

IN RE: UNAUTHORIZED REASSUMPTION OF OFFICE BY DISMISSED JUDGE MARCELO G. GARCIA.

A.M. No. RTJ-88-246. May 15, 1991

Ponente: REGALADO, J.

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REGALADO, J.:

In a decision en banc promulgated on July 19, 1990 in A.M. No. RTJ-88-246, entitled "Vicente C. Buenavista, Jr. vs. Judge Marcelo G. Garcia," respondent Judge Garcia, then presiding judge of Branch 51, Regional Trial Court, Puerto Princesa City, Palawan, was found guilty of serious misconduct, gross ignorance of the law and knowingly rendering an unjust order or judgment, and was ordered dismissed from the service with forfeiture of retirement benefits, except the monetary value of his accrued leaves.

Thereafter, Judge Filomeno Vergara, presiding judge of Branch 52 of the same court, took over as pairing judge of Branch 51. However, on December 6, 1990, Judge Garcia came to the office of Branch 51 and announced to the staff thereof that he would be reassuming his post as judge on December 10, 1990, which he actually did.

It appears that Judge Garcia's bases for reassuming office were a motion for the reconsideration of this Court's aforesaid decision of July 19, 1990 which allegedly was filed by him and given due course, thus supposedly making him believe that he still had the authority to hear and decide cases in his sala; and a telegram dated December 4, 1990 that he received from Atty. Adelaida C. Baumann, administrative officer of this Court, instructing him to submit his certificate of service for June, 1990 to the present, otherwise his salaries would be ordered withheld.

From December 10 to December 14, 1990, Judge Garcia decided Criminal Cases Nos. 7383, 7039, 7040, 7440, 7441, 7448, 7449 and 8999, and Civil Case No. 1313; ordered some thirteen (13) criminal cases to be placed in the archives; and conducted hearings in at least thirteen (13) criminal cases. He also issued interlocutory orders in six (6) other cases. The records show that three (3) of the judgments promulgated by Judge Garcia during this period involved the acquittal of persons accused of serious crimes, that is, in Criminal Cases Nos. 7383 (for homicide), 7039 and 7040 (for illegal possession of firearm and murder), and 7440, 7441, 7448 and 7449 (for grave threats). Reportedly, the accused in these cases were released by the jail warden upon receipt of the judgments of acquittal promulgated by Judge Garcia.

Consequently, Judge Vergara, the pairing judge, inquired from Executive Judge Sabas R. Acosta as to the status of Judge Garcia and the validity of his reassumption of judicial functions in Branch 51 of said regional trial court.

On December 14, 1990, Executive Judge Acosta requested Judge Garcia to furnish him copies of the alleged motion for reconsideration and the resolution of this Court which the latter claimed as his authority to reassume office, but Judge Garcia failed to present any, Executive Judge Acosta further inquired from the Office of the Court Administrator, Supreme Court, as to the authority of Judge Garcia to reassume his position as judge.

Then Court Administrator Meynardo A. Tiro, in his telegram received by Judge Acosta on December 17, 1990,

clarified that Judge Garcia has no authority to reassume his position as judge because of the aforesaid decision ordering his immediate dismissal from the service. On the same date, Executive Judge Acosta advised Judge Garcia in writing to immediately desist from holding office as presiding judge of Branch 51, citing the Court Administrator's telegram.

On January 16, 1991, the Court Administrator received a communication from Executive Judge Acosta to the effect that Judge Garcia had already ceased to hold office when he received the aforementioned memorandum from said executive judge on December 17, 1990.

It likewise appears that a question was raised as to whether Judge Garcia was aware that he was dismissed by the Court, in view of the manifestation/motion filed by his counsel on October 30, 1990. In this regard, Deputy Court Administrator Ernani Cruz Paño furnished this Court, in a memorandum dated February 21, 1991, with additional information hereunder detailed and which yields light on this matter.

The decision in A.M. RTJ-88-246 was mailed to former Judge Marcelo G. Garcia, duly addressed to him at Puerto Princesa City on July 21, 1990. The envelope, however, was returned to sender with the notation "addressee on leave, RTC employees refused." The records do not show that respondent made inquiries into or attempted to obtain a copy of said communication. In fact, there were three attempts to deliver the decision, without success. Ironically, on October 30, 1990, a "manifestation/motion" dated October 29, 1990 was received by the Court from the Abad and Associates Law Office alleging, among others, that "respondent gathered that the above case has been decided. But, he has yet to receive a copy of that decision."

