

THE COURT ADMINISTRATOR, COMPLAINANT, VS. HON. RICARDO M. MAGTIBAY, RESPONDENT.

Adm. Matter Nos. R-254-MTJ and 88-1-2807-MCTC. May 09, 1988

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PER CURIAM:

This case involves administrative complaints filed against respondent Ricardo Magtibay both as a practising lawyer and as a member of the judiciary.

The background facts of this administrative matter are:

"On December 2, 1982, Judge Ricardo Magtibay, while still a practising lawyer and before he was appointed to the Judiciary, was administratively charged by Magdalena G. Udarbe for gross negligence in the defense of his client, misappropriation of client's funds and charging attorney's fees for services not actually rendered and/or grossly disproportionate to services. It was docketed as Administrative Case No. 2489 at the BAR Office of this Court.

"Sometime thereafter, he was appointed Judge of the MCTC of Maragondon and Ternate, Cavite. He took his oath of office on December 16, 1983 (Rollo, Page 51) and started rendering service on December 22, 1983.

"On August 1, 1984, the First Division of this Court in the above cited administrative case issued a resolution (Rollo, page 40) referring the said case to the Office of the Solicitor General for investigation, report and recommendation and suspending Atty. Magtibay from the practice of law throughout the Philippines effective from notice. It was evidently a preventive not punitive suspension for there was no period given and the complaint was referred to the Office of the Solicitor General for investigation, report and recommendation.

"On November 13, 1984; Cavite Provincial Governor Juanito R. Remulla; by way of an indorsement, (Rollo, page 1) forwarded to this Court the letter of Maragondon Mayor Telesforo A. Unas (rollo, page 4) who sought assistance from him to ask then Chief Justice Enrique M. Fernando (now retired) whether Judge Magtibay's suspension from the practice of law also suspended him from performing his duties as presiding judge of MCTC, Maragondon-Ternate, Cavite.

"Acting on the aforesaid letter of Mayor Telesforo A. Unas, the Court in its resolution en banc dated February 5, 1985 (Rollo, page 26) resolved to (a) CONSIDER Judge Ricardo Magtibay suspended from office for the duration of his suspension from the practice of law, effective immediately, and to (b) DIRECT the Office of the Court Administrator to initiate administrative charges against Judge Magtibay for conduct unbecoming of a Judge for his lack of candor towards the Supreme Court for his failure to report his suspension in Administrative Case No. 2489 and his misrepresentation in the filling up of his Personal Data Sheet for Judges." (pp. 99-100, Rollo)

Complying with the Court's directive in its en banc resolution dated February 5, 1985, the then Acting Court Administrator instituted a complaint charging the respondent with "Conduct Unbecoming of a Judge and Misrepresentation in Filling Up his Personal Data Sheet for Judges."

Meanwhile, the Court received reports that respondent Magtibay continued to discharge his functions as Judge of

the Maragondon-Ternate Municipal Circuit Trial Court although he had earlier been suspended from his office by this Court.

After directing the Office of the Court Administrator to investigate the new complaints and acting on the report submitted pursuant to our directive, we issued a resolution on February 2, 1988 in Administrative Matter No. 88-1-2807 which reads, *inter alia*:

xxx xxx xxx

"In the resolution of the Court En Banc dated February 5, 1985, in Administrative Matter No. 84-11-4789 MTC, Judge Ricardo M. Magtibay was considered suspended from office as judge for the duration of his indefinite suspension from the practice of law, which was earlier ordered by the First Division of the Court in its resolution dated August 1, 1984, in Administrative Case No. 2489 (Magdalena G. Udarbe v. Atty. Ricardo Magtibay).

"Judge Magtibay was retained in the Judiciary after the reorganization concluded on January 30, 1987, but he has not yet submitted his oath of office. He nevertheless assumed his post as Judge of the MCTC, Maragondon-Ternate, Cavite on February 23, 1987, and thereafter performed the functions thereof, and of the MCTC at Indang-Mendez, Cavite after having been inadvertently designated by Executive Judge Enrique M. Almario on May 27, 1987 to try cases there twice a week.

"By a directive from the Office of the Court Administrator dated June 16, 1987, he was categorically ordered to desist from discharging the duties of the Judge of the MCTC in view of his subsisting suspension. On December 11, 1987, Executive Judge Almario also revoked the designation he previously made. The records of the Statistics Division of this Court disclose however, that from February 1987 to December 1987, Judge Magtibay decided thirty-six (36) cases docketed in his regular sala at Maragondon-Ternate, four (4) of them after having received the OCA directive on July 18, 1987. Sixteen (16) of the thirty (30) cases he resolved at the Indang-Mendez MCTC from June 1987 to October 1987 were also decided with knowledge of such injunction.

"In view of the foregoing, the Court Resolved to - (1) SUSPEND Judge Ricardo M. Magtibay from the Office of MCTC of Maragondon-Ternate and to ORDER him to forthwith CEASE discharging the functions of Judge until further orders from this Court on pain of criminal prosecution and (2) likewise ORDER him to SHOW CAUSE, within a non-extendible period of ten (10) days from receipt hereof, why he should not be removed and/or disbarred from the service for his willful and continued defiance of the Resolution of this Court dated February 5, 1985 and of the Directive from the Office of the Court Administrator dated June 16, 1987 and (3) to ORDER the Clerks of Court of the MCTC of Maragondon-Ternate and Indang-Mendez in Cavite and all the personnel thereof to DESIST from recognizing him as Judge and obeying his instructions, and from promulgating or in any way carrying out or implementing any of his decisions and orders."

