

ENGINEER EDGARDO C. GARCIA, COMPLAINANT, VS. JUDGE MELJOHN DE LA PEÑA, MUNICIPAL CIRCUIT TRIAL COURT, CAIBIRAN-CULABA, LEYTE [ACTING JUDGE, MUNICIPAL TRIAL COURT, NAVAL, LEYTE],...

A.M. No. MTJ-92-687. February 09, 1994

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PER CURIAM:

In a sworn-letter complaint[1] dated June 18, 1992, Engineer Edgardo C. Garcia charged Judge Meljohn de la Peña in his capacity as acting judge of Municipal Trial Court of Naval, Leyte with partiality, abuse of authority and grave abuse of discretion in connection with Criminal Case No. 2577 for grave oral defamation which was filed against his wife, Ignacia G. Garcia, a supervising nurse of Naval District Hospital, by respondent judge's brother, Dr. Melencio de la Peña. Respondent judge, while acting as the presiding judge of the MTC of Naval, Leyte, is the incumbent presiding judge of the Municipal Circuit Trial Court of Caibiran–Culaba, Leyte.

Complainant Engr. Edgardo C. Garcia, husband of the accused in Criminal Case No. 2577, claimed that respondent judge took cognizance of the criminal case without the requisite certification from the Lupon Tagapayapa; that he should have inhibited himself from acting on the case because private complainant Dr. Melencio B. de la Peña is his brother; that he issued a warrant of arrest without the accompanying copy of the complaint and affidavits of the complainant and his witnesses; that when complainant sought the approval of the cash bail bond he posted for the provisional release of his wife at 2:40 P.M. of June 8, 1992, respondent judge was not in his office, thus the Order of Release prepared by the Clerk of Court was brought to respondent's house by Rey Morillo, a process server, for his signature at around 2:56 P.M., but they were informed that he left for Ormoc City then by boat for Cebu; that at around 4:00 P.M. he hired a pump boat and sent Basilio Borrinaga to Maripipi to have the bail bond approved and get the order of release from Judge Dulcisimo Pitao of MTC of Maripipi but the latter explained in his letter that he cannot do so because he does not know whether or not Judge de la Peña is on leave; that the following morning of June 9, 1992, they learned that respondent judge left the Order of Release with his wife, Lolita de la Peña, instead of leaving it with the Clerk of Court; that because of respondent judge's actuations, complainant's wife was detained at the municipal jail for twenty (20) hours from 2:55 P.M. of June 8, 1992 to 10:10 A.M. of June 9, 1992; and that it was only on June 15, 1992 that they received a copy of the criminal complaint, affidavit of the witnesses and respondent judge's inhibition order dated June 15, 1992.

On November 19, 1992, this Court required respondent judge to file his comment and, upon receipt thereof, the case was referred to the Office of the Court Administrator for evaluation, report and recommendation. On July 20, 1993, Deputy Court Administrator Reynaldo Suarez submitted a memorandum with the corresponding evaluation and recommendation, duly approved by the Court Administrator.

Records show that Dr. Melencio B. de la Peña filed on June 8, 1992 a complaint for grave oral defamation[2] against Ignacia G. Garcia with the Municipal Trial Court of Naval, Leyte, docketed as Criminal Case No. 2577. The complaint for oral defamation arose from an incident which occurred on April 19, 1992 in Naval, Leyte.

After the preliminary examination was conducted, respondent Judge Meljohn de la Peña issued on the same date a warrant[3] for the arrest of the accused Ignacia G. Garcia. By virtue of said warrant, SPO3 Teofanes Pacioles of the Philippine National Police arrested the accused.[4]

On the same day, June 8, 1992, Engr. Edgardo Garcia, husband of the accused, posted the cash bail bond in the amount of P2,000.00 as fixed in the warrant of arrest for the provisional liberty of the accused. Thereafter, herein complainant sought at around 2:40 P.M. the approval of the cash bail bond and the Order of Release of the accused but respondent judge was not in the office at that time. Meantime, the accused remained under detention in the municipal jail of Naval. It was only the following day, June 9, 1992 at around 10:10 A.M. after complainant secured a copy of the Order of Release[5] dated June 8, 1992 duly signed by respondent judge that the accused was released from detention. Complainant was informed that before respondent judge left for Cebu City, he entrusted the Order of Release to his wife, Lolita de la Peña, whose whereabouts, however, were unknown in the afternoon of June 8, 1992 despite efforts by the Clerk of Court to look for her.[6] The delay in the release of his wife from detention by one day because the Order of Release could not be obtained as respondent judge left for Cebu City despite proper posting of the cash bond of P2,000.00 for her provisional liberty on the same day of her arrest on June 8, 1992, prompted complainant to file on July 22, 1992 this administrative case against respondent judge.

