

CEFERINO INCIONG, PETITIONER, VS. HONORABLE LETICIA S. MARIANO DE GUIA, RESPONDENT.

A.M. No. R-249-RTJ. September 17, 1987

Ponente: FELICIANO, J.

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FELICIANO, J.:

Complainant Attorney Ceferino Inciong brought a charge against the respondent Judge of the Regional Trial Court, Branch 2, Balayan, Batangas, of "Inducing Court Employees to Falsify Court Record".

The Office of the Court Administrator found that there was a prima facie case against respondent Judge which warranted an investigation.[1]

By a Resolution dated 9 December 1986, the Court referred petitioner's complaint to Associate Justice Manuel C. Herrera of the Court of Appeals for investigation, report and recommendation.

On 10 March 1987, Justice Manuel C. Herrera submitted a "Report and Recommendation" on this matter stating that, at the hearing called by the Investigator, the complainant Ceferino Inciong orally withdrew his complaint. On that basis, and because respondent Judge "had been re-appointed as Judge of the Regional Trial Court, with station at Balanga, Bataan", the Investigator recommended the dismissal of the complaint filed against respondent Judge.

In a Resolution dated 9 April 1987, the Court, "[c]onsidering that the unexplained withdrawal of the complaint was made without any reference to the substance of the complaint or the evidence in support thereof, and considering further that the reappointment of the respondent as Judge of the Regional Trial Court has no bearing on the merit or lack of merit of the complaint filed in this Administrative Case," resolved to refer the complaint to Associate Justice Justo P. Torres, Jr. of the Court of Appeals "for investigation de novo, report and recommendation."

The details of the charge set out in the complaint are found in an attached Joint Affidavit dated 29 November 1984, executed by Mr. Nemesio G. Dalisay and Ms. Rufina A. Pinili, Deputy Sheriff, Branch 9 and Staff Assistant, Branch 10, respectively, Regional Trial Court, Balayan, Batangas. The affiants stated that sometime in the last week of November 1984, they were urgently called to the chambers of respondent Judge. There, respondent Judge requested them to affix their initials on the information filed in a criminal case entitled "People of the Philippines vs. Ruben Rodriguez, et al.", with the explanation that they (the affiants) had failed to sign the same as one of the criminal cases raffled to respondent Judge's sala. Believing that an oversight on their part had occurred, affiants stated, they complied with respondent Judge's request and affixed their signatures on the information in said criminal case. Upon return to their respective branches, affiants consulted the list of cases raffled on 22 November 1984 and found that the Ruben Rodriguez case was not among the criminal cases raffled on said date. Affiants further referred to respondent Judge as stating that "she is interested in personally handling the Murder Case involving Ruben Rodriguez as she allegedly had an understanding with [the] Executive Judge." [2]

The findings of the Second Investigator, Justice Torres are as follows:

"The undersigned, set, conducted, heard and received testimonial and documentary evidence as stated above on June 5, 8 and 9, 1987. Subsequent hearings were conducted on June 22 and 29, 1987. The last hearing was on July 2, 1987.

x x x x x x x x

Although as stated earlier in this report, petitioner filed on June 29, 1987, a 'Motion to Withdraw Administrative Complaint and Evidence Already Adduced' against respondent, the same was denied by the undersigned in an Order dated July 1, 1987 being aware of the case of Vasquez vs. Malvar (85 SCRA, 10) and the fact that in an investigation of this nature what is involved is not only the personal interest of the complaining party but more importantly, public interest and the integrity of the judicial office.[3]

x x x x x x x x."

"Evidence is overwhelming to the effect that no raffle was conducted on November 22, 1984 in reference to Criminal Case No. 2589 entitled: People of the Philippines vs. Ruben Rodriguez.

All the witnesses presented by petitioner-complainant testified that no such raffle was conducted. x x x

Then Executive Judge Alberto Reyes of the Regional Trial Court of Balayan, Branch X, testified under oath that Criminal Case No. 2589 'was never included in the raffle of cases' on November 22, 1984. On July 2, 1987, the Investigating Justice summoned by way of subpoena duces tecum Attorney Arturo G. Matibag, OIC, Office of the Clerk of Court, RTC, 4th Judicial District, Balayan, Batangas. He testified under oath that he was not aware that Criminal Case No. 2589 was raffled and more he averred that 'in no instance can a case be assigned to the judges without raffle.'

