

MAMERTO T. PACRIS, COMPLAINANT, VS. JUDGE ADRIAN N. PAGALILAUAN, RESPONDENT.

A.M. No. RTJ-98-1403 (Formerly OCA IPI No. 97-382-RTJ). August 14, 2000

Ponente: PURISIMA, J.

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PURISIMA, J.:

At bar is an administrative complaint of Mamerto T. Pacris (complainant) against Judge Adrian N. Pagalilauan (respondent) of Branch 12, Regional Trial Court, Sanchez Mira, Cagayan, for serious misconduct, gross ignorance of the law, inefficiency and falsification of monthly certificate of service.

Complainant charges respondent as follows:

“THE CHARGES

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During the pendency of Election Case No. 1807-S, entitled ‘Federico Q. Galapia, protestant, versus Mamerto T. Pacris, protestee,’ which was tried and submitted for decision before respondent judge, and during the campaign of (sic) the 1995 elections, wherein the protestant and the protestee were again among the candidates for mayor in Sanchez Mira, Cagayan, the protestant in his campaign speeches told the public that he will sit as the Mayor-elect of Sanchez Mira on April 14, 1995. So the protestee approached the respondent judge in his chambers to inquire from him if he has (sic) already rendered his decision in the election protest involving the protestant and the protestee and stated to him what the protestant had been publicly telling the people, but respondent judge told protestee not to believe the protestant and to convince protestee, he showed his unsigned decision dismissing Election Case No. 1807-S.

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In the early morning of April 20, 1995, the undersigned before going to Tuguegarao, Cagayan, to see the Governor on official matters, he decided to see first the respondent judge in his chambers, which he was using it (sic) at that time as his sleeping quarters without the permission of the Supreme Court because he left his boarding house after he was caught peeping at the daughter of his landlady while taking a bath, to ascertain from him if it is (sic) true what protestant had been telling the public that he will (sic) sit that day, April 20, 1995, as the mayor-elect of Sanchez Mira and he admitted that he had changed his unsigned decision dismissing the election protest and invalidated the ballots with undetached coupons.

When protestee arrived home from Tuguegarao in the afternoon, he was informed that the respondent judge had promulgated his decision (Annex ‘A’) in the election protest and the Comelec Officer of Sanchez Mira had already received his copy of the decision from whom protestee got an immediate xerox copy as the basis of his perfection of an appeal with the COMELEC on April 22, 1995.

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That respondent judge, as part of his plan, design or scheme to make protestant win the election protest, intentionally violated the COMELEC Rules of Procedure in his desire to favor the protestant, by not setting a

date for the promulgation of the decision wherein due notice must be given to the parties, but instead he immediately promulgated the same on the very day it was rendered, in violation of Rule 35, Sec. 19 of the COMELEC Rules of Procedure and the case of *Alejo vs. Tanada*, 238 SCRA 60 (1994).

That respondent judge, intentionally and persistent-disregarded (sic) well-known law, legal rules and jurisprudence or stare decisis to the prejudice of the protestee and knowing it as the only possible means to make protestant win his election protest, declared invalid one hundred twenty one (121) ballots with undetached upper coupons cast in favor of protestee in violation of Sec. 211 of the Omnibus Election Code, which provides:

‘27. Failure to remove the detachable coupon from a ballot does not annul such ballot.’

and the settled doctrine that voters shall not be deprived by (sic) their votes by mere failure of the election officer to comply with the formal prerequisites of voting (*Valenzuela vs. Carlos*, 42 Phil. 428).

To justify his illegal, unlawful and fraudulent act in declaring invalid 121 ballots with undetached upper coupons, respondent judge opined:

‘xxx the protestee cit(ed) the case of *Valenzuela vs. Carlos*, 42 Phil. 428. The Court agrees with this, for it is but fair and reasonable in so far as simple, innocent and honest omission (sic) of election officers are concerned. The court however doubts whether the rules should cover all kinds of omission (sic) by election officers be it deliberate or not and irrespective of whether or not the omission (sic) defeats the secrecy of the voter’s vote. xxx.’

contrary to the Supreme Court ruling in *Albert vs. Court of First Instance of Manila* (Br. VI), 23 SCRA 948, which states:

‘So it is, that in *Martiniano P. Vivo vs. Hon. Gaudencio Cloribel, et al.*, L-23239, November 23, 1966 (18 Supreme Court Reports Anno. 713,726), this Court stressed the need for trial judges to take cognizance of the rulings of the Supreme Court. xxx’ (Underscoring supplied)

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and Circular No. 13, dated July 1, 1987, of the Supreme Court, providing general guidelines for all members of the judiciary, that judges should keep abreast of the rulings and doctrines laid down by the Supreme Court and apply them to appropriate cases regardless of their personal opinion.

