MARCO FRANCISCO SEVILLEJA, COMPLAINANT, VS. JUDGE ANTONIO N. LAGGUI, REGIONAL TRIAL COURT, APARRI, CAGAYAN, BRANCH 8, RESPONDENT.

A.M. No. RTJ-01-1612 (Formerly A.M. OCA IPI No. 00-1093-RTJ). August 14, 2001

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

In the May 11, 1998 elections, herein complainant Marco Francisco Sevilleja was proclaimed the winner in the local election for Mayor in the Municipality of Sta. Teresita, Cagayan with a majority of 293 votes over his rival Romeo Garcia. He took his oath of office and assumed the position of municipal mayor. On May 21, 1998 however, Garcia filed with the Regional Trial Court (RTC) of Aparri, Cagayan an election protest docketed as Election Case No. 11-2092 which was re-docketed as Election Case No. 10-231 and assigned to RTC-Aparri, Cagayan, Branch 10 where respondent Judge Antonio Laggui was the presiding judge. On June 16, 1998, herein complainant filed a motion to inhibit respondent Judge on the ground that the wife of the protestant, Mrs. Lolita Garcia, is the legal researcher of respondent Judge Laggui. For “delicadeza” and “in order that the protestee shall have peace of mind”, respondent Judge Laggui, in his Order of June 16, 1998, granted the motion for inhibition. The case was subsequently re-raffled to Branch 8, then a vacant sala due to the retirement of Presiding Judge Catral but paired with Branch 9 where Judge Emerito Agcaoili is the pairing judge. The case was again re-docketed as Election Case No. 08-376. On August 4, 1999, Judge Agcaoili rendered a decision declaring Romeo Garcia as the duly elected mayor. Herein complainant filed a notice of appeal therefrom while Garcia filed a motion for execution pending appeal. On August 10, 1999, Judge Agcaoili ordered that the entire records be elevated to the Commission on Elections. Due to the absence of Judge Agcaoili, respondent Judge, in his capacity as Executive Judge of RTC-Aparri, Cagayan, issued an Order dated August 13, 1999 holding in abeyance the transmittal of the records to Comelec pending resolution of the motion for execution pending appeal. When respondent Judge was designated acting presiding judge of Branch 8 in view of SC Administrative Order No. 43-99 dated August 24, 1999, he granted the motion for execution pending appeal. A writ of execution was subsequently issued. Thereafter, herein complainant filed a Motion for Reconsideration which was denied by respondent Judge. Hence, the present administrative complaint on the ground of gross misconduct.

In his Comment, respondent Judge Laggui alleges that he could not be held liable for gross misconduct because complainant Sevilleja failed to question his act in granting the motion; that complainant waived his right to question the jurisdiction of respondent during the hearing of the motion for execution pending appeal since complainant did not raise the issue of the respondent’s previous inhibition; that he does not have to lift his order of inhibition because as acting presiding judge of Branch 8, Lolita Garcia is not his legal researcher and the legal impediment for his inhibition no longer exists; that complainant should be declared guilty of forum-shopping for filing a complaint-affidavit with the Office of the Ombudsman involving the same issues.

Both parties manifested that they are willing to submit the case on the basis of the pleadings/records already filed and submitted.

The Court Administrator recommended that respondent Judge Laggui be fined in the amount of Five Thousand (P5,000.00) Pesos with a stern warning that a repetition of the same or similar act shall be dealt with more severely.

We agree with the Court Administrator.

Section 1, Rule 137 of the Rules of Court lays down the rule on the judge's inhibition and disqualification. The import of the rule on voluntary inhibition of judges is that:

> " x x x the decision on whether or not to inhibit is left to the sound discretion and conscience of the trial judge based on his rational and logical assessment of the circumstances prevailing in the case brought before him. It points out to the members of the bench that outside of pecuniary interest, relationship or previous participation in the matter that calls for adjudication, there might be other causes that could conceivably erode the trait of objectivity, thus calling for inhibition for, indeed, the factors that lead to preference and predilections are many and varied."[1]

Respondent Judge Laggui previously inhibited from the election case as judge of RTC-Branch 10 where the case was initially raffled on the ground that his legal researcher is the wife of one of the parties in the election case. The case was thereupon re-raffled to another branch, RTC-Branch 8. The mere fact that he was designated acting presiding judge of RTC-Branch 8 per SC Administrative Order No. 43-99 does not necessarily mean that his previous inhibition has been lifted. That would be an absurdity. The administrative order presupposes that the judge so designated has not inhibited in the cases raffled/assigned to said branch.

