

**LEON UMALE, PETITIONER, VS. HONORABLE ONOFRE VILLALUZ,
HONORABLE BENJAMIN AQUINO, PEOPLE OF THE PHILIPPINES,
EDUARDO FELICIANO, ANTONIO DAVID, CECILIO CHICO, BENJAMIN
ESCANDOR, ...**

G.R. No. L-33508. May 25, 1973

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Petitioner Leon Umale impugns the validity of the order dated April 15, 1971 of respondent Judge Onofre A. Villaluz of the Circuit Criminal Court sitting at Pasig, Rizal, disqualifying or inhibiting himself from trying the robbery charge against sixteen (16) accused including the six (6) herein private respondents Eduardo Feliciano, Antonio David, Virgilio Chico, Benjamin Escandor, Rolando Samson, and Alfonso Co, entitled "People vs. Marina Geronimo, et al." and docketed as CCC-VII-660-Rizal.

Petitioner Leon Umale is the complainant in the said robbery case, the robbery having been allegedly committed on September 21, 1970 in his warehouse in Pasig, Rizal from which were assorted textile materials valued at P229,659.904. The original information was dated January 11, 1971, while the first amended information was dated March 4, 1971. The case was filed by the acting state prosecutor, who conducted the preliminary investigation directly with the Circuit Criminal Court presided by respondent Judge Onofre A. Villaluz, who from January 19 to April 12, 1971, issued several orders for the arrest of the accused, fixing their bail bonds, allowing an accused to post cash or surety bond for his provisional liberty, for their arraignment, or for their commitment to the provincial jail, as well as issued subpoena duces tecum and contempt citations against certain police officers who failed to appear on the days set for hearing.

However, on April 15, 1971, without any party moving for his disqualification or inhibition, respondent Judge Onofre Villaluz voluntarily inhibited himself from trying the case "for the peace of mind of the parties concerned and to insure an impartial administration of justice" on the ground that before the criminal case was filed in his court, he already had personal knowledge of the same; and directed the immediate forwarding of the records of the case to the Executive Judge of the Court of First Instance of Pasig, Rizal, for proper disposition. Petitioner's motion for reconsideration of said order of inhibition was denied on April 16, 1971 by said respondent Judge. Another motion of petitioner for the deferment of the raffling of the case in the Court of First Instance of Rizal was denied by the Executive Judge, who likewise rejected petitioner's motion for the return of the case to the Circuit Criminal Court. The case was, after raffling, assigned to Branch VIII of the Court of First Instance of Rizal, then presided by then Judge Benjamin Aquino and docketed as Crim. Case No. 2729.

OUR resolution dated May 18, 1971 required respondents to answer and authorized the issuance of a writ of preliminary injunction upon posting by petitioner of a bond of P1,000. Petitioner posted the bond and a writ of preliminary injunction was issued on June 21, 1971 enjoining respondent Judge Benjamin Aquino from taking cognizance of and exercising jurisdiction over the criminal case.

Only respondent Alfonso Co, thru counsel, filed an answer.

In a motion dated September 20, 1971 and filed on September 22, 1971, private respondents Benjamin Escandor and Rolando Samson, two of the defendants in CCC-VII-660 and docketed as Crim. Case No. 2729 on the Court of First Instance, Branch VIII, Pasig, Rizal, prayed for the modification of the said preliminary injunction so as to allow respondent Judge Benjamin Aquino to act on their motion for bail.

In a resolution dated September 28, 1971, petitioner was required to comment thereon within ten (10) days from notice. Petitioner failed however to submit the required comment.

In a motion dated October 25, 1971 and filed on November 20, 1971, private respondents Benjamin Escandor and Rolando Samson reiterated the aforesaid motion.

In a resolution dated November 25, 1971, the Court resolved to defer action thereon until the case is considered on the merits.

On November 4, 1971, petitioner filed his memorandum; while private respondent Alfonso Co filed his memorandum on November 20, 1971.

The issues posed by the petition are:

- (1) whether respondent Judge Onofre A. Villaluz of the Circuit Criminal Court of Pasig, Rizal, can voluntarily inhibit himself, without any motion therefor by the parties, on the ground of his personal knowledge of the case even before the same was filed; and
- (2) whether, after having acquired jurisdiction over the case, the Circuit Criminal Court can transfer the hearing of the same to the regular court of first instance.

Undoubtedly, personal knowledge of the case pending before him is not one of the causes for the disqualification of a judge under the first paragraph of Section 1 of Rule 137 of the Revised Rules of Court which took effect on January 1, 1964. But paragraph 2 of said Section 1 of Rule 137 authorizes the judge, "in the exercise of his sound discretion, to disqualify himself from sitting in a case, for just or valid reason other than those mentioned" in paragraph 1.

