge has not even known how this Mila delos Santos looks like or have had not at anytime-talked to or seen her. For one thing, in the petition of the private prosecutor, filed before this Court, there is no such statement. For if there was, the Court could have touched on the matter in its Order denying the Motion to Inhibit. Even the affidavits of Flordeliza Tuazon and Rafael Guarin submitted in support of the petition do not contain any indication that the respondent Judge knows the said Mila delos Santos. They only referred to a woman saying something that she will fix the case of the accused. The fact that this woman had been seen later in the Court is a matter which the respondent Judge does not even know because he does not know this Mila delos Santos. There are no statements in the affidavits upon which to base the bias and prejudice of the Presiding Judge. At most the statements . . . were only stated by the private prosecutor to create some semblance of validity of his petition. It was something unfair to the respondent Judge and for which the private prosecutor, who admitted having prepared the said petition and made the conclusions there, should be made to account for to this Honorable Tribunal." [9] Further: "Now, regarding the statement that the respondent Judge had showed unusual interest in cross-examining the witnesses for the prosecution at great length after the supposed December 27, 1974 conversation which Flordeliza Tuazon heard is likewise not true. Even before that date, in the hearing of this case, the Presiding Judge had already asked lengthy clarificatory questions to the witnesses for the prosecution. It was not only on January 2 and 3, 1975. As a matter of fact, the asking of clarificatory questions by the respondent Judge has been his practice ever since he presided over the Circuit Criminal Court. Any Fiscal or lawyer appearing before this Court can attest to that fact. The private prosecutor has again twisted the facts to suit his purpose. It is true that the District State Prosecutor signed the petition, but he executed an affidavit, which is hereto attached, disputing the truth of the allegations in the petition that Mila delos Santos is supposed to be close to the respondent Judge and that during the trial of the case on January 2 and 3, 1975, the respondent Judge showed unusual interest in cross-examining the witnesses for the prosecution at great length, which only show that the above conclusions were those of the private prosecutor." [10] The affidavit of the state prosecutor categorically affirms: "That when the Private Prosecutor and undersigned conferred with respect to the move to disqualify the Trial Judge, the undersigned informed the Private Prosecutor that to his knowledge the Trial Judge and Mila delos Santos do not know each other; . . ." [11] There was this explanation why he signed the petition: "That the petition before the Supreme Court was prepared by the Private Prosecutor and while it is true that the undersigned before affixing his signature in the said petition read the petition, he failed to note the sentence that the Trial Judge is supposedly close to Mila delos Santos; That the petition was only hurriedly read by the undersigned believing that the contents of the same would be substantially the same as that of the motion to disqualify the Trial Judge; ..." [12] Then came this reiteration of respondent Judge not being acquainted with Mila delos Santos: "That to the knowledge of the undersigned up to now Mila delos Santos and Trial Judge do not know each other." [13]

As noted, there was a hearing on the merits of the petition. The private prosecutor, [14] as was to be expected, had

an earnest and impassioned plea for what he considered to be the imperative character of the Gutierrez ruling, which in his view could be satisfied with nothing less than the disqualification of a judge at whose actuations the finger of suspicion may be pointed. It did not suffice. There was a straight-forward explanation by respondent Judge, whose defense of his impartiality was aided by the admission of the state prosecutor that it was his wont to examine witnesses minutely and that there was, to his knowledge, no basis for the imputation of the alleged friendly relations with that certain Mila delos Santos. Necessarily then, as was stated earlier, the petition lacks legal foundation.

