

RUDY T. ENRIQUEZ, COMPLAINANT, VS. HON. GIBSON A. ARAULA, RESPONDENT.

Adm. Case No. 270-J. December 18, 1973

Ponente: ANTONIO, J.

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ANTONIO, J.:

This is an administrative complaint filed by Atty. Rudy T. Enriquez against the Hon. Gibson A. Araula, Presiding Judge of the Court of First Instance of San Juan, Southern Leyte, Branch X, for inefficiency resulting from alleged inexcusable absences on certain dates from his official station without securing prior leaves of absences, and for serious misconduct and/or oppression consisting of respondent Judge's having allegedly, on the evening of November 30, 1971, abetted, aided, induced, and even conspired with others in destroying the barbed wire fence around the property of one Venancia Abellon, at Masaplod Norte, Dauin, Negros Oriental, which was the subject-matter of a civil case that allegedly arose by reason of respondent Judge's personal interest in the property and his having allegedly suborned one of the parties into executing a false verified statement. Attached to the complaint, as later amended, and the Supplemental Statement of complainant, are affidavits and other documents marked as Annexes "A" to "J".

Respondent Judge filed an answer, which was later amended, in which he denied the material averments of the complaint and averred that (a) with respect to his alleged unexcused absences from his official station, the same were either due to his attendance of a court hearing before another branch of the court as a material witness, or on account of his performance of official duty outside his own sala, or were otherwise covered by the requisite applications for leave of absence, respondent Judge specifying in each case the particular dates in question; and (b) upon the request of Apolonia Abellon that Mayor Senen T. Araula of Dauin accompany her to her land because she had been informed that armed men had entered it and were erecting a barbed wire fence to prevent her entry therein, the said Mayor had to go to the said land, and he had to accompany the Mayor, who is his wife. In support of his allegations, respondent Judge attached as Annexes "1" to "33", applications for leave of absence, affidavits and other material documents. The answer set up affirmative defenses intended to show that in filing the complaint, the complainant, who is a brother-in-law of respondent Judge, was motivated by personal ill will because respondent Judge was a principal witness for the Municipality of Dauin in a civil case filed by said municipality against the father and a brother of complainant, and the relations between them became more strained when complainant was defeated by respondent's wife in the 1971 mayoralty election.

We referred this case to Justice Ramon Gaviola, Jr. of the Court of Appeals for investigation, report and recommendation.

Before Us is the Report of Justice Gaviola which reads in part:

"On July 10, 1973, notice was sent by registered mail to the complainant and the respondent setting the hearing of this case for Sept. 3, 4 and 5, 1973 at 1:30 p.m. before the undersigned investigator at the Court of Appeals building, Maria Orosa St., Ermita, Manila.

"On September 3, 1973, the parties appeared but sought postponement of the hearing to Sept. 17, 18 and 19, 1973, at the same time. The postponement was granted upon joint motion of the said parties.

"In spite of the fact that they were notified in open court, neither of the parties appeared for the hearing set for Sept. 17, 18 and 19, 1973, for which reason the undersigned investigator reset the hearing for Oct. 10, 11 and 12, 1973, in a notice sent to the parties by registered mail on Sept. 25, 1973. Again, the parties failed to appear on any of the three dates last set for hearing.

"In the last notice of hearing dated Sept. 19, 1973, the parties were warned that should they fail to appear on Oct. 10, 11 and 12, 1973, this instant case would be terminated and the records of the same returned to the Supreme Court."

The Honorable Investigator, Justice Gaviola, therefore feels that from the parties' failure to appear on any of the dates set for the hearing of the case, or at least to explain why they failed to do so, it is evident that they have lost interest in the proceedings, for which reason he recommends that the present administrative case be ordered terminated. We agree with His Honor's observation, and considering respondent's explanations, there is no other alternative than to dismiss these charges. It must be noted that proceedings to impeach judges before courts are by their nature highly penal in character and are governed by the rules of law applicable to criminal cases. (In re Horilleno, 43 Phil., 215.)

WHEREFORE, the present administrative case against Judge Gibson A. Araula of the Court of First Instance of San Juan, Southern Leyte, Branch X, is hereby ordered dismissed.

Makalintal, C.J., Zaldivar, Ruiz Castro, Barredo, Makasiar, Esguerra, Fernandez, Muñoz Palma, and Aquino, JJ., concur.

Fernando, J., concurs in a separate opinion.

Teehankee, J., took no part.

CONCURRING
FERNANDO, J.:

I concur in the result, unable as I am to locate as a matter of law a failing in the report of Associate Justice Gaviola of the Court of Appeals. This much I wish to state for the record. The charge as to respondent Judge having allegedly "abetted, aided, induced, and even conspired with others in destroying the barbed wire fence" is so serious in character that it would have been desirable if the utmost effort to ascertain its truth had been exerted. The respect that our people ought to have for the rule of law will be considerably diluted if the impression would be given currency that conduct of the above character could be perpetrated and thereafter accorded immunity if for one reason or another there was thereafter desistance on the part of the aggrieved party or parties. It is true that here the subsequent lack of interest on the part of complainant calls for the conclusion reached by the Court. I cannot find my way, however, to joining fully an otherwise able opinion although I do admit that it bears conformity with strict law. To my mind, however, and I may be wrong, it could be misinterpreted. There are times when the call of the highest moral consideration has, to paraphrase Cardozo, a reverberating clang that drowns all weaker sounds.

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