

ATTY. CARLOS L. VALDEZ, JR., COMPLAINANT, VS. JUDGE MONICO G. GABALES, ACTING PRESIDING JUDGE, RTC, BRANCHES 36 AND 37, GENERAL SANTOS CITY, RESPONDENT.

A.M. NO. RTJ-05-1956 (FORMERLY OCA IPI NO. 01-1319-RTJ). September 20, 2005

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

The instant administrative case arose from the affidavit-complaint[1] of Atty. Carlos L. Valdez, Jr., charging Judge Monico G. Gabales, then regular Presiding Judge of Branch 7 of the Regional Trial Court (RTC) of Bangago, Davao and Acting Presiding Judge of Branches 36 and 37 of the RTC of General Santos City, with (1) immorality, (2) corruption, ignorance of the law and partiality, and (3) inefficiency and/or laziness.

After respondent Judge had filed his comment on said administrative complaint, the Second Division of this Court, in a resolution[2] dated 30 July 2003, resolved to refer the administrative complaint to Justice Noel G. Tijam of the Court of Appeals for investigation, report and recommendation.

Upon receipt of the records of the case, preliminary conferences proceeded.[3] Thereafter, the investigation began on 10 December 2003 and continued until 25 February 2004. Complainant presented himself as witness together with two others, namely, Mrs. Zuraida M. Anayatin and Mr. Vicente Castaneda. The defense, on the other hand, called a lone witness: Atty. Rene Valencia.

In his report, Justice Tijam summarized the facts as follows:

Complainant alleged that Respondent Judge, himself a married man, has an illicit relationship with a married court employee named Zenaída B. Miñoza of Branch 37 of the Regional Trial Court of General Santos City. In support of his allegation of immorality, Complainant offered the Affidavit and testimony of Zuraída M. Anayatin, a Legal Researcher of Branch 36 of the Regional Trial Court of General Santos City.

Anayatin asserted that her suspicions regarding the relationship between respondent Judge and Miñoza were confirmed when she saw the respondent judge's right arm "placed" over the shoulders of Miñoza, and both "appeared surprised" upon seeing her suddenly come out of the comfort room.

Anayatin testified that before said incident, there was already a rumor of said illicit relationship between the Respondent Judge and Miñoza, "which they failed to hide from the eyes of the other employees in the said offices." The existence of said "gossip" linking Respondent Judge to Miñoza was affirmed by Complainant who testified that this was one of the reasons that prompted him to file the instant Complaint and to accuse respondent Judge of immorality.

Anent the charge of corruption and partiality, Complainant asserted that respondent Judge was "bribed" by one Felisa Cruz to render the Decision, dated March 28, 2001, in Civil Case No. 5468, in her favor to the prejudice of the Complainant, the opposing party in said case.

This "bribery" was allegedly witnessed by Anayatin who testified that Felisa Cruz was a constant visitor of the

respondent Judge during the months of January, February, and March, 2001. Said visits made her "curious" because, as the Legal Researcher of Respondent Judge, she personally knew that Felisa Cruz had pending cases in both Branches 36 and 37. Anayatin also noticed that whenever Felisa Cruz came out from the chambers of the respondent Judge, the large brown envelope she would carry when she entered said chambers would no longer be in her possession.

The Complainant asserted that when Felisa Cruz visited the respondent Judge in the months prior to the issuance by the respondent Judge of the Decision, dated March 28, 2001, in Civil Case No. 5468, Felisa Cruz was bringing money concealed in the brown envelope to the Respondent Judge.

Complainant concluded that the bribe money came from the sale of the portions of the land, subject matter of Civil Case No. 5468, by Felisa Cruz. To lend support to said theory, Complainant presented the Affidavit and testimony of Vicente M. Castañeda to establish the alleged source of the money which was allegedly given by Felisa Cruz to the Respondent Judge.

Vicente Castañeda testified that, sometime in December 2000, after Complainant discovered that Felisa Cruz and her sons were selling portions of the disputed land, subject matter in Civil Case Nos. 5468 and 2359, Complainant requested him (Castañeda) to verify said information. Castañeda posed as a prospective buyer and inquired from Felisa Cruz the selling price of said lots which ranged from P200.00 to P400.00 per square meter.

Castañeda also inquired about the title over said land and was told by Felisa Cruz not to worry because "ayos na ito kay Judge," alluding to the respondent Judge who had rendered the Decision in Felisa Cruz's favor.

Complainant alleged that apart from being corrupt and partial, Respondent Judge is likewise guilty of ignorance of the law and/or procedure in, among others, nullifying the Deed of Sale executed between Felisa Cruz' predecessor, Rosalia Alinate vda. De Cruz and the Complainant, in the Decision dated March 28, 2001 in Civil Case No. 5468, despite a previous final and executory Decision, dated December 21, 1989, declaring the same Deed of Sale valid and ordering Felisa Cruz to vacate the disputed land.