On June 9, 1987, respondent Honorable Judge, Leticia S. Mariano de Guia presented her only witness in the person of Atty. Edemaco Magpantay, a private prosecutor in Criminal Case No. 2589. Witness Magpantay presented a sworn statement marked as Exhibit 3 (for respondent) describing how the respondent conducted the proceedings in Criminal Case No. 2589. When witness Magpantay was asked by the Investigating Justice 'whether or not the raffle of this case was actually conducted by the rules', he answered 'No, your Honor.' On cross-examination by Atty. Ceferino Inciong, witness Magpantay was asked - do you know that P175,000.00 was paid by the accused and only P100,000.00 went to the aggrieved party P75,000.00 was pocketed by the respondent. To which line of questioning, respondent Judge de Guia objected stating among others that is a libelous statement I object to that your Honor.

x x x x x x x x

The undersigned Investigating Justice had ample opportunity to observe and weigh at close range the behavior and conduct of the parties and the witnesses presented during this administrative investigation de novo. It is the opinion of the Investigating Justice - that the evidence presented by the petitioner, both testimonial and documentary, are in substance credibly adequate to establish the charge of 'INDUCING COURT EMPLOYEES TO FALSIFY COURT RECORD.' The evidence presented by respondent was also carefully examined and analyzed in accordance with established rules and jurisprudence on the matter but the same was found inadequate to off-set the justiciable and credible evidence for petitioner.

Although Investigating Justice is aware that this is an administrative proceeding nevertheless, it appears that respondent would be responsible for causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate.

Respondent Judge de Guia stated in her 'Rejoinder to Supplementary Reply and Motion to Dismiss filed before this Honorable Supreme Court, that assignment of cases is very common in Balayan, without the benefit of

raffle; the record however, does not reveal who assigned Criminal Case No. 2589 to respondent. Be it as it may, Investigating Justice shares the findings of then Deputy Senior Judicial Administrator Arturo Buena that: 'On the contrary, suspicion arises that there may indeed be irregularities in the raffling of cases in the Regional Trial Court of Balayan, in view of respondent's admission that assignment of cases without the benefit of raffle is very common in said court, a procedure which violates Circular No. 7 of the Supreme Court dated September 23, 1974 as amended by Circular No. 3 dated April 24, 1975 as further amended by Circular No 20 dated October 4, 1979, which provides as follows:

'Rule 1 - Raffling of Cases - All cases filed with the Court in stations or groupings where there are two or more branches shall be assigned or distributed to the different branches by raffle. No case may be assigned to any branch without being raffled. The raffle of cases should be regularly conducted at the hour and on the day or days to be fixed by the Executive Judge. x x x.'

Even on the assumption, as respondent admitted, that assignment of cases is 'very common' in the Regional Trial Courts where she was assigned, she should have borne in mind that practice is not the law. The law is very explicit on this as expressed by Article 7 of the New Civil Code which provides:

'Laws are repealed only by subsequent ones, and their violation or non-observance shall not be excused by disuse, or custom or practice to the contrary.'

Respondent could not go against Circular No. 20 of the Honorable Supreme Court in the exercise of its rule-making power until it is repealed or otherwise modified.[4]

x x x x x x x x."

(Underscoring supplied)

After a careful review of the report and of the transcript of the hearings held by Justice Torres, the Court agrees with the findings of Justice Torres. The Court is satisfied that respondent Judge induced the two court employees to make it appear that the Ruben Rodriguez case had been raffled to her sala when it had not in fact been so raffled. The Court is further satisfied that a violation of Circular No. 7 dated 23 September 1974, as amended, has been committed by respondent Judge who has been unable to account for the Ruben Rodriguez case winding up in her sala.

The behaviour of respondent Judge complained of and proven in this case is of such a character as to create substantial suspicion that respondent Judge may have been moved by corrupt motives in taking over the criminal case against Ruben Rodriguez, et al. and acquitting the accused in view of the inability of the fiscal to prove the guilt of the accused beyond reasonable doubt because his witnesses had turned hostile. While, fortunately for respondent Judge, that suspicion remains a suspicion only, it behooves respondent Judge constantly to bear in mind that:

"xxx The judge is the visible representation of the law and, more importantly, of justice. From him, the people draw their will and awareness to obey the law. They see in him an intermediary of justice between two conflicting interests, specially in the station of municipal judges, like respondent Judge, who have that close and direct contact with the people before anybody else in the judiciary. Thus, for the judge to return that regard, he must be the first to abide by the law and weave an example for the others to follow. He should be studiously careful to avoid even the slightest infraction of the law. x x x."[5]

The Court adopts the recommendation of the Investigating Justice and hereby finds respondent Judge Leticia S. Mariano de Guia guilty of misconduct in office and accordingly, imposes a FINE upon respondent Judge equivalent to her three (3) months pay, with a stern WARNING that repetition of the same offense or commission of a similar offense will be dealt with more severely.

The Court Administrator is hereby instructed immediately to investigate and determine whether Circular No. 7 of 23 September 1974, as amended, is being faithfully adhered to in the Regional Trial Court of Balayan, Batangas, and forthwith to report to the Court.

SO ORDERED.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Paras, Padilla, Bidin, Sarmiento, and Cortes, JJ., concur.

Cruz, J., did not participate in the deliberation of the case.

Gancayco, J., on leave.

[1] Rollo, pp. 113-117.

[2] Rollo, p. 3.

[3] Rollo, p. 188.

[4] Rollo, pp. 189-193.

[5] De la Paz vs. Inutan, 64 SCRA 540 at 548-549 [1975].

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