That respondent judge, to buttress his decision making protestant win in the election protest, which exposes his complete ignorance of the law, not only invalidated the 121 ballots with undetached upper coupons but also considered said ballots as marked contrary to the settled doctrines in elections (sic) contest that the mark which shall invalidate the ballot are those which the voter himself deliberately placed on his ballot for the purpose of identifying it thereafter. In other words, a mark placed (sic) on the ballot by a person other than the voter himself does not invalidate [the ballot] as marked (*Tajanlangit vs. Cazenias*, G.R. No. L-18894, June 30, 1962, 5 SCRA 567). Hence, the ballots which (sic) upper coupons were not detached by the Chairman of the Board of Inspectors are not marked ballots.

That respondent judge, either as a part of his plan, design or scheme to make protestee lose in the election protest or in evident bad faith and/or partiality, also declared invalid six (6) ballots cast in favor of the protestee which were not signed by the Chairman of the Board of Inspectors. However, he did not declare invalid the twenty five (25) ballots cast in favor of the respondent. In the case of *Lucero vs. De Guzman*, 45 Phil. 852, 875, the Court held that ‘xxx It is a well settled rule that a voter shall not be deprived of the franchise by mere failure of the election officials to comply with some provisions or another statute relative to the acts to be done exclusively by

the officer’.

The respondent judge, not supported by evidence or with conscious and deliberate act to do an injustice against the protestee, stated in his decision that, ‘after a careful scrutiny of the Book of Voters and List of Voters, the Court finds’, among others, the following three (3) of the eight voters to be invalid:

‘Precinct No. 23

‘1. Acdal, Orlino P voted, but at the back of his voters affidavit it is marked ‘deceased’;

‘2. Cabulisan, Pacito (policeman) voted but according to information he had been dead before the election.’

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‘Precinct No. 22-B

‘1. Alegado Nancita - voted but no name in Book of Voters.’

Orlino P. Acdal died on December 12, 1992 (Annexes B-B1, while Pacito Cabulisan died on June 2, 1992 (Annex C) after the elections on May 11, 1992. The annotations ‘deceased’ at the back of their voters affidavit were entered by the Comelec Officer when he requested the court during the trial of the election protest for the return to his Office the Book of Voters of the aforesaid precincts preparatory to the May 8, 1995 elections.

Nancita Alegado is a classroom teacher in Barangay Tokitoc, Sanchez Mira, Cagayan and is a registered voter of Precinct 35 therein (Annex D). She was assigned and served as a member of the Board of Inspectors of Precinct 22-B of Barangay Masisit and she voted in said precinct pursuant to Sec. 169 of the Omnibus Election Code allowing members of the board of election inspectors to vote in the polling place where they are assigned on election day.

That respondent judge, to further fortify his plan, design or scheme to make protestee lose the election protest and with deliberate intent to cause injustice on the part of the protestee and a clear violation of Sec. 14, Art. VIII, 1987 Constitution, dismissed for lack of merit protestee’s counter-protest without taking into account the facts and evidence alleged in his counter-protest and without expressing therein clearly and distinctly the facts and law on which the dismissal was based.

Considering the facts that protestant had been publicly telling the people that he has plenty of money; that he will do everything within his resources to win his election protest; that he will sit as the mayor-elect of Sanchez Mira on April 20, 1995, the date of the questioned decision of respondent judge; that respondent judge had prepared an unsigned decision dismissing the election protest; that he was enticed to prepare another decision dated April 20, 1995, which he promulgated on the same day, declaring protestant as the winner in the May 11, 1992 elections for mayor of Sanchez Mira, Cagayan, in complete disregard to (sic) the decisions and rules and regulation of the Supreme Court, the principle of *res ipsa liquitor* (sic) be applied to him. (People vs. Valenzuela, 135 SCRA 712).