Complainant asserted that respondent judge's denial of Complainant's Petition to Cite Felisa Cruz in Contempt of Court, in Civil Case No. 2359, after Felisa Cruz re-entered said disputed land in defiance of the final and executory Decision dated December 21, 1989, amounted to ignorance of the law and/or jurisprudence.

Finally, Complainant accused respondent Judge of inefficiency and laziness. Complainant based his accusations on the alleged "common and public knowledge" that it was Atty. Rene Valencia, Clerk of Court, Regional Trial Court of General Santos City, Branch 36, who actually prepared all the decisions, orders and resolutions in the court, and not the respondent Judge. Complainant based his charges on the rumors circulating among lawyers in General Santos City describing Atty. Valencia as the "de facto Judge" and on the conversation he had with one Atty. Mando Singson, Jr. who advised him to "contact" Atty. Valencia if he had any problem and wished to win a case in Branch 36.

In connection with Civil Case Nos. 5468 and 2359, Complainant alleged that Respondent Judge was inefficient when he miserably failed to perform promptly his duties as a judge when he resolved pending motions, namely, Petition for Contempt, Motion to Resume Demolition, and Motion to Stop Construction, 10 months after the filing of the same.

In conclusion, Complainant alleged that "in rendering the said questionable decision, the respondent Judge did so as a result of receiving money from Felisa Cruz. In plain and simple language, the respondent Judge did so as a result of receiving money from Felisa Cruz right inside his chamber (sic). In short, the decision he rendered is the fruit of corruption. Then, with the money he got for the sale of his decision he had funds for his illicit relationship with Zenaida B. Miñoza. True, nobody saw him actually receiving the money from Felisa Cruz or that he and Zenaida B. Miñoza were openly advertising to the public their illicit relationship. But as

already discussed, the totality of the evidence against the respondent Judge clearly shows that he committed immorality and he also committed graft and corruption. To repeat the same question, why did respondent Judge not present Felisa Cruz and Zenaida B. Miñoza as his witness(es) during the investigation of the case?"

In his defense, the Respondent Judge assailed the Complaint alleging that the filing of the same was in violation of Section 1, Rule 140 of the Rules of Court which provides that verified administrative complaint against judges must be supported by affidavits of persons who have personal knowledge of the facts alleged therein.

Respondent Judge asserted that at the time of the filing of the Complaint, the Complainant failed to attach the supporting Affidavits of witnesses who have personal knowledge of the charges. The respondent added that while the Complaint was filed in November 2001, Complainant approached witnesses Ayanatin and Castañeda only during the first week of November 2003. Thus, Respondent Judge maintains that the instant Complaint should have been dismissed at the first instance by the Court Administrator pursuant to Section 2, Rule 140 of the Rules of Court.

However, considering that the Court Administrator had denied Respondent Judge's Motion to Dismiss and had proceeded with the hearing of the case, Respondent Judge filed his Comment to said Complaint vehemently denying all the accusations stated therein, and arguing that the filing of the Complaint was obviously designed by Complainant to harass him because he (Private Complainant) failed to get a favorable decision from Respondent Judge in Civil Case No. 5468.

Respondent Judge argued that the mere fact that the decision rendered by him was unfavourable (sic) to Complainant did not mean that such decision was unjust. And if it was erroneous, the adequate remedy is an appeal, which appeal is in fact pending with this Court, and not an Administrative Complaint against him.

Respondent Judge assailed the credibility and testimonies of Complainant's witnesses who failed to show or provide any "definit(iv)e statement linking respondent judge to conspiracy or bribery" or to prove that for a monetary consideration, Civil Case No. 5468 was decided in favor of Complainant's opponent.

Atty. Rene Valencia refuted Anayatin's testimonies relative to the alleged visits of Felisa Cruz, and testified that the Respondent Judge did not allow any person to enter his chambers other than the members of his staff.

Respondent Judge also maintained that the accusation of Immorality was so vague and general, adding that he cannot be charged and be found guilty of immorality merely on the basis of "gossip and perception of Complainant's witnesses."

Anent the charges of inefficiency and/or laziness, Respondent Judge presented his lone witness, Atty. Rene Valencia, who disputed said allegations. Respondent Judge likewise denied having failed to promptly resolve the subject motions, which were pending even before he assumed his post, explaining that the "delay" was due to the agreement of both the Complainant and the opposing party, thru their respective counsels, that the motion for demolition and the petition to cite Felisa Cruz in contempt of court, docketed as Civil Case No. 2359, "will be resolved together with the decision" in Civil Case No. 5468 considering that the issues raised in both civil cases were "intricately interwoven" and a study and review of the same would require "a lot of time considering that these cases arose in the year(s) 1981 and 1994."