The last salary received by former Judge Garcia was for August, 1990. No certificate of service or application for leave was filed by him from February, 1990 to May, 1990. However, on January, 1991, the Leave Division, Office of Administrative Services of this Court received the leave applications and certificate of service for the period from June, 1990 to November, 1990, under a covering letter signed by him dated December 10, 1990. Significantly, these papers were not transmitted by the Clerk of Court of the Regional Trial Court of Palawan. The records further disclose that a related administrative complaint against Judge Garcia (A.M. RTJ-90-45) was dismissed by this Court on September 25, 1990, even without said respondent's comment, because of the judgment ordering his dismissal in the present case.

In his initial memorandum submitted to this Court on February 7, 1991, Deputy Court Administrator Paño cited the resolution of this Court on April 8, 1976 in A.M. No. 56-Ret. involving retired District Judge Manolo L. Maddela of the then Court of First Instance of Quezon, Branch II at Lucena City, wherein all judicial acts, decisions, orders and processes performed, promulgated and issued by said judge after the effective date of his retirement were declared null and void. The successors of Judge Maddela were directed to take forthwith all necessary measures to implement said resolution. In the instant case, a similar disposition is recommended by the Court Administrator.

Judge Garcia, in his December 14, 1990 letter-reply to Executive Judge Acosta's inquiry on his authority to reassume office, explained that his "Motion for Reconsideration of the Resolution of the Supreme Court of July 19, 1990, issued in A.M. No. 89-12-4969-RTC, has been given due course." He then argues that he cannot be deemed to have reassumed office "as under the law I cannot be considered as having ceased holding office at anytime." He further submits that he may be held "liable under Article 238 of the Revised Penal Code for abandonment of office should he vacate his office without any order to that effect from the Supreme Court."

We find former Judge Garcia's explanation too effete and inconsequential to merit any consideration. In the first place, the motion for reconsideration he allegedly filed with this Court pertains to a different administrative case as reflected in his aforementioned letter and, hence, has no bearing on A.M. No. RTJ-88-246 wherein he was

ordered dismissed from the service. Besides, the records do not show that a motion for reconsideration in said case has indeed been filed by him. Consequently, the judgment dismissing him from the service, a copy whereof was duly and repeatedly sent to him at his correct address, had long become final and executory at the time he reassumed office.

Furthermore, he cannot feign concern or apprehension that he might be held liable for abandonment of office considering that his immediate dismissal from the service had been ordered as early as July 19, 1990, several months prior to his unauthorized reassumption of the same office. The fact that in his letter to Executive Judge Acosta, dated December 14, 1990, he made it appear that he had filed a motion for reconsideration of this Court's decision of July 19, 1990 sufficiently evinces and admits his knowledge of the existence and contents of said decision.

Assuming arguendo that former Judge Garcia has not actually received a copy of the July 19, 1990 decision, which surprisingly was not served upon him despite several attempts, this fact should not serve as a bar to his immediate dismissal from the service. As earlier stated, the "Manifestation/Motion" filed by his counsel admits that respondent judge was aware that the above case had been decided although he claims that he had yet to receive a copy of the decision. Such being the case, instead of adopting a stance akin to trifling with judicial processes, it was imperative on his part to verify and/or clarify the tenor of the Court's decision before he even attempted to reassume office. His failure or refusal to do so reveals his malice and evident bad faith in insisting on such reassumption.

WHEREFORE, it is hereby RESOLVED to declare all judicial acts, decisions, orders and processes performed, promulgated and issued by former Judge Marcelo G. Garcia during his reassumption of office in Branch 51 on and after December 10, 1990 as being without authority and consequently NULL and VOID. His successors, whether temporary or permanent, as presiding judge of the Regional Trial Court, Branch 51 at Puerto Princesa City, Palawan, are hereby DIRECTED to take forthwith all necessary measures to IMPLEMENT this resolution, including the recall of all judgments, orders and resolutions issued by former Judge Marcelo G. Garcia, without prejudice to the said successors promulgating the appropriate judgments, orders and resolutions in all the cases involved.

It is hereby further RESOLVED that this matter be referred to the Department of Justice for investigation and appropriate action.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Griño-Aquino, Medialdea, and Davide, Jr., JJ., concur.

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