That respondent judge, since appointment to the judiciary, as presiding judge of the Regional Trial [Court], Second Judicial Region, Branch 12, Sanchez Mira, Cagayan, up to the present, has not been reporting for duty and hearing cases every Mondays, Thursday afternoons and Fridays of the week. He arrives in his station from Tuguegarao, Cagayan, where he resides, in the morning of Tuesday and leaves his station after lunch of Thursday, thereby affecting his integrity and efficiency.

That respondent judge, despite the fact that he does not report for duty and hold session on Mondays, Thursday afternoons and Fridays, he certified in his Monthly Certificate of Service that he rendered complete service for the month, which is a clear case of falsification of monthly certificate of service since he became a judge up to the

present.”[1]

In compliance with the First Indorsement[2] dated July 9, 1997 of Court Administrator Alfredo L. Benipayo, respondent submitted his Comment[3] stating, among others:

“3. That from the time I assumed office as the presiding judge of the Regional Trial Court, Branch 12, Sanchez Mira, Cagayan I became aware, for the first time, of the existence and pendency of Election Case No. 1807-S before the said Court when it was included in the July 29, 1993, calendar of the Court, at which time the committee on revision of ballots and recounting of votes had not yet submitted its report of the result of the revision and recounting of votes in the precincts covered by the protest and counter-protest xxx.

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10. That thereafter several incidents were submitted by the parties for resolution by the Court and after hearing, resolving all the incidents, the Court issued an order dated February 21, 1995, a copy of which is hereto attached as ANNEX ‘15’ giving the parties twenty (20) days within which to submit their respective memorandum and on March 13, 1995, the protestee submitted his memorandum personally signed by him;

11. That on April 20, 1995, the undersigned, as presiding judge of the court, rendered a decision on the merits. All the foregoing facts and incidents aptly demonstrate that I was not really inefficient in disposing of Election Case No. 1807-S wherein retired Judge Mariano T. Pacris is the protestee and counter-protestant. Much of the delay is attributable to the protestee and counter-protestant himself and his counsel.

12. That as regards the alleged delay in the elevation of the record of the case as pointed in the Comelec resolution cited in the letter-complaint, such delay, if there was any, was entirely called for and fully justified by the events and incidents which took place in connection with the case after the promulgation and filing of the notice of appeal by the protestee, such as:

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Consequently, it is most respectfully submitted that the delay if there is any, in the elevation of the record of the case to the Comelec called for and fully justified by the incidents and events that took place after the promulgation of the decision and the filing of a notice of appeal by the protestee;

13. That in so far as the alleged campaign speeches of the protestant, Federico Q. Galapia, during the campaign period immediately preceding the May 12, 1995 local elections, stating, among others, that he would sit as Mayor elect of Sanchez Mira on April 14, 1995 and/or on April 20, 1995 I have absolutely nothing to do with the same, the truth of the matter being that I never had any occasion to talk to him or any of his two counsels, Attys. Victoriano G. Pascua and Abuan regarding the case; hence the reason why I told the protestee, Mamerto T. Pacris, when he approached me for the first time asking me if I had already rendered my decision in the case and on the occasion of which I told him I have not yet finished making the decision in the case, which was then absolutely true, the truth of the matter being that I was still in the process of writing the draft of the decision. Hence, contrary to the imputation contained in the letter-complaint, I never showed him any decision, unsigned or otherwise, in the case, much less dismissing the election case;

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15. That it is true that in the morning of April 20, 1995, the day I signed the decision in the case, the protestee approached me for the second time, again inquiring if I had already finished the decision in the case and I told him the decision was already finished which prompted me to release the decision that very same day by handing the same to the Clerk of Court who then, right away, mailed copies of the same to the parties concerned, but I never told or admitted to the protestee that I changed the decision dismissing the election protest the truth of the matter being that I never made or prepared a decision, unsigned or otherwise, dismissing the election protest;