Before the rule was amended in 1964, a judge could not voluntarily inhibit himself on grounds of extreme delicacy,[1] or prejudice or bias or hostility,[2] not even when he would be violating Sections 3, 26 and 30 of the Canons of Judicial Ethics because he is a paid professor of law in the college owned by one of the litigants.[3] Neither was a judge disqualified from trying a prosecution for perjury of an accused, who was ordered investigated and prosecuted as a perjured witness by said judge;[4] not even if the judge himself took great interest and an active part in the filing of the criminal charge to the extent of appointing the fiscal when the regular provincial fiscal refused to file the proper information.[5]

But in 1961, We enunciated that a judge can inhibit himself from trying a case on the ground that the opinion he expressed in a letter addressed by him as counsel might in some way or another influence his decision in the case at bar and express his fear of not being able to render a truly impartial judgment.[6]

In 1962, We also ruled in the case of *Del Castillo vs. Javelona*[7] that a judge may voluntarily inhibit himself by reason of his being related to a counsel within the fourth civil degree (now expressly included as a ground in par. 1 of Rule 137); because Rule 126 (the old rule) "does not include nor preclude cases and circumstances for voluntary inhibition which depends upon the discretion of the officers concerned."

And in 1967, We affirmed that a judge may voluntarily disqualify himself on grounds other than those mentioned

in paragraph 1 of Section 1 of Rule 137, as amended, such as bias or prejudice engendered by the judge having "lost respect in the manner the prosecutor was handling the case x x x"[8]; or when the lawyer for a litigant is his former associate.[9]

Herein respondent Judge, because of his personal knowledge of the case, at least had conducted a careful self-examination, after hearing some incidents on the criminal case wherein petitioner is the complainant, because such personal knowledge on his part might generate in his mind some bias or prejudice against the complaining witness or any of the accused or in any manner unconsciously color his judgment one way or the other, without the parties having the opportunity to cross-examine him as a witness. Herein respondent Judge therefore hearkened to the injunction announced by this Court in *Pimentel vs. Salanga*[10] that when a Judge "might be induced to act in favor of one party or with bias or prejudice against a litigant arising out of circumstance 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."

It is possible that the respondent Judge might be influenced by his personal knowledge of the case when he tries and decides the same on the merits, which would certainly constitute a denial of due process to the party adversely affected by his judgment or decision. It is best that, after some reflection, the respondent Judge on his own initiative disqualified himself from hearing the robbery case filed by herein petitioner and thereby rendered himself available as witness to any of the parties and therefore may be subject to cross-examination.

Herein respondent Judge should be commended this time for heeding Our ruling in the case of *Geotina vs. Gonzales*[11] that "a judge, sitting on a case must at all times be fully 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 his fairness and as to his integrity."

And Mr. Justice Fernando, speaking for the Court, in the case of *Mateo, Jr., et al. vs. Honorable Onofre Villaluz, etc.*, supra, added that: "x x x 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."

Having thus voluntarily inhibited himself from trying the criminal case in which herein petitioner is the complainant, the respondent Judge has the discretion likewise to transfer the case to the regular courts of first instance sitting in Pasig, Rizal where he holds court, since the regular Court of First Instance has concurrent jurisdiction with the Circuit Criminal Court over this case for robbery (Sec. 1, R.A. No. 5179).

This transfer is all the more justified because there is no other judge sitting in the Circuit Criminal Court of Rizal or in the 7th Judicial District which comprises the provinces of Rizal, Cavite and Palawan, as well as the cities of Quezon, Caloocan, Pasay, Cavite, Tagaytay, and Trece Martires as there is only one circuit criminal court for each of the 16 judicial districts of the court (Sec. 1, R.A. No. 5179). Furthermore, under Section 3 of Republic Act No. 5179, the "provisions of all laws and the Rules of Court relative to the judges of the Courts of First Instance and the trial, disposition and appeal of criminal cases therein shall be applicable to the circuit judges and the cases

cognizable by them insofar as they are not inconsistent with" its provisions. The Judiciary Act and the Rules of Court do not prohibit the raffling or re-raffling among the Judges in the same station and in the same Judicial District of a case where the Judge to whom it was originally raffled or assigned is disqualified or voluntarily inhibiting himself for valid and just causes. This has been done in many instances. It was likewise done in the case at bar after the criminal case was transferred to the regular Courts of First Instance sitting at Pasig, Rizal. The validity of the trial and the decision rendered in the case depends solely on the jurisdiction of the court over the subject matter of the case and over the parties, to whom due process of law has been accorded.

Consequently, herein respondent Judge committed no abuse of discretion.

WHEREFORE, THE PETITION IS HEREBY DISMISSED, WITH COSTS AGAINST PETITIONER.

Makalintal, Acting C.J., Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, Antonio, and Esguerra, JJ., concur.

[1] Joaquin vs. Barretto, 25 Phil. 281.

[2] Benusa vs. Torres, 57 Phil. 737; Dais vs. Torres, 57 Phil. 897.

[3] Talisay-Silay Milling Co., Inc. vs. Teodoro, 91 Phil. 101.

[4] U.S. vs. Lumampao, 20 Phil. 168.

[5] Tayco vs. Capistrano, 53 Phil. 866.

[6] Gutierrez vs. Santos, et al., L-16824, May 30, 1961, 2 SCRA 249, 255.

[7] L-16742, Sept. 29, 1962, 6 SCRA 147, 151.

[8] People vs. Gomez, L-22345, May 29, 1967, 20 SCRA 293, 299; Mateo, Jr., et al. vs. Hon. Onofre Villaluz, etc., L-34756-59, March 31, 1973.

[9] Austria vs. Masaquel, L-22536, August 31, 1967, 20 SCRA 1247, 1255.

[10] L-27934, Sept. 18, 1967, 21 SCRA 160, 167.

[11] L-26310, Sept. 30, 1971, 41 SCRA 66, 73-74.

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