Moreover, even the allegation that respondent judge's legal researcher is in RTC-Branch 10 and the election case is in RTC-Branch 8 will not hold water. The fact remains that Mrs. Lolita Garcia is still respondent judge's legal researcher in RTC-Branch 10 and the election case is still the same case where respondent judge inhibited himself from.

There is serious or gross misconduct when judicial acts complained of were corrupt or inspired by an intention to violate the law or were in persistent disregard of well-known legal rules.[2] People's confidence in the judicial system is founded not only on the magnitude of legal knowledge and the diligence of the members of the bench but also on the highest standard of integrity and moral uprightness they are expected to possess.[3] A judge is not only required to be impartial; he must appear to be impartial.[4] Having previously inhibited from the election case, respondent judge should have refrained from acting on the election case to avoid being misunderstood and as such, his reputation for probity and objectivity is preserved. It is the duty of the members of the bench to avoid any impression of impropriety to protect the image and integrity of the judiciary.[5] The judge must, at all times, maintain the appearance of fairness and impartiality[6] and his conduct must be beyond reproach and above suspicion.[7]

We take note of the Resolution dated June 29, 2000 of the Comelec which set aside and annulled the Orders dated September 6, 1999 and September 15, 1999 (which granted the motion for execution pending appeal and denied the motion for reconsideration thereto) issued by respondent Judge Laggui. The same Comelec-Resolution ordered the reinstatement of herein complainant Sevilleja to his position as Municipal Mayor of Sta. Teresita, Cagayan. Comelec found "no good reasons to justify the execution of the judgment". This Resolution was affirmed by this Court En Banc in SC Resolution dated February 27, 2001 in G.R. No. 146637 when it dismissed the petition for certiorari and prohibition filed by Garcia. We adopt the ruling of the Comelec when it stated, to wit:

> "x x x his (respondent's) designation as the Acting Presiding Judge in Branch 8 under Supreme Court Administrative (Order) No. 83-99 where the instant electoral contest is pending does not vest him jurisdiction

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> thereof, nor cure his partiality over a case he had previously voluntarily divested himself of.
>
> Neither can the aforementioned administrative directive authorize him to hear the incidents of an electoral contest where he disqualified himself from hearing the main case. The administrative directive authorizes Public Respondent to act only on cases assigned to Branch 8 where he could dispense administration of justice with the cold neutrality of a judge."

Finally, with respect to the argument of respondent Judge that herein complainant is guilty of forum-shopping for having filed a complaint-affidavit with the Office of the Ombudsman involving the same facts and the same issues, suffice it to state that the Court in the case of PNB-Republic Bank vs. Court of Appeals,[8] has already ruled that a case pending before the Ombudsman cannot be considered for purposes of determining if there was forum-shopping as the power of the Ombudsman is only investigative in character and its resolution cannot constitute a valid and final judgment because its duty is to file the appropriate case before the Sandiganbayan.

WHEREFORE, finding the recommendation of the Court Administrator to be well-taken, respondent Judge Antonio N. Laggui of the Regional Trial Court of Aparri, Cagayan is hereby FINED in the amount of Five Thousand (P5,000.00) Pesos with a WARNING that the same or similar act shall be dealt with more severely by this Court.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Sandoval-Gutierrez, JJ., concur.

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[1] Gacayan vs. Pamintuan, 314 SCRA 682.

[2] Apiag vs. Judge Cantero, 268 SCRA 47 citing Amosco vs. Magro, 73 SRCA 107.

[3] Talens-Dabon vs. Arceo, 259 SCRA 354.

[4] Cortes vs. Agcaoili, 294 SCRA 423.

[5] Galang vs. Santos, 307 SCRA 582.

[6] De Vera vs. Dames II, 310 SCRA 213.

[7] Simbajon vs. Esteban, 312 SCRA 192.

[8] 314 SCRA 328.

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