16. That the release and consequent promulgation of the decision on April 20, 1995 without the date of the promulgation having been set and the parties notified thereof caused no damage or prejudice to any of the rights of the parties in the case, the evident purpose of the provisions of Sec. 20, Rule 35, Part VI of the Comelec Rules of Procedure, providing for the setting of the promulgation of decisions rendered by the Regional Trial Courts in elections cases being only to avoid any squable (sic) between the parties litigants, in case of an appeal, as to whether or not the appeal was perfected within the period of appeal, a question which sometimes arises on account of the difficulty of establishing or knowing at what time or on what date the party litigants received their respective copy of the decision or order appealed from, as well as to achieve a uniform (sic) time or date from which to perfect the period of appeal for both the protestant and the protestee in such cases;

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18. That in so far as the 122 ballots in Precinct No. 23 Masisit, which were declared invalid in the decision rendered, I was fully aware of the provisions of Sec. 211, par. No. 27 of the Omnibus Election Code and of the doctrines or ruling made by the Honorable Supreme Court to the effect that the voter should not be deprived of his or her vote by the mere failure of the election officers to comply with the formal pre-requisites of voting. It was, and still is, my honest and considered view, however, that Sec. 211, par. 27 and the above-mentioned doctrines or ruling of the Honorable Supreme Court are not applicable xxx.

19. That as regards to the six (6) ballots wherein the protestee was voted for but which were declared invalid in the decision for the reason that the same were not signed by the Chairman of the Board of Election Inspectors, and my failure to declare invalid the twenty-five (25) ballots wherein the protestant was voted for and which are likewise, unsigned by the Chairman, I candidly admit I committed a mistake or omission (sic). My omission (sic) or mistake however, is an honest one and was the result of pure inadvertence (sic); not a deliberate act. xxx

20. That as regards to the three (3) votes for the protestee mentioned in the letter-complaint and which are declared invalid in the decision, the invalidation of said votes or ballots were based on what appeared in the Book of Voters and in the List of Voters used during the May 11, 1992 elections. Thus, in the Book of Voters for precinct No. 23, Masisit Orlino Acdal who appears in the list of voters used during the May 11, 1992 elections to have voted, is therein indicated as deceased; while Mancita Alegado who appears in the list of voters to have cast her vote in Precinct No. 22-B Masisit, is not a registered voter in the precinct per the Book of Voters because her name does not appear therein;

21. Relative to the allegations of the letter-complaint averring that I peeped at the daughter of my former landlady and that I have been using the court's chamber as my sleeping quarters, there is absolutely no truth to the same. As a matter of fact the incidents referred to is the subject of a previous anonymous letter-complaint in relation to which I have submitted my comments and which had been docketed as Administrative Matter No. RTJ 96-1363 and in connection with the supposed complaint, complainant had never appeared nor located in spite of efforts exerted by the Justice of the Court of Appeals to where it was assigned for investigation;

22. That it is not true that I have not been reporting for duty on Mondays, Fridays and Thursday afternoons, the truth of the matter being that I do work from Monday to Friday and on many instances I even worked at home on Saturdays and Sundays when resolving cases involving difficult questions of law, although I seldom conduct trials or hearing of cases on Mondays and Fridays because said days are devoted by me to make my decisions and study cases pending trial before the Court;"

On March 16, 1998, the Court resolved[4] to refer the case to Associate Justice Hilarion L. Aquino of the Court of Appeals for investigation, report and recommendation. However, Justice Aquino begged leave to be relieved of the case because the respondent is a townmate of his and for a number of years, a former colleague when he (Justice Aquino) was Executive Judge of the Regional Trial Court in Tuguegarao, Cagayan.[5]

On July 8, 1998, the Court assigned the case to Associate Justice Bernardo P. Abesamis of the Court of Appeals for investigation, report and recommendation.[6]

During the hearing on October 15, 1998 before Justice Abesamis, the parties stipulated on the following facts:

- “1. Complainant lacks sufficient evidence to prove that respondent judge used his chambers as sleeping quarters; the said allegation is considered withdrawn;
2. Complainant’s allegation that respondent judge committed an act of voyeurism is subject matter of another pending administrative matter against respondent, hence, considered withdrawn from this case;
3. Complainant’s allegation that delay visited the disposition of Election Case No. 1807-S is not a charge but merely mentioned in passing in connection with the said case; and
4. Respondent judge admitted the factual footholds of the following allegations in the complaint:
 - a) he promulgated the decision without setting the date therefor and notifying the parties;
 - b) he did not observe stare decisis in ruling against the validity of 121 ballots with undetached upper stubs;
 - c) he erred in invalidating six (6) ballots not signed by the Chairman of the Board of Canvassers;
 - d) he invalidated the votes of Acda, Cabulisan and Alegado;
 - e) he dismissed the protestee’s counter-protest without discussing the merits thereof; and
 - f) he resolved Election Case No. 1807-S without hearing on the stipulation of the parties.”[7]

After conducting the required investigation, Justice Abesamis culled his findings as follows:[8]

RESPONDENT JUDGE COMMITTED GROSS MISCONDUCT FOR SHOWING COMPLAINANT A COPY OF HIS UNPROMULGATED DECISION IN ELECTION CASE NO. 1807-S, BUT NOT FOR PREPARING TWO DRAFTS OF DECISION AS CHARGED.

RESPONDENT IS LIABLE FOR GROSS IGNORANCE OF THE LAW.

RESPONDENT JUDGE ERRED IN PROMULGATING THE DECISION IN ELECTION CASE NO. 1807-S WITHOUT FIRST SETTING THE DATE THEREFOR WITH NOTICE TO THE PARTIES.

RESPONDENT JUDGE ERRED IN INVALIDATING ONE HUNDRED TWENTY-ONE (121) BALLOTS WITH UNDETACHED UPPER STUBS.

RESPONDENT JUDGE ERRED IN INVALIDATING SIX (6) BALLOTS FOR BEING UNSIGNED BY THE CHAIRMAN OF THE BOARD OF CANVASSERS.

RESPONDENT JUDGE ERRED IN INVALIDATING THE VOTE OF NANCITA ALEGADO, A TEACHER AND VOTER OF PRECINCT 35 OF SANCHEZ MIRA, CAGAYAN, WHO SERVED AS MEMBER OF THE BOARD OF INSPECTORS OF PRECINCT 22-B OF THE SAME MUNICIPALITY.

RESPONDENT JUDGE DISMISSED PROTESTEE’S COUNTER-PROTEST WITHOUT STATING THE FACTS AND LAW ON WHICH THE DISMISSAL WAS BASED.

RESPONDENT JUDGE IS LIABLE FOR VIOLATION OF CIRCULAR NO. 13 ADMINISTRATIVE CIRCULAR NO. 1.

RESPONDENT JUDGE’S ALLEGED VOYEURISM IS DISMISSED AS A COMPLAINT ON SIMILAR GROUND WAS ALREADY FILED AT THE TIME OF THE FILING OF THE COMPLAINT IN THIS CASE.

RESPONDENT JUDGE'S ALLEGED PRACTICE OF USING HIS CHAMBERS AS SLEEPING QUARTERS IS DISMISSED FOR LACK OF MERIT.

RESPONDENT'S ALLEGED DELAY IN RESOLVING ELECTION CASE NO. 1807-S IS DISMISSED.

RESPONDENT JUDGE'S ALLEGED ERROR IN INVALIDATING THE VOTES OF CABULISAN AND ACDAL IS DISMISSED FOR LACK OF MERIT.

RESPONDENT JUDGE'S ALLEGED FAILURE TO SET ELECTION CASE NO. 1807-S FOR HEARING SHOULD BE DISMISSED FOR LACK OF MERIT.

RESPONDENT JUDGE'S ALLEGED FALSIFICATION OF CERTIFICATES OF SERVICE IS DISMISSED FOR LACK OF MERIT.

RESPONDENT JUDGE'S ALLEGED PARTIALITY TOWARDS COUNSEL FOR THE PROTESTANT IN ELECTION CASE NO. 1807-S IS DISMISSED FOR LACK OF MERIT.

and recommended thus:

“WHEREFORE, all the foregoing considered, it is respectfully recommended that: (a) respondent judge be fined in the amount equivalent to his one (1) month salary for gross ignorance of the law and serious misconduct; (b) the charge of falsification of certificates of service be dismissed for lack of merit; and (c) the charge of inefficiency be likewise dismissed, however, respondent judge be enjoined to observe proper trial hours subscribed Circular No. 13.”

