DOMINGO G. PANGANIBAN, COMPLAINANT, VS. JUDGE PABLO B. FRANCISCO AND BRANCH CLERK ATTORNEY LIWAYWAY ABASOLO, RESPONDENTS.

A.M. No. RTJ-98-1425. November 16, 1999

Ponente: VITUG, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/1a465e587fff/

VITUG, J.:

In the instant administrative matter, Domingo G. Panganiban has charged Judge Pablo B. Francisco of the Regional Trial Court ("RTC") of Sta. Cruz, Laguna, Branch 26, and Acting Clerk of Court Liwayway Abasolo of the same court with "malversation/estafa, bribery, and violation of the Anti-Graft and Corrupt Practices Act."

The case stems from a mayoralty protest filed in July 1995 by Enrique Bautista contesting the election and proclamation of herein complainant Domingo Panganiban as being the duly elected municipal mayor of Sta. Cruz, Laguna. The protest, docketed Election Contest No. SC-10, was raffled to the sala of Judge Hilario F. Corcuera of Branch 27. Another election protest, docketed Election Contest No. SC-11, was also filed by Grace Vergara, Lito F. Noroña, Rolando L. Unison, and Alberto E. Pabellon, the unsuccessful candidates for the Sangguniang Bayan of Sta. Cruz, Laguna, against the proclaimed winners in the local elections. Election Contest No. SC-11 was raffled to the sala of respondent Judge. The two cases were later consolidated and assigned to Judge Francisco, who then constituted five Revision Committees, each with three members with substitute watchers, for the revision of ballots. Four committees were organized for Election Contest No. SC-11, and a cash deposit of P229,200.00 was fixed therefor, broken down, as follows:

> "one (1) chairman
>
> P100.00
>
> one (1) revisor for the protestants
>
> P100.00
>
> one (1) revisor for the protestees
>
> P100.00
>
> ----------

Total

P300.00

P300 X 191 precincts =

P57,300.00

P57,300 X 4 committees =

P229,200.00"[1]

A single committee was constituted for Election Contest No. SC-10, and a cash deposit of P57,300.00 was fixed, hereunder itemized, as follows:

"one (1) chairman

P100.00

one (1) revisor for the protestants

P100.00

one (1) revisor for the protestees

P100.00

Total

P300.00

P300 X 191 precincts =

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

P57,300.00"[2]

The total cash deposit for the two cases amounted to P286,500.00. The deposits were made pursuant to Section 10, Rule 35, of the COMELEC Rules of Procedure; thus -

"SEC. 10. Cash deposit. - (a) In any protest, counter-protest or protest-in-intervention not requiring ballot revision, the protestant, the counter-protestant, or intervenor, as the case may be, shall upon the payment of the filing fee, make a cash deposit in the amount of five hundred pesos (P500.00) which shall be applied to the payment of all expenses incidental to such protest, counter-protest or protest-in-intervention. When circumstances so warrant, additional cash deposits may be required. Any unused balance thereof shall be returned to the party making the deposit.

"(b) In case revision of ballots is required, there shall be deposited, within ten days after being required by the Court, the sum of three hundred pesos (P300.00) for every ballot box for the compensation of revisors at the rate of P100.00 each.

"(c) Failure to make the cash deposits herein provided within the prescribed time limit shall result in the automatic dismissal of the protest, counter-protest, or protest-in-intervention, as the case may be.

"(d) In case the party who has paid the expenses and costs wins, the court shall assess, levy and collect the same as costs from the losing party."

Judge Francisco ordered the revision of ballots to commence on 09 October 1995 and to continue daily from 1:00-5:00 p.m., excepting Saturdays, Sundays and holidays, until its completion.

On 17 October 1995, the protestants executed a Special Power of Attorney in favor of respondent Abasolo designating the latter to be their attorney-in-fact to "give and signify (their) conformity to any and all disbursement from any fund which (they) have deposited in court to cover expenses for supplies, tools, equipment, additional remuneration or benefits for persons or stenographers and the like in relation to the aforementioned election cases x x x." Upon advice, however, of respondent Judge who pointed out that respondent Abasolo was a court employee, the latter declined the appointment and another Special Power of Attorney was on even date executed in favor of Ms. Dina Veronica Lleander. In the course of the revision of the ballots for 191 precincts, respondent Judge ordered the withdrawal and delivery to respondent Abasolo, of the following amounts:

"DATE AMOUNT

August 11, 1995

P1,000.00

October 10, 1995

P3,383.00

October 12, 1995

P17,450.00

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

October 19, 1995

P12,805.00

October 26, 1995

P17,100.00

November 6, 1995

P13,700.00

November 10, 1995

P22,000.00

November 16, 1995

P23,800.00

November 22, 1995

P25,900.00

November 29, 1995

P34,760.00

December 5, 1995

P31,650.00

December 14, 1995

P11,800.00

February 13, 1996

P17,900.00

March 22, 1996

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

P11,500.00

March 22, 1996

P 2,600.00

March 29, 1996

P25,000.00

April 2, 1996

P13,400.00

P285,748.00"[3]

