

MANSUETA T. RUBIN, COMPLAINANT, VS. JUDGE JOSE Y. AGUIRRE, JR., REGIONAL TRIAL COURT, BRANCH 55, HIMAMAYLAN, NEGROS OCCIDENTAL, RESPONDENT.

A.M. No. RTJ-11-2267 (formerly A.M. OCA IPI No. 03-1788-RTJ). January 19, 2011

Ponente: BRION, J.

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BRION, J.:

In a verified complaint, dated June 14, 2003,[1] filed before the Office of the Court Administrator (OCA), Mansueta T. Rubin (complainant) charged Judge Jose Y. Aguirre, Jr.[2] of Graft and Corruption, Betrayal of Public Trust, Grave Abuse of Authority of a Judge, Manifest Bias and Partiality, and Violation of Judicial Conduct. In her verified complaint, the complainant alleged:

II

That Complainant is the widow of the late Feliciano Rubin who was appointed as the Judicial Administrator of the Estate of the Spouses Dioscoro Rubin and Emperatriz Rubin;

III

That Complainant, during the lifetime of her husband, Feliciano Rubin, who is the aforesaid Judicial Administrator, had witnessed and experienced that her husband and their family were victims of Graft and Corruption, Grave Injustice amounting to Violation of the Constitution, Betrayal of Public Trust, Grave Misconduct, Grave Abuse of Authority, Gross Ignorance of Law, Conduct Unbecoming of a Judge or Judicial Magistrate, Manifest Bias and Partiality, and Violation of the Code of Judicial Conduct, on the part of the respondent Judge committed during the conduct of the proceedings in Special Proceeding No. 28, Intestate Estate of the Spouses Dioscoro Rubin and Emperatriz Rubin, and in Civil Case No. 184, an Annulment of Adoption pending before him, as follows:

A

The respondent Judge, by way of devious schemes and clever machinations extorted money from the aforesaid Estate by lending expertise in connivance with other lawyer in pursuing an alleged claim against the Estate allegedly intended for workers' wages as money claims against the Estate, in a labor case entitled "Constancia Amar, et.(sic) al. versus Hacienda Fanny and Dioscoro Rubin," RAB Case Nos. 1092-81 and A-593-81, both consolidated and numbered as 0104-82, which was then pending and decided by Labor Arbiter Ricardo T. Octavio;

B

That the aforesaid consolidated labor cases were decided and became final and executory and the judgment was already satisfied and paid for personally by Dioscoro Rubin when he was still alive in the amount of P44,000.00 in the form of check which was given to Atty. Corral, counsel for the claimants, through Atty. Rogelio Necessario, counsel for Hacienda Fanny and Dioscoro Rubin x x x.

C

That respondent Judge acted with grave abuse of discretion and grave abuse of authority by ordering the aforesaid Estate to pay P205,125.00 upon a Motion based on a non-existing final or executory decision, which order was illegal and improper and without any notice and/or hearing accorded to the Estate through its then Judicial [Administrator] Feliciano Rubin. x x x x

D

The labor case decided by Labor Arbiter Oscar Uy awarded the claimants in the amount of P205,125.00, which decision was appealed by Judicial Administrator Feliciano Rubin and was ordered rema[n]ded and decided by Labor Arbiter Octavio in the consolidated cases with the reduction of the award in the amount of P62,437.50. The judgment amount was further reduced after an audit in the amount of P44,000.00. x x x x

E

That respondent Judge had threatened the Judicial Administrator and threatened to be cited for contempt if he will not pay the said labor claims, further threatened to sell the properties if he will not pay the said labor claims, and likewise threatened that he would order the x x x properties of the Estate to be sold at public auction if the said claim will not be paid. x x x x The evident purpose of the respondent Judge was to cause harassment and anxiety against the then Judicial Administrator which made his health condition deteriorate so fast that facilitated his death.