The charge of gross misconduct against respondent judge for allegedly showing to complainant a copy of his unpromulgated decision in Election Case No. 1807-S, lacks sufficient evidentiary support. In his Memorandum of December 9, 1998, the Investigator stated:

“Proceeding from the premises that respondent judge drafted two decisions and that Court Stenographer Malvar is of unprejudiced disposition, it is within rhyme and reason to conclude that respondent judge likewise gave complainant-protestee a ‘sneak preview’ of his first draft decision. xxx”[9]

There is nothing on record to prove that the respondent showed a copy of his subject decision to the complainant.

That respondent prepared two drafts of his subject decision is of no moment. It may be that he changed his mind after preparing one draft or intentionally prepared two drafts for his evaluation and consideration. Besides, the decision became effective only upon its promulgation.

But the acts of respondent constitute gross ignorance of the law, as charged:

1. Respondent admitted that he promulgated the decision in Election Case No. 1807-S without first setting the date therefor and with no notice to the parties.

Section 19, Rule 35 of the COMELEC Rules of Procedure, reads:

“Sec. 19. Promulgation and Finality of Decision. - The decision of the Court shall be promulgated on a date set by it of which due notice must be given the parties. It shall become final five (5) days after its promulgation. No motion for reconsideration shall be entertained.”

2. Respondent invalidated one hundred twenty-one (121) ballots with undetached upper stubs contrary to jurisprudence and the provisions of the Omnibus Election Code.

As admitted by respondent, he did not observe stare decisis in invalidating one-hundred twenty one (121) ballots with undetached upper stubs. What the respondent did does not accord with applicable rules and jurisprudence:

“Sec. 211. Rules for the appreciation of ballots. - In the reading and appreciation of ballots, every ballot shall be presumed to be valid unless there is clear and good reason to justify its rejection. The board of election inspectors shall observe the following rules, bearing in mind that the object of the election is to obtain the expression of the voters’ will:

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27. Failure to remove the detachable coupon from a ballot does not annul such ballot.”[10]

And in *De los Angeles vs. Rodriguez*,[11] citing *Lucero vs. De Guzman*,[12] the Court held:

““The circumstance that the coupon bearing the number of a ballot is not detached at the time the ballot is voted does not justify the court in rejecting the ballot. The duty of detaching the coupon is placed by law upon the election officials, and the voter must not be deprived of the franchise by reason of their failure to perform this duty.””

Respondent, in his 2nd Indorsement,[13] manifested awareness of the foregoing rules and jurisprudence but contended that paragraph 27 of Section 211 of the Omnibus Election Code “refers to the lower stab (sic) of the ballot”[14] and not the upper stubs involved in the present case.

Respondent erred in making distinctions where the law is clear and no distinction is necessary. He erred in not adhering to the precedents set by this Court no matter what his opinion on the matter may be. Judicial decisions applying or interpreting the laws shall form part of the legal system of the Philippines.[15]

Indeed, respondent appears unmindful of his duty as a member of the judiciary:

“18. Influence of decisions upon the development of the law

A judge should be mindful that his duty is the application of general law to particular instance, that ours is a government of laws and not of men, and that he violates his duty as a minister of justice under such a system if he seeks to do what he may personally consider substantial justice in a particular case and disregards the general law as he knows it to be binding on him. Such action may have detrimental consequences beyond the immediate controversy. He should administer his office with a due regard to the integrity of the system of the law itself, remembering that he is not a depository of arbitrary power, but a judge under the sanction of law.”
(Canons of Judicial Ethics)

3. Then too, he invalidated six (6) ballots for complainant for being unsigned by the Chairman of the Board of Canvassers but did not invalidate the ballots cast in favor of protestant which were also unsigned by the Chairman.