1. The due process requirement so vividly expressed in the language of the "cold neutrality of an impartial judge" is embodied in a Rules of Court provision on disqualification of judicial officers.[15] Pecuniary interest, family ties, whether by consanguinity or affinity within the sixth degree to either party, and previous connection with the case, are grounds of inhibition unless there be a "regular consent of all parties in interest, signed by them and entered upon the record." [16] A judge, moreover "in the exercise of his sound discretion", is encouraged to "disqualify himself from sitting in a case for just and valid reasons other than those mentioned above." [17] This 1974 amendment to the present rule on disqualification embodies a principle that dates back to Gutierrez vs. Santos,[18] where this Court did lend approval to an order of the then Judge Arsenio Santos, who refused to try a case although not subject to disqualification, in view of his previous law practice defending fishpond owners, the controversy dealing with conflicting rights over such kind of property, lending itself to the misinterpretation that it could be a possible source of prejudice. In Del Castillo vs. Javelona,[19] where a judge of a court of first instance sustained the voluntary inhibition of a justice of the peace because he was a first-degree cousin of defendant's counsel, not of any of the parties as required by the Rule, this Court found nothing objectionable. The language of permissiveness has moreover, as lately construed, assumed in effect a mandatory character in accordance with Mateo vs. Villaluz.[20] Thus, in referring to the 1964 amendment to the Rules, this Court stressed in its opinion: "Thereby, it is 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. It is well, therefore, that if any such should make its appearance and prove difficult to resist, the better course for a judge is to disqualify himself. That way, he avoids being misunderstood. His reputation for probity and objectivity is preserved. What is even more important, the ideal of an impartial administration of justice is lived up to. Thus is due process vindicated." [21] It is to be remembered, however, in the interest of a sound administration of justice, that the disqualification must come "for just or valid reasons." It is such an element that is precisely lacking in this case. To sustain the petition then is far from warranted.

2. It may not be amiss to add a few more words on the imputation of the alleged partiality of respondent Judge as evidenced by the mode and manner he would question prosecution witnesses. It was asserted that he would examine them at length and in detail on relatively unimportant matters. For the private prosecutor, that was another highly suspicious circumstance. Such an appraisal on its face is hardly convincing. It would be to curtail or limit unduly the discretion of a trial judge if minute and searching queries from the bench would be invested with a sinister significance. Litigants should remember that a judge is there precisely to ascertain the truth of the controversy before him. He enjoys a great deal of latitude therefore in examining witnesses within the limits of course of evidentiary rules. It is fitting and proper that a testimony should not be incomplete or obscure. After all, the judge is the arbiter and he must be in a position to satisfy himself as to the respective merits of the claims of both parties.[22] That is merely to manifest fidelity to the basic doctrine of fairness implicit in due process. This is not to deny, of course, that there may be cases where an analysis of the questions asked will reveal bias. This is not, however, one of them. Thus we conclude, especially so in view of the admission of the state prosecutor

assigned to the sala of respondent Judge that it is the latter's invariable practice to probe in a meticulous and searching manner the testimony of the witnesses, whether from the prosecution or the defense.

WHEREFORE, this petition for certiorari and prohibition is dismissed for lack of merit. The temporary restraining order issued on January 24, 1975 is lifted. No costs.

Barredo, Antonio, Aquino, and Concepcion Jr., JJ., concur.

[1] He is the Circuit Criminal Court Judge of the Fifth Judicial District. The private respondents are the accused Rolando Javier, Rolando Fajardo and Alberto Caparas.

[2] Criminal Case No V-1009 pending in his sala.

[3] Gutierrez vs. Santos, L-15824, May 30, 1961, 2 SCRA 249.

[4] Petition, par 5.

[5] Ibid. par. 6.

[6] Ibid. par. 8, a-d.

[7] Comment 2.

[8] Ibid.

[9] Ibid, 2-3.

[10] ibid. 3-4.

[11] Affidavit .

[12] Ibid.

[13] Ibid.

[14] Attorney Leven S. Puno.

[15] Rule 137 of the Rules of Court.

[16] "Section 1 of Rule 137, first paragraph, reads as follows: "No judge of 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 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."

[17] So it is provided in the second paragraph of Section 1 of Rule 137.

[18] L-15824, May 30, 1961, 2 SCRA 249.

[19] L-16742, September 29, 1962, 6 SCRA 146.

[20] L-34756-59, March 31, 1973, 50 SCRA 18.

[21] Ibid, 24-25. People vs. Gomez, L-22345, May 29, 1967, 20 SCRA 293; Pimentel vs. Salanga, L-27934, Sept. 18, 1967, 21 SCRA 160; Luque vs. Kayanan, L-26826, Aug. 29, 1969, 29 SCRA 165; and Paredes vs. Gopengco,

L-23710, Sept. 30, 1969, 29 SCRA 688, were cited.

[22] Cf. *People vs. Moreno*, 83 Phil. 286 (1949); *Vda. de Bonifacio vs. BLT bus Co.*, L-26810, Aug. 31, 1970, 34 SCRA 618; *People vs. Angcap*, L-28748, Feb. 29, 1972, 43 SCRA 437.

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