F

That Complainant's deceased husband who was the Administrator of the said Estate was forced to pay the amount ordered by the respondent Judge which was deposited in court but which was ordered released by the same respondent Judge [b]ecause the money claim ordered to be paid by respondent Judge had already been paid and satisfied by Administrator Feliciano Rubin, naturally no recipient would claim the amount nor anybody can be found from the records of the case or that no laborer came forward to claim that he had not been paid of his money claim;

G

The respondent Judge was grossly ignorant of the law when he ordered the change of Administrator after the then Judicial Administrator Feliciano Rubin refused to follow the invalid and unlawful orders of the respondent Judge, as he ordered his Clerk of Court, Atty. Gregorio A. Lanaria to act as Special Administrator of the Estate with orders to sell the properties of the Estate to satisfy the outstanding claim or obligations of the Estate, which was part of the clever scheme of respondent Judge to extort money from the Estate x x x.

H

That respondent Judge had extended unwarranted benefit, advantage and preference to the newly appointed Judicial Administratrix of the Estate, Aileen Rubin, through his manifest bias and partiality and evident bad faith towards the late Administrator's wife, complainant herein, and the surviving heirs, especially in his conduct of the proceedings involving the Estate and the Annulment of Adoption case. Respondent Judge even appointed Aileen Rubin as Administratrix of the Estate whose legal personality is still the subject of the Annulment of Adoption case, and even pronounced that under the eyes of the law Aileen Rubin is the sole and legal heir of the aforesaid Estate - thus prejudging the cases before him even if the proceedings are still pending;

I

That respondent Judge ordered his appointed Administratrix, Aileen Rubin, to enter into the Estate, and having entered therein, she and her cohorts ransacked the premises, took out records, personal belongings of the

deceased Feliciano Rubin, then Administrator of the Estate, and his wife, the complainant herein x x x.[3]

The complainant submitted documentary evidence to support the above allegations.[4]

In his Comment, Judge Aguirre claimed that the complaint contained malicious and scurrilous allegations that smacked of harassment. The complaint was filed by the disgruntled complainant who mistakenly believed that she should be appointed as the Judicial Administratrix of the Estate of the late Spouses Dioscoro and Emperatriz Rubin, instead of Aileen Rubin, the adopted child of the deceased spouses. Judge Aguirre asserted that his appointment of Aileen Rubin as Special Administratrix was affirmed by the Court of Appeals[5] (CA) and by the Supreme Court.[6]

He also asserted that the complainant had confused two labor cases.[7] Only the amount of P44,000.00 was paid as separation pay in RAB Case No. VI-0104-82. In RAB Case No. A-593-81, Judge Aguirre issued orders to compel Mr. Feliciano Rubin, the former Administrator of the Estate of the late Spouses Dioscoro and Emperatriz Rubin, to pay lawful and valid claims against the estate. Judge Aguirre emphasized that he had already been penalized by the Supreme Court for delaying the enforcement of the final and executory decision of the National Labor Relations Commission (NLRC) against the estate of the late spouses Dioscoro and Emperatriz Rubin.

Judge Aguirre submitted his own documentary evidence to corroborate his allegations.[8]

In its report, the OCA recommended that the case be docketed as a regular administrative case considering the varying positions taken by the parties, and considering, too, the failure of Judge Aguirre to explain in his Comment why he invited Mr. Feliciano Rubin to see him personally in court.

In the Resolution dated March 17, 2004,[9] the Court referred the case to Justice Josefina Guevarra-Salonga (Investigating Justice).for investigation, report and recommendation.

The Investigating Justice found that except for the charge of Conduct Unbecoming of a Judge and Violation of Judicial Conduct, the other charges against Judge Aguirre were "bereft of factual and legal basis." [10] The Investigating Justice found that Judge Aguirre committed an impropriety when he sent a letter to Mr. Feliciano Rubin "to discuss and to expedite a possible extra-judicial settlement of the estate of the deceased Spouses Rubin." [11] The Investigating Justice explained:

[H]is act of sending a letter to a party litigant for a personal conference, however motivated, does not validate his action and the damning implications it may generate to the [J]udiciary this is especially so since the content of said letter can constitute as an act of fraternizing with party-litigants. It must be emphasized that in-chambers sessions without the presence of the other party and his counsel must be avoided. The prohibition is to maintain impartiality. Being a judicial front-liner who has a direct contact with the litigating parties, the respondent judge should conduct himself beyond reproach.[12]

The Investigating Justice ruled that Judge Aguirre violated Canon 2 of the Code of Judicial Conduct which states that a judge should avoid impropriety and the appearance of impropriety in all activities. The Investigating Justice recommended that Judge Aguirre be reprimanded with a stern warning that a repetition of the same or similar act shall be dealt more severely.