On March 8, 1988 the Office of the Court Administrator submitted its report pursuant to the February 5, 1985 directive in Administrative Matter No. R-254-MTJ.

We agree with the following findings in the above cited report

"Complainant charge the respondent with conduct unbecoming of judge, dishonesty and lack of candor towards the Supreme Court, based on the following grounds: Failure of the respondent Judge to report his suspension from the practice of law; misrepresentation in filling up his Personal Data Sheet; his continued performance of the duties of a Judge despite his suspension from the practice of law and as a judge.

"In his answer, (Rollo, pages 58-59) respondent Judge explained that despite the resolution of this Court on August 1, 1984 suspending him from the practice of law, he proceeded to perform his duties as a judge in good faith and to the best of his ability because of the advise of a former assemblyman from Cavite who was of the

opinion that since the suspension refers to these acts as trial counsel in a case that arose from facts prior to his appointment as a judge, it should not be a bar to the performance of his duties as trial judge. Moreover, he said that he was confident that this Court's records will reflect his suspension. So he felt that the Court would advise him not to continue in the performance of office if it was not proper. But he was not advised, he said.

"Respondent denied that he maliciously misrepresented this pertinent fact in his Personal Data Sheet. He explained, that he suffered a greivous (sic) mental lapse when he saw the words acquittal, dismissal, or penalty imposed.' He honestly believed that the question did not apply to him because there was, as yet no acquittal, dismissal or any penalty imposed on him. So he pleads for this Court's compassion and understanding.

"Records also show that on August 7, 1985, respondent Judge wrote a letter (Rollo, page 65) to then Chief Justice Felix Makasiar seeking advice and guidance on the possibility of him resigning as MCTC Judge. The Court, however, advised respondent Judge not to resign. He was told to await the termination of the investigation of administrative case in the BAR Division and of the administrative complaint in the OCAD (resolution, August 27, 1985, page 81).

"Considering that the issues raised in the administrative case against respondent Judge in the BAR Office are different from that filed before this Office, the latter case referring more to his conduct as a Judge rather than as a law practitioner, the evaluation of said case can now be made without awaiting the result of the investigation in the BAR Office.

"As regards the charge of misrepresentation in filling up the Personal Data Sheet for Judges, the subject question referred is the one found in Form P-401, an information sheet for judges issued by the Supreme Court. Respondent placed 'N.A.' on the space opposite the question 'have you ever been administratively charged?' If so, give full details including acquittal, dismissal or penalty imposed' (rollo, page 56). 'N.A.' means not applicable. However, the truth is that there was a pending administrative case. (A.C. No. 2489, Magdalena G. Udarbe v. Ricardo Magtibay) against him before the BAR Office of this Court at the time he made that answer.

"Respondent said that he suffered a grievous mental lapse at that time. This is a very shallow and flimsy excuse to consider. There can be no doubt as to the clear import of the above questions. The sole question is: 'Have you ever been administratively charged?' Evidently, it should have been answered in the affirmative.

"Considering the clear import of the question, it is evident that the respondent deliberately concealed a pertinent fact when he made an untruthful answer to the aforesaid question. At the time when he filled up the personal data sheet for judges, he knew that Administrative Case No. 2489 was still pending before this Court. Yet he placed 'N.A.' which means 'not applicable.'

"This deliberate concealment supports the charge of conduct unbecoming of a judge. This deliberate concealment shows lack of candor towards the Supreme Court. This failure to report his suspension in Administrative Case No. 2489, which is an important and relevant fact, betrays a flaw in his character that makes him unfit to remain in his position as a judge - an office that demands the highest standards of integrity.

"Not only that, our record shows (201 file of Judge Magtibay filed with this Court) that respondent re-assumed the performance of his office upon his reappointment in the Judiciary in the recent reorganization despite the order of suspension. In fact, a latter directive had to be sent by the Court Administrator on June 16, 1987 to remind him of the resolution dated February 5, 1985 in AM No. 84-11-4789-MTC and to direct him to immediately desist from performing his functions as a judge of the 1st MCTC of Cavite. Despite receipt of said directive, the respondent continued performing his duties as a Judge up to October, 1987 as reflected in his monthly report of cases submitted to the Statistics Division of this Court. This shows not only a willful disrespect and disobedience to the order of the highest Court but a willful commission of acts that are tantamount to the usurpation of authority. x x x." (pp. 100-103, Rollo)

After considering carefully the records of this administrative matter, the Court finds the respondent Ricardo

Magtibay guilty beyond reasonable doubt of gross misconduct that makes him totally unfit to remain as Judge.

The decision in this case is without prejudice to whatever action the Court may take in AC No. 2489 "Magdalena Udarbe v. Atty. Ricardo Magtibay", disbarment case awaiting resolution.

WHEREFORE, respondent RICARDO MAGTIBAY is hereby found GUILTY beyond reasonable doubt of gross misconduct unbefitting a member of the judiciary and is accordingly DISMISSED from the service with forfeiture of all salaries, benefits and leave credits to which he may be entitled.

SO ORDERED.

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

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