ALFREDO B. ENOJAS, JR., COMPLAINANT, VS. JUDGE EUSTAQUIO Z. GACOTT, JR., RTC, BRANCH 47, PUERTO PRINCESA CITY, PALAWAN, RESPONDENT.

A.M. No. RTJ-99-1513 (Formerly A.M. OCA IPI No. 97-299-RTJ). January 19, 2000

Ponente: PURISIMA, J.

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PURISIMA, J.:

At bar is an Administrative Complaint charging Judge Eustaquio Z. Gacott, Jr. with serious misconduct, inefficiency, and gross ignorance of the law.

Complainant Alfredo B. Enojas, Jr. was a candidate for mayor of the Municipality of Roxas, Palawan in the May 8, 1995 local elections. According to the canvass of election returns, complainant obtained seven thousand three hundred twenty-nine (7,329) votes, lower by forty-eight votes than the seven thousand three hundred seventy seven (7,377) votes of Jose R. Rodriguez, who was proclaimed winner on May 26, 1995.

On June 1, 1995, complainant filed an election protest, docketed as Election Case No. 891 before Branch 49 of the Regional Trial Court in Puerto Princesa City presided over by Judge Panfilo S. Salva. Alleging massive fraud and irregularities, complainant (Protestant in said case) sought revision of ballots in 102 precincts of Roxas, Palawan.

On June 9, 1995, Jose R. Rodriguez (Protestee) sent in an Answer praying for the dismissal of the election protest and interposing a counterclaim for damages and attorney's fees.

On July 11, 1995, Judge Panfilo S. Salva denied protestee's motion to dismiss. Considering that the 102 ballot boxes, election documents and book of voters were already delivered to and deposited with the trial court, at the time and the required fees and deposits therefor remitted by the protestant, Judge Salva ordered the revision of ballots to proceed.

After completing the revision of thirty nine (39) contested ballot boxes, Judge Salva granted[1] protestant's motion to terminate the revision, ordered the stenographer and revision committee to submit their revision reports within 30 days[2] and set the case for hearing.

On October 13, 1995, Judge Salva inhibited himself from trying the case on the ground that the protestee, Jose R. Rodriguez, is related by consanguinity to his wife. In due time, the case was then reraffled to Branch 47 presided over by Judge Eustaquio Z. Gacott, Jr. justice

On November 14, 1995, Judge Gacott Jr. issued an order[3] granting protestee’s motion for leave to file an amended answer. Thus, on November 15, 1995 protestee presented a motion to amend his answer, and submitted the corresponding amended answer. Accompanying the same was a pre-trial brief. The Amended Answer contained new matters not appearing in the original answer, and affecting the merits of the controversy, in violation of Section 8 of COMELEC Rule 35. The following day, complainant submitted his opposition thereto on the ground that the said pleadings merely tended to delay the disposition of the election protest.

On November 28 and 29 1995, the parties submitted their respective exhibits consisting of public, official and other election documents.[4] But on December 7, 1995, the protestee begged leave of court, this time to file a motion to dismiss, which motion to dismiss was attached thereto,[5] alleging the same grounds averred in previous pleadings.

On December 10, 1995, a Sunday, Judge Gacott, Jr. issued an order denying admission of the certified true copies of the documents marked Exhibits "A", "B", "D", and "E" on the ground that they were not properly identified.[6]

On December 15, 1995, respondent judge issued an order giving the complainant up to 12:00 o'clock noon of the next day to submit his opposition to protestee's motion to dismiss. On the same day, December 15, 1995, the complainant sent in his opposition to the motion to dismiss, contending that subject motion to dismiss was frivolous, presented to unduly delay the disposition of the election case, and without any legal and factual basis.