Respondent admitted having done the same fact but explained that it was through mistake or omission. His defense is unsustainable. He is liable for violating the rule that failure of the Chairman of the Board of Election Inspectors to comply with his mandated administrative responsibility, i.e., signing, authenticating and thumbmarking of ballots, should not penalize the voter with disenfranchisement:

“Similarly, Section 211 of Batas Pambansa Blg. 881, otherwise known as the ‘Omnibus Election Code of the Philippines’ provides that in the reading and appreciation of ballots, every ballot shall be presumed to be valid unless there is a clear and good reason to justify its rejection. Certainly, the inefficiency of an election officer in failing to affix his signature at the back of the ballot does not constitute as a good and clear reason to justify the rejection of a ballot.”[16]

4. So also, he invalidated the vote of Nancita Alegado, a member of the Board of Election Inspectors of Precinct 22 of Sanchez Mira, Cagayan, on the ground that her name did not appear in the Book of Voters.

Respondent likewise violated Section 169 of the Omnibus Election Code, which reads:

“Sec. 169. Voting privilege of members of the board of election inspectors. - Members of the board of election inspectors and their substitutes may vote in the polling place where they are assigned on election day; Provided, That they are registered voters within the province, city or municipality where they are assigned: and Provided, finally, That their voting in the polling places where they are not registered voters be noted in the minutes of the board of election inspectors.”

Ms. Alegado is a registered voter of Precinct 35 of Sanchez Mira, Cagayan, but she was serving as an election inspector in Precinct 22-B so that she was entitled to vote in the latter precinct. Despite the categorical declaration in the law that she had voting rights, respondent improperly excluded her vote just because Ms. Alegado's name did not appear in the Book of Voters.

5. Respondent dismissed complainant's counter-protest without stating the facts and law on which such dismissal was based. In dismissing complainant's counter-protest, respondent disposed:

“WHEREFORE, the protestant Federico Q. Galapia in the above-entitled case should be, as he is hereby declared to be the winner in the May 11, 1992 election (sic) for mayor of Sanchez Mira, Cagayan.

The counter-protest filed by the protestee is hereby dismissed for lack of merit, with costs de oficio.

IT IS SO ORDERED.”[17]

Therefrom, it can be gleaned unerringly that respondent never discussed in the body of his decision the basis for the dismissal of the counter-protest. In so doing, he violated a basic legal principle, a constitutional one at that,[18] that in making a decision, the facts and the law upon which the decision is based must be expressed clearly and distinctly.

All the foregoing studiously considered, the Court is of the irresistible conclusion that respondent Judge is guilty of gross ignorance of the law. He should be reminded of paragraph 2 of Circular No. 13 (SUBJECT: GUIDELINES IN THE ADMINISTRATION OF JUSTICE) in relation to which circular the Court enunciated the rule that “[j]udges should keep abreast of the rulings and doctrines laid down by the Supreme Court and apply them to appropriate cases regardless of their personal opinion.”[19]

The laws that respondent violated or failed to apply are not complicated, and do not involve difficult questions of law. His failure to apply basic legal principles constitutes utter disregard of well-settled doctrines.

6. Respondent also failed to observe office hours as required by Circular No. 13.[20]

“GUIDELINES FOR TRIAL COURTS

The following guidelines are hereby issued for all trial courts:

1. Punctuality and strict observance of office hours. - Punctuality in the holding of scheduled hearings is an imperative. Trial judges should strictly observe the requirement of at least eight hours of service a day, five hours of which should be devoted to trial, specifically from 8:30 a.m. to 12:00 noon and from 2:00 to 4:30 p.m. as required by par. 5 of the Interim Rules issued by the Supreme Court on January 11, 1983, pursuant to Sec. 16 of BP 129.”

and Administrative Circular No. 1:[21]

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2. Maximum Use of Judge Time and Effective Court Management:

2.1 All Presiding Judges are directed to comply strictly with the guidelines established in Circular No. 13, July 1, 1987, on punctuality and observance of office hours, effective use of pre-trial and discovery procedure, effective management of trials, the availment of annual conferences.”

Respondent, in his 2nd Indorsement[22]dated August 27, 1997, stated:

“22. That it is not true that I have not been reporting for duty on Mondays, Fridays and Thursday afternoons, the truth of the matter being that I do work from Monday to Friday (sic) and on (sic) many instances I even worked at home on Saturdays and Sundays when resolving cases involving difficult questions of law, although I seldom conduct trials or hearing of cases on Mondays and Fridays because said days are devoted by me to make my decisions and study cases pending trial before the Court;”

Respondent admitted not holding trials on Mondays and Fridays, contrary to the instruction of the Court. Respondent has to be reminded that proper and efficient utilization of office hours for hearings and trials is to ensure a speedy administration of justice.