On 23 November 1995, the counsel for complainant filed a "Motion to Render Accounting," asseverating that there were disbursements made from the cash deposit without notice to counsel and that some members of the revision committees were not being paid their due compensation. This incident was followed by an administrative complaint filed by Panganiban charging respondent Judge with having prematurely taken over the proceedings of Election Contest No. SC-10 despite a pending motion for reconsideration filed by his counsel. The complaint further asserted that while the amount of P57,300.00 was fixed as exclusive revisors fees in Election Contest No. SC-10 (191 ballot boxes X P300.00, pursuant to COMELEC Rules of Procedure, Part VI, Rule 35, Section 10, paragraph b), respondent Judge, however, still required the four protestants in Election Case No. SC-11 to deposit P57,300.00 each, which was likewise paid by protestant Bautista. It was only later, complainant said, that he discovered the "clandestinely executed" Power of Attorney in favor of respondent Abasolo, followed by "numerous, indiscriminate, undocumented and unitemized withdrawals from the excessively deposited exclusive revisors fees" ordered by respondent Judge. From the deposited amount of P286,500.00, P285,748.00 were thereby withdrawn, leaving the sum of P171,148.00 yet to be accounted for.

Judge Francisco denied the charges and countered that all the sums disbursed from the deposit made by the protestants had been duly accounted for, and all the revisors had been paid their fees. He stated that the chairmen and the revisors had to be compensated twice at times because the functions of the committees in the two cases were coordinated. In these disbursements, that included the costs of stenographic notes, security fees, and other expenses incidental to the protests, the payments, he said, were all authorized by the protestants and indeed bore the conformity of their attorney-in-fact Ms. Lleander.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Respondent Abasolo, for her part, maintained that all withdrawals made from the deposit were supported by orders issued by respondent Judge, and that no amount of the deposit of money was taken, appropriated, or converted by her for purposes other than what had been authorized by the protestants.

In its resolution of 13 April 1998, the Court assigned the case to Associate Justice Ramon A. Barcelona of the Court of Appeals for investigation, report and recommendation. The Investigating Justice, acting accordingly, conducted the investigation, and thereafter submitted his report and recommendation. He found that, based on the statements of account submitted by respondent Abasolo and Ms. Lleander, the cash deposits were properly utilized for the payment of revisors' fees, stenographers' fees, security fees, coordinators' fees, transportation of the ballot boxes, supplies, and expenses for the construction of the holding room. The Investigating Justice elucidated:

> "The question then that needs to be resolved is whether or not these expenses incurred are taxable as expenses or costs under the law.
>
> "At this juncture, it must be noted that unlike in election contests before the Commission on Elections (COMELEC) where chargeable costs and fees are specifically provided for in Rule 40 of the COMELEC Rules of Procedure, the law is silent as regards the fees and costs in election contests before courts of general jurisdiction. Thus, reference must be made to the cases of Belarmino, et al. v. Alihan, et al., 105 Phil. 358 [1950] and Montero v. Guerrero, 108 Phil. 725 [1960], where the Supreme Court held that with respect to costs in election contests tried and decided by the courts, the same shall be governed and should not exceed those expressly fixed by the Rules of Court. It was likewise ruled therein that `expenses' in election contests should mean actual expenses connected with and incidental to the trial of such election contests. Thus, the Supreme Court allowed as expenses the sums paid to the revisors of the ballots, to the clerk of court for acting as chairman of the revision committee, and the sums paid for the transportation, handling and custody of the ballot boxes.
>
> "Applying the foregoing jurisprudence, it becomes evident that certain expenses incurred in Election Contest Nos. 10 and 11 should have been disallowed or tempered by respondent Judge as these do not fall within those allowed by law.
>
> "Foremost in these expenses are the fees paid to the stenographers for the transcription of the notes taken during the revision of the ballots, as well as during the trial of the election contest. As the Statements of Account would show, the stenographers assigned were paid Two Hundred Pesos (P200.00) per electoral precinct. (see Exhibits `65' and `67') Under Section 8, Rule 141 of the Rules of Court, as amended, `(S)tenographers shall give certified transcript of notes taken by them to every person requesting the same upon payment of (a) five (P5.00) pesos for each page of not less than two hundred and fifty words before the appeal is taken and three (P3.00) pesos for the same page, after the filing of the appeal; provided, however, that one-half of the total charges shall be paid to the Court and the other half to the stenographer concerned.' In her Statement of Account, respondent Abasolo justified the payment of such amount by stating that it was `upon the request of the protestants and for speedy and orderly proceedings.' (p. 5, Compliance, Exhibit `65') Notwithstanding the foregoing, however, it must be stressed that the fees for the stenographers should be those within the limits fixed by the law. It is the duty of the stenographers to take stenographic notes and transcribe them, and they may collect only such fees as may be authorized by the Rules of Court. (see No. 4, Section B [Specific Duties of Court Employees], Chapter II, Manual for Clerks of Court) Moreover, a review of the records of Election Contest Nos. 10 and 11 reveals that the transcript of stenographic notes (TSNs) submitted by the stenographers are incomplete. Specifically, certain notes taken during the revision of the ballots are lacking, although the Statements of Account submitted by both respondent Abasolo and Ms. Dina Veronica Lleander show that they were duly compensated on such dates. Thus, an inventory of the TSNs taken during the revision of the ballots show that the following TSNs were lacking, viz.: October 9, 1995 - Committees A, B, C and D; October 10, 1995 - Committee D and E; October 16, 1995 - Committee E; October 19, 1995 -