Earlier, or on July 16, 1992, a complaint containing the same charges was filed by complainant with the Office of the Ombudsman (Visayas), docketed as OMB VIS-92-397.[7]

In his comment, respondent judge stated that he is adopting his counter-affidavit and memorandum filed with the Ombudsman as part of his comment, wherein he asserted that the certification to file action from the Lupon Tagapayapa was not necessary for the court to acquire jurisdiction over Criminal Case No. 2577 because the imposable penalty of the crime of grave oral defamation (4 months and 1 day to 3 years and 4 months) is not within the coverage of the Lupon Tagapayapa; that even if the private complainant is his brother, he need not inhibit himself to "mobilize the machinery of justice" because the case has been deferred for quite a long time due to the absence of the incumbent judge and the non-designation of a presiding judge from April to May 1992; that there is no room for bias or partiality in the issuance of a warrant of arrest which is both a mandatory and ministerial duty provided the complaint and the supporting affidavit engender a probable cause; that to show his neutrality, he issued an inhibition order dated June 15, 1992; that the cash bond posted was defective for there was no written undertaking as required under Section 11, Rule 114 of the Rules of Court; that his Clerk of Court was informed in the morning of June 8, 1992 that he would be going to Cebu City that afternoon for his pre-scheduled medical check-up and that he is preparing an order of release which could be obtained from his wife, Lolita de la Peña, in case the accused actually files a bail bond, after determining that the same is in order.

It is at once clear that the administrative charges against respondent judge focused mainly on the fact of his taking cognizance of the criminal case of grave oral defamation filed by his brother, Dr. Melencio de la Pena, against complainant's wife, Ignacia Garcia, which, as a consequence, gave rise to the incidents narrated in the letter-complaint descriptive of the perceived bias and partiality of respondent judge in the discharge of his official functions in connection with Criminal Case No. 2577.

The Court agrees with respondent judge that the certification to file an action required under Presidential Decree No. 1508 is not necessary in the prosecution for grave oral defamation[8] for the same is beyond the coverage of said Katarungan Pambarangay Law.[9] But, the charge of partiality, abuse of authority and grave abuse of discretion as regards respondent judge's taking cognizance of the criminal case despite the fact that private complainant is his brother - a relative within the second degree of consanguinity - in violation of the rule on compulsory disqualification of judges under Section 1, Rule 137 of the Rules of Court is a different matter.

The Court, in this regard, will not hesitate to exercise its full disciplinary powers in the instant case where the violation is so patent and the same has caused grave injustice to a party in a criminal case. The facts manifesting respondent's partiality are patent in the records.

Section 1, Rule 137 of the Rules of Court provides, thus:

"SECTION 1. Disqualification of judges. - 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.

"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." (Underscoring supplied)

The rule on compulsory disqualification of a judge to hear a case where, as in the instant case, the respondent judge is related to either party within the sixth degree of consanguinity or affinity rests on the salutary principle that no judge should preside in a case in which he is not wholly free, disinterested, impartial and independent.[10] A judge has both the duty of rendering a just decision and the duty of doing it in a manner completely free from suspicion as to its fairness and as to his integrity.[11] The law conclusively presumes that a judge cannot objectively or impartially sit in such a case and, for that reason, prohibits him and strikes at his authority to hear and decide it, in the absence of written consent of all parties concerned. The purpose is to preserve the people's faith and confidence in the courts of justice.[12]

The fact that respondent judge took cognizance of the criminal case, notwithstanding the fact that he is related within the second degree of consanguinity to private complainant is obviously a glaring violation of the rule on compulsory disqualification of a judge to hear a case. The proffered excuse that Criminal Case No. 2577 has been dragging on for some time due to the absence of the incumbent judge and the non-designation of a presiding judge will not justify the violation of a well-settled rule on compulsory disqualification of judges to hear a case. Respondent judge should have formally informed the Executive Judge of the RTC of Leyte if, indeed, the case had been deferred, and thereafter sought the designation of another MTC judge to take cognizance of the case. He should have foreseen the possibility that his actuation and motives would have been suspect if he had ruled in favor of the prosecution as his blood relationship with the private complainant was of general knowledge.