1. Respondent’s voyeurism was the subject of Administrative Matter No. 96-1363 which had been resolved by the Court in a Decision dated October 12, 1998, disposing thus:

““WHEREFORE, for his disgraceful acts of voyeurism committed against Marilyn C. Dumayas, respondent Judge Adrian N. Pagalilauan, RTC-Br. 12, Sanchez Mira, Cagayan, is fined P10,000.00 with warning that a repetition of the same or similar acts will be dealt with more severely.”[23]

2. The charge that respondent has been using his chambers as sleeping quarters is anemic of evidentiary support and is therefore dismissed.

3. The alleged delay in the disposition of Election Case No. 1807-S is also dismissed because complainant stipulated that the same is not a charge but merely mentioned in connection with the election case. Besides, Justice Abesamis found no evidence of delay in the disposition of subject election case.

4. Respondent’s alleged error in nullifying the votes of Cabulisan and Acdal is likewise dismissed for lack of corroborating evidence to substantiate the same.

5. Respondent’s alleged failure to set Election Case No. 1807-S for hearing should also be dismissed because:

“First, as the record of the case bears him out, complainant was amenable to the submission of the case for decision without hearing. In an Order, dated February 21, 1995, respondent judge explicit[ly] instructed with caveat that ‘the parties hereby given twenty (20) days from today to submit their respective memorandum. With or without their memoranda, the case will be submitted for decision.’ The parties, including complainant, did not manifest their objection in open court or move for the reconsideration of said order in writing. Instead, they submitted their respective compliance thereto.

Second, it is duly noted that when complainant saw the first draft of decision, which he alleged was in his favor, there was no fuss over the lack of hearing. xxx”

6. The charge of falsification of Certificates of Service is also dismissed in view of the absence of proof.

7. The charge that respondent has been partial in favor of the counsel for the protestant in Election Case No. 1807-S is also dismissed for lack of merit. The Clerk of Court of Branch 12, Regional Trial Court, Sanchez Mira, Cagayan, has certified that since the respondent became the Presiding Judge, there was only one criminal case which was reconsidered, from conviction to acquittal, and that it was counsel for protestant, Atty. Victoriano Pascua, who appeared as the private prosecutor in the said case. Furthermore, Atty. Pascua has a lot of cases pending in the sala of the respondent that somehow explains the long hours he spends in the courtroom.

Justice Abesamis recommended that the respondent be fined in an amount equivalent to one (1) month salary, for gross ignorance of the law. Respondent was once administratively fined P10,000.00 in Administrative Matter No. 96-1363. The current salary of a regional trial court judge is P24,127.00 a month.

WHEREFORE, respondent Judge Adrian N. Pagalilauan is found GUILTY of gross ignorance of the law and is hereby FINED in the amount of TEN THOUSAND (P10,000.00) PESOS.

The charges of serious misconduct, falsification of certificates of service and inefficiency are DISMISSED for lack of merit.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Gonzaga-Reyes, JJ., concur.

[1] Rollo, pp. 4-11.

[2] Rollo, p. 25.

[3] Ibid., pp. 27-39.

[4] Rollo, p. 85.

[5] Rollo, pp. 86-87.

[6] Ibid., p. 88.

[7] Memorandum dated December 9, 1998, p. 19.

[8] Ibid.

[9] Ibid., pp. 24-25.

[10] Section 211 (27), Omnibus Election Code.

[11] 46 Phil. 595.

[12] 45 Phil. 852.

[13] Rollo, pp. 26-39.

[14] Rollo, p. 36.

[15] Article 8, Civil Code of the Philippines.

[16] Punzalan vs. Commission on Elections, 289 SCRA 702, 715.

[17] Rollo, p. 20.

[18] Section 14, Article VIII, 1987 Constitution: "No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based."

[19] Dated July 1, 1987.

[20] Ibid.

[21] Dated January 28, 1988.

[22] Rollo, pp. 26-39.

[23] Memorandum, supra, p. 36.

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