On December 19, 1995, respondent judge, relying on the case of Manchester et al. vs. Court of Appeals et. al.,[7] issued the following Order dismissing the election case, to wit:

> "This Court has no jurisdiction to hear and decide this case due to the deliberate non-payment by the protestant of the required or correct fee.
>
> WHEREFORE, premises considered, finding the motion to dismiss filed by the protestee thru Counsel to be meritorious and well-founded, AS PRAYED FOR, the Court hereby orders this election protest dismissed, with cost against the protestant.
>
> The motion for reconsideration of the Order dated December 10, 1995 is now moot and academic. Ergo, the same no longer merits consideration by this Court.
>
> IT IS SO ORDERED."[8](Underscoring supplied)

Theorizing that the said action of respondent judge constituted serious misconduct, inefficiency, and gross ignorance of the law, Alfredo B. Enojas Jr. instituted the administrative case under scrutiny, praying for the dismissal of respondent judge from the service.

On September 27, 1997, respondent judge submitted his Comment, contending that the proceedings in subject election case were above board and regular. He explained that the complaint is an exaggeration concocted by Atty. Constante P. Pimentel, lawyer of the protestant, who was scolded and reprimanded by him (respondent judge) who got irked at his (Pimentel) grandstanding during court sessions. Respondent judge described Atty. Constante P. Pimentel as an old but disrespectful and arrogant lawyer although he does not bear him ill will, hatred and rancor.

As regards the present charges against him, respondent judge answered in general terms, stating that there is no law, rule or regulation requiring him or any other judge, for that matter, to be perfect in all his orders, judgments or decisions, for he is only a human being susceptible to innocent errors. It is the submission of respondent judge that in his pronouncements, orders, decrees and decisions, it is enough that he be guided by the yardstick of "moral certainty" - that whatever he does, performs or decides is right and legal. What is important, he pointed out, is that his acts, actions, deeds or decisions are never tainted with dishonesty, corruption or monetary consideration.

In seeking his exoneration from this case respondent judge theorized that there should be no more reason for the institution of the case as the same administrative complaint had been the subject of complainant's Appeal by Certiorari to the Commission on Elections, which gave due course thereto and decided the same for complainant. According to respondent judge, when the case was remanded to the trial court for further proceedings, he

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voluntarily inhibited himself therefrom and subject electoral protest was reraffled to Branch 50 presided over by Judge Nelia Y. Fernandez, who decided said election protest for the complainant, who then took his oath of office as municipal mayor of Roxas, Palawan.

Respondent judge reasoned out that he decided the said election protest in the honest belief that his action was correct, and that he was never motivated by dishonesty, fraud or corruption in issuing the Order under attack.

On September 23, 1998, this Court referred the matter to the Office of the Court Administrator (OCA) for evaluation, report and recommendation. In a letter dated March 31 1998, the OCA required respondent judge to manifest in writing if he was amenable to have the case resolved on the basis of the pleadings on record, without further proceedings.

On May 31, 1999, respondent judge responded that he was leaving it to the Court whether to pass upon the case on the basis of the pleadings already in or to conduct further proceedings. But respondent judge expressed the hope that the desistance earlier made by the complainant should be reason enough to dismiss the case. In the same breathe, however, respondent judge turned the tables around, sort of, and accused the complainant of attempting to bribe him Two Hundred Thousand (P200,000.00) Pesos, through a certain Herbert Bavaria, a "kumpare" of his. Respondent judge claims that the attempted bribe which he rejected was for a favorable ruling in the same election protest. As his reaction to the said rebuff, complainant resorted to the institution of the present administrative case; respondent judge maintained.

The Office of the Court Administrator recommended the imposition of a fine of Fifteen Thousand (P15,000.00) Pesos, in view of the fact that respondent judge had been previously reprimanded and fined Ten Thousand (P10,000.00) Pesos for gross ignorance of the law.[9]

After a careful review of the records on hand, the Court discerns merit in the report and recommendation of the Office of the Court Administrator.