As regards Complainant's Motion to Stop Construction, Respondent issued a "status quo order" dated May 17, 2000, directing the parties to cease from constructing additional improvements on the subject land pursuant to the agreement of both counsels.

Respondent argued that he should be, in fact, commended for having been able to study and decide said cases for less than 1 year considering that he presided over 3 branches of the Regional Trial Court.

Respondent, thus, criticized the Complainant and his counsel, "who already knew the circumstances of the

status quo order," for filing the instant Complaint and prayed that the Complainant and his counsel "be sanctioned in order to deter others similarly bent not to trifle with the law.

In his report dated 27 October 2004, Justice Tijam recommended the dismissal of the complaint for lack of merit, ruminating as follows:

In administrative proceedings, the complainant has the burden of proving, by substantial evidence, the allegations in the complaint. The basic rule that mere allegation is not evidence cannot be disregarded. This is particularly true in the instant case.

Anent the charge of immorality, a reading of paragraph 3 of the Complaint revealed that there was no categorical statement or substantial evidence to sustain said accusation. All that the Complainant alleged was that the respondent Judge has a "scandalous affair" with one Zenaida Miñoza without any statement of any specific acts committed or words uttered by respondent judge that may prove said allegation of impropriety. In fact, there was no showing that Complainant had any personal knowledge of the alleged illicit relationship. Indeed, during his cross-examination,[4] Complainant admitted filing the instant Complaint on the basis of the rumors he heard linking the Respondent Judge to Miñoza.

Failing to substantiate his accusation, Complainant relied on the Affidavit and testimony of Anayatin which, nonetheless, failed to corroborate Complainant's allegation of immorality. Actually, what Anayatin testified to was her knowledge of the rumors of the alleged scandalous relationship between Respondent Judge and Miñoza and not her personal knowledge of any fact that would prove the alleged immoral relationship. Rumors do not constitute substantial evidence.

The fact that Anayatin could "sense that something (some kind of a relationship) was going on between" them when she chanced upon the Respondent Judge placing his right arm on the shoulders of Miñoza is not the substantial evidence required to hold respondent judge guilty of immorality. Placing one's arm over someone else's shoulders may have been out of the ordinary experience for Anayatin, but it does not necessarily mean that said act is commonly regarded as scandalous or improper that may suggest an "illicit relationship". Said act may also have different meanings, most of them innocent, which do not constitute "illicit relationship." Consequently, the mere perception[5] of Complainant's witness as to what is the real relationship between the respondent judge and Miñoza is insufficient because courts cannot give credence to a charge against a judge based on mere suspicion or speculation.

On the charges of corruption and partiality, Anayatin testified that from January 2001 to March 2001, she saw Felisa Cruz entering respondent Judge's chambers bringing with her a big brown envelope which she no longer had when she came out from said chambers. Her testimony suggested that respondent judge accepted a bribe from Felisa Cruz which, as the Complainant inferred, was contained in the brown envelope. Based on this observation, Complainant concluded that the respondent Judge, in rendering the Decision dated March 28, 2001 in Civil Case No. 5468, in favor of Felisa Cruz, committed corruption.

However, this assertion is completely unsubstantiated. The complainant himself failed to adduce any substantial, direct and convincing evidence to substantiate his allegation of corruption. The Complainant did not personally hear or see what transpired inside respondent judge's chambers during the alleged visits of Felisa Cruz to reasonably conclude that Respondent Judge was bribed. There is no proof that the big brown envelope allegedly carried by Felisa Cruz contained bribe money. Complainant and his witness, Anayatin, only speculated on what could have happened and what the brown envelope could have contained. Complainant merely deduced that since a decision was rendered by respondent judge against him, bribery and corruption were committed as a result or by reason thereof.

Similarly, Vicente Castañeda's testimony failed to prove Complainant's accusation of corruption. The alleged remark of Felisa Cruz advising Castañeda "wag ka mag-alala, may titulo ito, lalabas ang titulo dito galing kay Judge. Ayos na ito kay Judge" does not constitute substantial and convincing evidence that Respondent Judge

did in fact receive money in exchange for a decision favorable to Felisa Cruz. In fact, said remark is considered hearsay and has no probative value. It may also show that because Castañeda was a prospective buyer of the lot, Felisa will say anything to assure him that the title over said lot is satisfactory; that if there was a pending dispute regarding the ownership thereof, it can be solved and remedied because she can influence the judge.

As settled, an accusation of bribery is easy to concoct but difficult to prove. The complainant must present a panoply of evidence in support of such an accusation. Inasmuch as what is imputed against the Respondent Judge connotes a grave misconduct, the quantum of proof required should be more than substantial. Hence, unless there is a direct and convincing evidence which will prove respondent Judge's alleged corruption, the respondent Judge cannot be held guilty of said charge.