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

> Committee A, B, C and D; October 23, 1995 - Committee B; October 26, 1995 - Committee A, B, C, and D; to cite only a few. In this regard, respondent Abasolo, as the Acting Branch Clerk of Court, has administrative supervision over court personnel and it devolves upon her to see to it that their duties are properly discharged (see No. 1, Sec. A, Chapter VII, Manual for Clerks of Court).
>
> "Respondent Judge, likewise, should have disallowed the `coordinator's fee' paid to respondent Abasolo in the total amount of Twelve Thousand Pesos (P12,000.00), as the same does not find any support from the records nor does it qualify as an 'expense'. Primarily, the records of this case reveals that there is no court order issued by respondent Judge which would show that respondent Abasolo was duly appointed as such `coordinator' nor even as a revisor. While she may have performed certain duties during the revision of the ballots, these duties are only proper within her office as the Acting Branch Clerk of the court where Election Contests Nos. 10 and 11 are pending. As such, she should have not received any extra remuneration for performing her official tasks.
>
> "However, these facts alone are not sufficient to find respondents guilty of the crimes of Malversation/Estafa, Bribery and/or Violation of the Anti-Graft and Corrupt Practice Act. The records support respondents' contention that all the disbursements from the deposit made by the protestants were duly accounted for, and that all these sums were expended for what respondents believed, in all seriousness, albeit erroneously, to be expenses which were allowable as expenses connected with and incidental to Election Contest Nos. 10 and 11.
>
> "Be that as it may, respondents may be found to have been negligent in the premises. The records show that respondent Judge relied entirely upon his Acting Branch Clerk of Court, herein respondent Abasolo, and Ms. Dina Veronica Lleander to account for the disbursements made from the deposit. The orders he issued allowing the disbursements were all made in lump sums, and he did not even require that these sums be accounted for in detail, and that an accounting be made immediately after every disbursement. In fact, it was only after complainant filed a `Motion to Render Accounting' that respondent Judge required respondent Abasolo and Ms. Lleander to submit their accounting. Rule 3.09, Cannon 3 of the Code of Judicial Conduct states that `(A) judge should organize and supervise the court personnel to ensure the prompt and efficient dispatch of business, and require at all times the observance of high standards of public service and fidelity.' On this score, respondent Judge was somewhat negligent.
>
> "For her part, respondent Abasolo was likewise remiss in her duties. The manner by which the disbursements were justified and accounted for leaves much to be desired. Aside from the disorganized ledger where the revisors and other appointed personnel signed their names in receipt of their fees, no other receipts were attached to the records of this case to account for the specific amounts spent for the transportation of the ballots, purchase of the supplies and the construction of the holding room. It devolves upon respondent Abasolo to perform and discharge her duties with the highest degree of excellence and professionalism. (See Sec. 4 (b) Code of Conduct and Ethical Standards for Public Officials and Employees)."[4]

The Court fully agrees with Justice Barcelona in his report and thus adopts his recommendations. Indeed, errors and mistakes have been committed by respondent Judge but not every misjudgment in the performance of official duties makes a judge liable therefor. In order to merit disciplinary action, the fault ascribed to a judge must be gross or patent, malicious, deliberate or done in bad faith.[5] Like the Investigating Justice, the Court is not convinced that respondent Judge is guilty of having acted in any such untoward manner. He should, however, be reminded that he must constantly endeavor to avoid giving any impression of impropriety, and he should take extra care in protecting the image and integrity of his office which he can do by aptly keeping up with, and exercising great zeal and diligence in, the discharge of his functions. What he does and how he does it, can spell approbation or censure, either of which can influence, favorably or unfavorably, the public's perception of and attitude towards the entire judiciary in more ways than one. Respondent Abasolo is herself an officer of the court, whose own conduct must equally be characterized with great propriety and integrity and always above suspicion of any unfair dealing.

WHEREFORE, Judge Pablo B. Francisco and Branch Clerk of Court Liwayway Abasolo are ADMONISHED to be more cautious and circumspect in the performance of their official duties. Branch Clerk of Court Liwayway Abasolo is DIRECTED to promptly return the coordinator's fee of P12,000.00 which she has received.

SO ORDERED.

Melo, (Chairman), Panganiban, Purisima, and Gonzaga-Reyes, JJ., concur.

---

[1] Report and Recommendation, A.M. No. OCA-IPI 96-215-RTJ, p. 3.

[2] Ibid.

[3] Exh. A - A-3, Folder of Exhibits.

[4] Report and Recommendation, A.M. No. OCA-IPI 96-215-RTJ, pp. 15-18.

[5] Del Callar vs. Salvador, 268 SCRA 320.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.