To begin with, withdrawal of a complaint or subsequent desistance by the complainant in an administrative case does not necessarily warrant its dismissal. Administrative actions cannot depend on the will or pleasure of the complainant who may, for reasons of his own, condone what may be detestable.[10] Neither can the Court be bound by the unilateral act of the complainant in a matter relating to its disciplinary power.[11] The Court does not dismiss administrative cases against members of the Bench merely on the basis of withdrawal of the charges.[12] Desistance cannot divest the Court of its jurisdiction to investigate and decide the complaint against the respondent.[13] To be sure, public interest is at stake in the conduct and actuations of officials and employees of the judiciary. And the program and efforts of this Court in improving the delivery of justice to the people should not be frustrated and put to naught by private arrangements between the parties.[14]

On the question of propriety of dismissal by respondent judge of subject election case, the root cause of the controversy sued upon, the Court is of the opinion, and so holds, that the respondent judge ignored applicable pronouncements by this Court on the matter of payment of docketing fees. Respondent judge based the assailed dismissal of subject election protest on the ruling in Manchester Development corporation et al. vs. Court of Appeals, et al.[15] - that a case is deemed commenced only upon the payment of the docketing fee, and the court acquires jurisdiction thereover only upon payment of the prescribed docketing fee. He erroneously cited and placed reliance on the Manchester case in dismissing the said election protest, disregarding pronouncements by the court enjoining the application of such rulling in election cases.

In Sun Insurance Office , Ltd., et al. vs. Asuncion, et al.,[16] the ruling in Manchester was modified in that it is not only the filing of the complaint or appropriate initiatory pleading but also the payment of the prescribed

docketing fee, that vest jurisdiction in a trial court over the subject matter and/or nature of the action. However, where the filing of the initiatory pleading is not accompanied by payment of the docketing fee, the court may allow payment of such fee within a reasonable time but in no case beyond the prescriptive or reglementary period.[17]

Be that as it may, the Court has categorically said that the doctrine enunciated in Manchester and in later cases cannot be made to apply in election cases. Thus, in Pahilan vs. Tabala et al.[18] this Court held:

> "Furthermore, there are strong and compelling reasons to rule that the doctrine we have established in Manchester and cases subsequent thereto cannot be made to apply to election cases.
>
> As we have earlier stated, the cases cited are ordinary civil actions whereas election cases are not. The rules which apply to ordinary civil actions may not necessarily serve the purpose of election cases, especially if we consider the fact that election laws are to be accorded utmost liberality in their interpretation and application, bearing in mind always that the will of the people must be upheld. Ordinary civil actions would generally involve private interests while all election cases are, at all times, invested with public interest which cannot be defeated by mere procedural or technical infirmities.
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> xxx xxx xxx
>
> In the case now before us, and in election cases in general, it is not the amount of damages, if any, that is sought to be recovered which vests in the courts the jurisdiction to try the same. Rather, it is the nature of the action which is determinative of jurisdiction. Thus, regardless of the amount of damages claimed, the action will still have to be filed with the Regional Trial Court. In such a case, the evil sought to be avoided in Manchester and like cases will never arise. Peremptorily, there will be no occasion to apply the rulings in the cases mentioned. In addition, the filing fee to be paid in an election case is a fixed amount of P300.00. There will consequently be no opportunity for a situation to arise wherein an election contest will have to be dismissed for failure to state the exact amount of damages and thus evince an intent to deprive the Government of the docket fees due.
>
> xxx xxx xxx
>
> To summarize, the evil sought to be avoided in Manchester and similar cases can never obtain in election cases since (1) the filing fee in an election case is fixed and not dependent on the amount of damages sought to be recovered, if any; and (2) a claim for damages in an election case is merely ancillary to the main cause of action and is not even determinative of the court's jurisdiction which is governed by the nature of the action filed."

As a matter of public policy, not every error or mistake of a judge in the performance of his official duties renders him liable. In the absence of fraud, dishonesty or corruption, the acts of a judge in his official capacity do not always constitute misconduct although the same acts may be erroneous. A judge may not be disciplined for error of judgment absent proof that such error was made with a conscious and deliberate intent to cause an injustice. This does not mean, however, that a judge need not observe propriety, discreteness and due care in the performance of his official functions.[19]

But the attendant facts and circumstances in the present administrative case, call for the exercise by the Court of its disciplinary power. The charge against the respondent judge is not a mere error of judgment but utter disregard of established rules amounting to gross ignorance of the law.