In the same vein, after a close review of the records, we find that complainant failed to substantiate his allegation that respondent Judge acted with bias and partiality. At most, such allegation is a mere suspicion or conjecture. Mere suspicion that a judge is partial is not enough. There should be clear and convincing evidence to prove the charge of bias and partiality.

The mere fact that the decision rendered by respondent Judge was unfavourable to the complainant does not mean that such decision was unjust and was tainted with bias. Considering too, that the accusation of bias and partiality on the part of the respondent Judge was grounded on the complainant's allegation of corruption which was rendered unfounded, the allegation of partiality cannot also be given credence. Unless there is concrete proof that a judge has a personal interest in the case and his bias is shown to have stemmed from an extra-judicial source, courts shall always commence from the presumption that a judge shall decide on the merits of a case with an unclouded vision of facts. The Court has to be shown acts or conduct of the judge clearly indicative of arbitrariness or prejudice before the latter can be branded the stigma of being biased and partial.

The allegation of ignorance of the law and/or procedure cannot also be given merit.

Complainant alleged that respondent Judge is guilty of ignorance of the law when he rendered the decision dated March 28, 2001 in Civil Case No. 5468 involving a subject matter which had long been decided with finality. The said decision is now pending appeal before this Court. As the Office of the Court Administrator stated in its Recommendation, in view of said appeal, any action that may be taken with respect to the charges against herein respondent Judge might be premature and might pre-empt the action" that this Court "might take on appeal."

Besides, an administrative complaint is not the appropriate remedy for every act of a judge deemed aberrant or irregular or where a judicial remedy exists and is available. It must be stressed that as a matter of policy, the acts of a judge in his judicial capacity are not subject to disciplinary action.

The remedy of the aggrieved party is not to file an administrative complaint against the judge, but to elevate the assailed decision or order to the higher court for review and correction, as in this case. It is an established rule that an administrative, civil or criminal action against a judge cannot be a substitute for appeal and is proscribed by law and logic.

With regard to the allegation of inefficiency, We find the explanation and the evidence presented by the respondent Judge more than sufficient to negate said accusation.

Finally, complainant implied that the respondent Judge's failure to testify and to present Miñosa clearly proved the accusation that they have something to hide and are, thus, guilty of immorality. We disagree.

The burden is on the complainant to substantiate the allegations stated in the complaint. Hence, if the same were unfounded, the respondent is not required to raise his defenses. Indeed, only if such quantum of evidence existed would there have been a legal need for the accused to present evidence to controvert the prosecution's case.

The Rules, even in an administrative case, demand that, if the respondent Judge should be disciplined for grave misconduct or any graver offense, the evidence against him should be competent and should be derived from direct knowledge. The ground for the removal of a judicial officer should be established beyond reasonable doubt. Such is the rule where the charges on which the removal is sought is corruption or incompetence. The general rules in regard to admissibility of evidence in criminal trials apply. Consequently, absent any witness that the allegations in the complaint were within the complainant's and his witnesses' personal knowledge, their testimonies cannot be given credence.

We have reviewed the records, including the transcripts of the testimonies of the witnesses and the pieces of evidence submitted by the parties. After careful consideration thereof, we find the conclusions of fact and the recommendations of the Investigator in the above report to be well- taken and fully supported by the evidence on record.

ACCORDINGLY, the abovequoted report of Justice Tijam is APPROVED. Respondent Judge Monico G. Gabales is exonerated and the administrative case against him is DISMISSED.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.

[1] Dated 08 October 2001; Rollo, pp. 1-9.

[2] CA Rollo, pp. 1-3.

[3] Orders dated 25 September 2003 and 08 October 2003.

[4] TSN dated December 11, 2003, pp. 52-53.

Atty. Cagas:

Actually, you have no personal knowledge about this scandalous affair?

A:

I have no direct knowledge but as I have said earlier, this witness whom I approached that (sic) there is a gossip there in the area that Judge Gabales is a playboy judge then.

Q:

Because of that gossip, you charged Judge Gabales of immorality because of that gossip?

A:

Yes, sir.

[5] TSN dated December 10, 2003, pp. 27-29:

Q:

What frankly (sic), it might only be your suspicion?

A:

Yes.

...

Q:

Because of this gossip that roam around the Court, it was placed in your mind that when Judge Gabales placed an arm, there is something going on between them. That is how you perceive things:

JUSTICE TIJAM:

That is your perception?

A:

My perception only.

Atty. Cagas:

Aside from this having (sic) saw Judge Gabales placing his arm in (sic) the shoulder of Zenaida Miñoza, were (sic) there any, have you heard any words (sic) express(ed) by Judge Gabales towards Miñoza?

A:

None.

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