

**HANIEL R. CASTRO, PETITIONER, VS. HONORABLE JUAN Y. REYES,
IN HIS CAPACITY AS PRESIDING JUDGE OF THE COURT OF FIRST
INSTANCE OF CEBU, BRANCH I, CEBU CITY, AND SAN MIGUEL
CORPORA...***G.R. No. L-47737. May 27, 1981*

Ponente: FERNANDO, C.J.

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This Court is committed to the principle announced time and time again that there must be fidelity to the ideal expressed in *Gutierrez v. Santos*,^[1] "that every litigant is entitled to nothing less than the cold neutrality of an impartial judge."^[2] If it could be shown that bias or partiality can plausibly be alleged by an aggrieved party, he can raise a due process question. It is quite understandable then why even if there be no specific ground for disqualification according to the Rules of Court,^[3] the apprehension, not fanciful or whimsical, as to the absence of that requisite degree of impartiality and disinterestedness affords more than sufficient basis for voluntary inhibition.^[4] This Court has looked with favor on a judge intent on preserving the reality as well as the appearance of fairness and justice exercising his discretion to disqualify himself.^[5] This petition for prohibition with prayer for a writ of preliminary injunction preceeds on the assumption that respondent Judge failed to abide by such principle. As will be shown, there is no sufficient basis for such a belief. A case for the issuance of the writ has not been established.

Petitioner is one of the defendants^[6] in a pending civil case^[7] before respondent Judge for the recovery of a sum of money and damages, the plaintiff being San Miguel Corporation, now included as respondent in this suit. An ex-parte motion was filed by him for the re-raffling of the case. It was alleged therein: "1. That in the case entitled 'People of the Philippines versus Dr. Haniel R. Castro, et. al.,' Criminal Case No. 1818, for Estafa, which was formerly assigned to this court, the accused filed on July 12, 1977 a motion for inhibition of the Honorable Presiding Judge which motion was granted on July 21, 1977; 2. That Dr. Haniel R. Castro, accused in said criminal case, is the same Dr. Haniel R. Castro who is the defendant in the present civil case; 3. That because of the aforementioned incident in the said criminal case, defendant Dr. Haniel R. Castro honestly feels that it would be for the best interest of justice if the present civil case be re-raffled for assignment to another branch."^[8] Respondent Judge found the motion without merit and denied the same.^[9] There was a motion for reconsideration where reference was made to his fear that respondent Judge "would not be impartial in the instant case."^[10] Again, it was denied.^[11] Petitioner then filed this proceeding, his main reliance, to repeat, being solely on the fact that in a motion for inhibition in a prosecution for estafa against petitioner,^[12] likewise assigned to the sala of respondent Judge, a motion for inhibition was granted.

This Court in a resolution required respondents to comment. Counsel for private respondent San Miguel Corporation did so. His prayer was for the dismissal of the case for lack of merit. He included as one of his annexes the order of respondent Judge granting a motion of then petitioner accused in a criminal case to inhibit himself. The order speaks for itself: "The motion of the accused that the undersigned presiding Judge inhibit

himself from trying this case is hereby granted. Unfortunately, what this Court was emphasizing was not to prejudge the case against the accused, but merely placing an emphasis between the Padilla view and the Sec. Abad Santos view on the commission of the offense of estafa. It should be noted, with all candor and sincerity, that there was no specific pre-adjudication of the case. The record of the undersigned judge in appealed cases (both criminal and civil) speaks for itself. The accused is however entitled to be heard in a court where he feels that justice can be meted out. If he feels no complacency and feeling of certitude that he can be given a fair and just trial, the accused is entitled to be heard before a magistrate whom he thinks can give him such a fair trial. This is his right. Parenthetically, let it not be said, as can be borne out by the Integrated Bar of the Philippines, Cebu Chapter, that the undersigned Judge has been unfair and unjust in the hearing and adjudication of both civil and criminal cases. Let it be said, furthermore, that this presiding judge did not have the opportunity of knowing both the accused and the offended party. So, the apprehension of the counsel for the defense is more apparent than real. Let this case be heard and decided by another judge with 'cold neutrality and impartiality' to satisfy the conscience of the defense. Let, therefore, this case be transmitted to the Honorable Executive Judge for re-assignment of the same by re-raffle."^[13] It is the submission of counsel for respondent that the fear entertained by petitioner is more imaginary than real. His voluntary disqualification in a criminal case does not justify his inhibiting himself in a civil case just because the same individual is one of the parties. Without any basis in the record, therefore, for a finding "of bias or abuse of discretion" the petition cannot succeed.

This Court, as noted earlier, reached the same conclusion.

Even a cursory reading of the order of inhibition by respondent Judge when petitioner was an accused in a prosecution for estafa would show that the words uttered by him which gave rise to such a motion amounted to an expression of his view on a legal question. The bias, if it could be accurately so described, reflects his understanding of and respect for a doctrine of law. It is not one against any particular accused. It cannot result in the automatic conviction of every person indicted for such offense. Evidence must still be presented to justify a finding of guilt. The constitutional presumption of innocence requires that the proof be beyond reasonable doubt. Nonetheless, when respondent Judge let loose with language which to an accused and a zealous counsel could be interpreted as necessarily leading to conviction, there is at least some plausible ground for seeking his voluntary disqualification. Respondent Judge thus acted commendably when he acceded to such a plea. This case is entirely different. Petitioner is a defendant in an action for the recovery of a sum of money with a claim for damages. The question involved is merely the responsibility of petitioner as a co-owner and operator of a common carrier which sank, with its cargo having been lost. Viewed objectively, therefore, it cannot be plausibly maintained that under the circumstances the previous voluntary inhibition in a criminal case suffices for his following the same course of action in this civil case just because the accused in that criminal prosecution is the same individual. The legitimate concern to assure both the appearance and the reality of impartial adjudication cannot justify a judge being found guilty of grave abuse of discretion in each and every instance where his neutrality is put in issue. Necessarily, the factual circumstances must be carefully examined. They do not in this case yield the conclusion that respondent Judge failed to abide by the pronouncement of this Court as to when a judge should voluntarily disqualify himself.

WHEREFORE, the petition is dismissed for lack of merit. Costs against petitioner.

Barredo, Aquino, Abad Santos, and De Castro, JJ., concur.

Concepcion, Jr., J., on leave.

[1] 112 Phil. 184 (1961).

[2] Ibid, 189.

[3] Rule 137, the first paragraph of which reads: "No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record."

[4] Ibid. Its second paragraph reads: "A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above."

[5] Cf. *Pimentel v. Salanga*, L-27934, September 18, 1967, 21 SCRA 160; *Luque v. Kayanan*, L-26826, Aug. 29, 1969, 29 SCRA 165; *Mateo Jr. v. Villaluz*, L-34756-59, March 31, 1973, 50 SCRA 18; *Castillo v. Juan*, L-39516-17, Jan. 28, 1975, 62 SCRA 124.

[6] A certain Primo Garganza was the other defendant.

[7] Civil Case No. R-15621, Court of First Instance of Cebu, 14th Judicial District, Branch I.

[8] Petition, Annex C.

[9] Ibid, Annex D.

[10] Ibid, Annex E.

[11] Ibid, Annex F.

[12] Criminal Case No. 1818, Court of First Instance of Cebu, 14th Judicial District, Branch I.

[13] Comment, Annex 2.

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