The Pahilan case was decided by this Court on February 21, 1994, long before December 19, 1995, when the respondent judge decided the election protest in question. Being the prevailing doctrine on the matter, respondent judge was duty bound to adhere to, and apply, the same, and he cannot feign ignorance thereof because the Code

of Judicial Ethics requires him to be an embodiment of, among other desirable characteristics, judicial competence.[20] It need not be stressed here that one of the principal duties to which a judge of the law must ever be faithful is that of being abreast with law and jurisprudence, since, as it has often been advanced, the administration of justice requires continuous study of the law and jurisprudence.[21] But, a perusal of the challenged order reveals that respondent judge failed to live up to what is expected of him as a dispenser of justice.

Furthermore, the conclusion arrived at by him that there was deliberate non-payment of the correct docketing fees was belied by the fact that as early as August 16, 1995, Judge Salva, who was then acting on the case before he inhibited therefrom, had already issued an order for the release of the P30,000.00 deposit of complainant to be paid to the revisors and stenographer. In the same order, the balance of P15,000.00 was to be refunded to the protestant. Verily, there was no reason to accuse the latter of deliberate non-payment of docketing fees since the amount totaling P2,572.90 of which the government was supposed to have been shortchanged could have been deducted easily from the refundable amount which was still within the control of the court. Besides, one of the reasons for Judge Salva's decision to start the revision of ballots was complainant's showing that the required fees and deposits had been remitted. On this basis alone, the dismissal of the case by respondent judge cannot be perceived as anything but inappropriate or improper.

Taking into account that the respondent judge was fined P10,000.00 in the aforementioned case of People vs. Gacott, supra, the OCA recommended here the imposition of a fine of Fifteen Thousand (P15,000.00) Pesos.

All things studiedly viewed in proper perspective, let alone the fact that the conduct of respondent judge under the premises was somewhat untainted with fraud, dishonesty or corruption, the court finds the recommendation of OCA in order. The Court has to consider also that the respondent judge is now sixty-six (66) years old, afflicted with hypertension and diabetes, diseases which bear heavily on his day-to-day official perfomance.

The allusion that the complainant tried to bribe the respondent judge in the election case below is too unsubstantiated to call for extended disquisition.

WHEREFORE, Judge Eustaquio Z. Gacott, Jr. is found GUILTY of gross ignorance of the law and is hereby ordered to pay a fine of Fifteen Thousand (P15,000.00) Pesos, with a warning that a repetition of the same or similar act will be punished more severely.

SO ORDERED.

Davide, Jr., (Chairman), Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.

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[1] Order dated August 8, 1995, Annex "F" of the Complaint.

[2] On August 16, 1995, Judge Salva issued an order for the release of the P30,600.00 deposit of the protestant, P11,700.00 of which shall be paid to the revisors; P3,900.00 for the stenographer, and the balance of P15,000. 00 to be returned to the protestant.

[3] Annex "K" of the Complaint.

[4] Annex "R" and "S" of the Complaint.

[5] Annex "T" and "U" of the Complaint.

[6] On December 15, 1995, protestant filed a motion for reconsideration of the December 10, 1995 Order alleging

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(a) That those exhibits are public and official election records on file and certified by the proper COMELEC Officials, which are admissible under Sec. 24 Rule 132 of the Rules of Court); and (b) That the photocopying of the election returns, copy for COMELEC, were made with prior notices to the protestee by COMELEC, but who refused to witness the same because prior authority from Court was not taken.

[7] 149 SCRA 562.

[8] Annex "Z" of Complaint.

[9] People vs. Gacott, Jr., 242 SCRA 514.

[10] Sandoval vs. Manalo, 260 SCRA 611, 620.

[11] Ibid.

[12] Ibid.

[13] Caña vs. Santos, 234 SCRA 17, 23.

[14] Ibid.

[15] Supra.

[16] 170 SCRA 274, 285.

[17] Ibid.

[18] 230 SCRA 205, 216-217.

[19] Riego et. al. vs. Leachon, 268 SCRA 777, 784.

[20] Department of Social Welfare and Development vs. Belen et al., 275 SCRA 645, 652.

[21] Ibid.

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