The violation was aggravated when respondent judge thereafter issued a warrant of arrest on June 8, 1992 but at 3:00 o'clock in the afternoon of the same day, left for an alleged pre-scheduled medical check-up in the nearby province of Cebu, thus depriving the accused of the opportunity to secure an order for her provisional liberty upon proper posting of a bail bond on the same day of her arrest. As a consequence, the accused spent her night in the municipal jail of Naval until the following morning of June 9, 1992 after spending almost 20 hours in jail.

To make matters even worse, the excuse given by respondent judge that he left the duly signed order of release with his wife instead of the Clerk of Court before he left for Cebu exposed his total disregard of, or indifference to, or even ignorance of, the procedure prescribed by law. Respondent judge's actuation is unquestionably not sanctioned by the Rules of Court. It is conduct prejudicial to the rights of the accused. Realizing perhaps that he has violated Section 1, Rule 137 of the Rules of Court and Rule 3.12 par. (d), Canon 3 of the Code of Judicial Conduct,[13] respondent judge belatedly issued an order inhibiting himself from the case on June 15, 1992, or seven (7) days after he caused the arrest and detention of the accused. Clearly, the damage and intrusion on the liberty of the accused were already fait accompli.

Respondent judge likewise violated Rule 2.03, Canon 2 of the Code of Judicial Conduct which provides: "A judge shall not allow family, social, or other relationships to influence judicial conduct or judgment. The prestige of judicial office shall not be used or lent to advance the private interests of others, nor convey or permit others to convey the impression that they are in a special position to influence the judge."

Respondent judge in the instant case tainted the image of the judiciary to which he owes fealty and the obligation to keep it at all times unsullied and worthy of the people's trust. As this Court has had occasion to declare: "As public servants, judges are appointed to the judiciary to serve as the visible representation of the law, and more importantly, of justice. From them, the people draw their will and awareness to obey the law." [14] If judges, who have sworn to obey and uphold the Constitution, shall conduct themselves as respondent did, in wanton disregard and violation of the rights of the accused, then the people, especially those who have had recourse to them shall lose all their respect and high regard for the members of the Bench and the judiciary itself shall lose the high moral ground from which it draws its power and strength to compel obedience to the laws.

Worthy of note is the fact that respondent judge had been previously charged in A.M. No. R-48-MTJ (Ragir v. de la Peña) with ignorance of the law and incompetence, for having taking cognizance of, and having decided, a case for frustrated murder (Criminal Case No. 5926) over which his court has no jurisdiction. To rectify the error, respondent judge, three days after the rendition of judgment, recalled his decision and remanded the case to the Office of the Provincial Fiscal at Naval, sub-province of Biliran, Leyte, now province of Biliran. In the resolution of October 15, 1985, the Court, giving credence to respondent's allegation of good faith in the rendition of the judgment and the fact that he took steps to rectify his mistake three days after the rendition of the erroneous judgment, imposed on him a fine equivalent to a month's salary with the warning that repetition of similar acts in the future shall be dealt with more severely.

From all indications, it is clear from the facts on record and, in the absence of evidence to negate the perceived bias and partiality which resulted in undue prejudice to the accused, that respondent judge, through his oppressive and vindictive actuations towards the accused arising from his relationship to the private complainant in the Criminal Case No. 2577, committed a disservice to the cause of justice. He does not, therefore, deserve to remain in the judiciary and should accordingly be removed from the service.

In a recent case, [15] a municipal trial court judge who presided over the trial of Criminal Case No. 89-3905 for grave threats against the accused, Roberto Cruda, who later became her brother-in-law by virtue of a marriage ceremony she herself solemnized, and who thereafter rendered judgment acquitting the said accused, was dismissed from the service by the Court, after investigation for charges of grave misconduct, violation of the Canons of Judicial Ethics, and conduct prejudicial to the best interest of the service, among others. The Court observed, thus:

"x x x For one, she deliberately disregarded Section 1, Rule 137 of the Revised Rules of Court which pertinently provides in part: x x x and Rule 3.12 (d), Canon 3 of the Code of Judicial Conduct which reads: x x x considering that (a) Roberto Cruda, the accused in Criminal Case No. 89-3905, is her brother-in-law, being the husband of her youngest sister and, therefore, her (respondent's) relative by affinity within the second degree, and (b) she did not obtain the written consent of all the parties in interest. That it was only on 9 August 1991 -- or long after the case had been submitted for decision -- that she became Roberto's sister-in-law provides no reason for a departure from the enunciated rule as the abovequoted provisions impose an absolute prohibition regardless of the stage in the resolution of the case that the relationship is established. As a matter of fact, given her special bias for the accused whom she even wanted to reform and rehabilitate -- a task which became an obsession -- and in whose behalf she interceded to obtain settlement of the criminal cases against him, thereby necessarily blinding her impartiality and irreparably affecting the cold neutrality she is supposed to possess as a judge, the voluntary disqualification from a case provided under the second paragraph of

Section 1, Rule 137 should have been availed of by the respondent." (Underscoring supplied)

The dismissal of the criminal aspect of the same complaint (OMB-VIS-92-397) by the Office of the Ombudsman (Visayas) in its resolution[16] of March 23, 1993 will not affect the resolution of this case which basically relates to the power of the Supreme Court under Article VIII, Section 6 of the 1987 Constitution to exercise administrative supervision over all courts and court personnel, from the Presiding Justice of the Court of Appeals down to the lowest municipal trial court clerk. By virtue of this power, it is only the Supreme Court that can oversee the judges and court personnel's compliance with all laws and pertinent rules and take proper administrative action against them, in the event that they commit any violation thereof. No other branch of government may intrude into this power without running afoul of the doctrine of separation of powers.[17]

ACCORDINGLY, respondent Judge Meljohn de la Pena (Acting Judge of Municipal Trial Court of Naval, Leyte) of the Municipal Circuit Trial Court of Caibiran-Culaba, Leyte is hereby **DISMISSED** from the service with forfeiture of all benefits and with prejudice to reinstatement or reappointment to any public office, including government-owned or controlled corporations.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Puno, Vitug, and Kapunan, JJ., concur.

Nocon, J., on leave.

[1] Rollo, pp. 1-2.

[2] Rollo, p. 9.

[3] Rollo, p. 3.

[4] Entry No. 0457, Date: June 8, 1992, Time: 1455 H, Extract Entry of Police Blotter, Rollo, p. 14.

[5] Rollo, p. 8.

[6] Ibid, p. 43.

[7] Rollo, pp. 36-37.

[8] Grave oral defamation is punishable under Article 358 of the Revised Penal Code by arresto mayor in its maximum period to prision correccional in its minimum period (4 months and 1 day to 2 years and 4 months).

Article 358, Revised Penal Code provides:

"Art. 358. Slander. - Oral defamation shall be punished by arresto mayor in its maximum period to prision correccional in its minimum period if it is of a serious and insulting nature; otherwise the penalty shall be arresto menor or a fine not exceeding 200 pesos."

[9] Section 2, Presidential Decree No. 1508 provides:

"Section 2. Subject matter for amicable settlement. - The Lupon of each barangay shall have authority to bring together the parties actually residing in the same city or municipality for amicable settlement of all disputes except:

x x x x x x x x

(3) Offenses punishable by imprisonment exceeding 30 days, or a fine exceeding P200.00."

[10] Umalek v. Villaluz, G.R. No. 33508, May 25, 1973, 51 SCRA 84; Geotina v. Gonzalez, G.R. No. L-26310, September 30, 1971, 41 SCRA 66.

[11] Del Castillo v. Javelona, et al., G.R. No. L-16742, September 29, 1962, 6 SCRA 146; Gutierrez v. Hon. Santos, et al., G.R. No. L-15824, May 30, 1961, 2 SCRA 249.

[12] Pimentel v. Salanga, G.R. No. 27934, September 18, 1967, 21 SCRA 160.

[13] Canon 3, rule 3.12, Code of Judicial Conduct provides:

"Rule 3.12. - A judge should take no part in a proceeding where the judge's impartiality might reasonable be questioned. These cases include, among others, proceedings where:

x x x x x x x x

(d) the judge is related by consanguinity or affinity to a party litigant within the sixth degree or to counsel within the fourth degree;

x x x x x x x x."

[14] De la Paz v. Inutan, A.M. No. 201MJ, June 30, 1975, 64 SCRA 540.

[15] Atty. Manuel T. Ubarra v. Judge Luzviminda M. Mapalad, A.M. No. MTJ-91-622, March 22, 1993.

[16] Rollo, pp. 63-66.

[17] Bonifacio Sanz Maceda v. Hon. Ombudsman Conrado M. Vasquez, et al., G.R. No. 102781, April 22, 1993.

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