The Court's Ruling

We find the findings of the Investigating Justice to be well-taken.

First, the complainant's claims of alleged devious schemes, clever machinations, and connivance employed by Judge Aguirre to extort money from the Estate of the Spouses Dioscoro and Emperatriz Rubin are unsupported by evidence. A perusal of the documents submitted by both parties shows that the orders issued by Judge Aguirre to

compel Mr. Feliciano Rubin to settle the money claims filed against the Estate of the Spouses Dioscoro and Emperatriz Rubin in RAB Case No. A-593-81 were lawful. The orders were issued to enforce a final and executory decision of the NLRC in the case; we even previously penalized Judge Aguirre for his failure to promptly act on the motions filed by the laborers in RAB Case No. A-593-81, for the enforcement of the final NLRC decision.[13]

In addition, the evidence on record also refutes the complainant's claim that the money claims in RAB Case No. A-593-81 had been previously settled. The records show that what Mr. Feliciano Rubin actually paid was a claim for separation pay in RAB Case No. VI-0104-82 - an illegal dismissal case; the money claims in RAB Case No. A-593-81 pertained to the payment of wage differentials.

Second, we find no evidence supporting the allegation of bias and partiality when Judge Aguirre appointed Ms. Aileen Rubin as Judicial Administratrix of the estate of her adopting parents. Notably, the propriety of the order of her appointment by Judge Aguirre was upheld, on appeal, by the CA in its Decision dated July 19, 2002[14] and its Resolution dated September 26, 2002,[15] and by this Court in its Resolution of December 11, 2002.[16]

Third, in *Guerrero v. Villamor*,[17] we held that a judge cannot be held liable for an erroneous decision in the absence of malice or wrongful conduct in rendering it. We also held that for liability to attach for ignorance of the law, the assailed order, decision or actuation of the judge in the performance of official duties must not only be erroneous but must be established to have been motivated by bad faith, dishonesty, hatred, or some other like motive.[18] The complainant failed to prove any of these circumstances in this case. We find no evidence of corruption or unlawful motive on the part of Judge Aguirre when he made the said appointment.

Although the appointment by Judge Aguirre of his branch clerk of court as Special Administrator for the Estate of the Spouses Dioscoro and Emperatriz Rubin was erroneous for having violated a standing Court circular and for being contrary to existing jurisprudence,[19] we find that the appointment was made in good faith. Good faith connotes an honest intention to abstain from taking unconscientious advantage of another.[20] In this regard, Judge Aguirre's good faith is strengthened by evidence showing that the appointment of his branch clerk of court was prompted by the continued refusal of Mr. Feliciano Rubin to settle the money claims filed against the estate in RAB Case No. A-593-81. The records show that Mr. Feliciano Rubin did not obey the several orders issued by Judge Aguirre to settle the money claims, and that an administrative case was even filed against Judge Aguirre for his failure to rule on the laborers' motion in RAB Case No. A-593-81.

Despite these findings, we find that Judge Aguirre committed an impropriety when he sent a letter, in his official letterhead, to Mr. Feliciano Rubin to discuss a matter pending before his own court.

In *Agustin v. Mercado*,[21] we declared that employees of the court have no business meeting with litigants or their representatives under any circumstance. This prohibition is more compelling when it involves a judge who, because of his position, must strictly adhere to the highest tenets of judicial conduct;[22] a judge must be the embodiment of competence, integrity and independence.[23] As we explained in *Yu-Asensi v. Villanueva*: [24]

...[W]ithin the hierarchy of courts, trial courts stand as an important and visible symbol of government especially considering that as opposed to appellate courts, trial judges are those directly in contact with the parties, their counsel and the communities which the Judiciary is bound to serve. Occupying as he does an exalted position in the administration of justice, a judge must pay a high price for the honor bestowed upon him. Thus, a judge must comport himself at all times in such manner that his conduct, official or otherwise, can bear the most searching scrutiny of the public that looks up to him as the epitome of integrity and justice. x x x it is essential that judges, like Caesar's wife, should be above suspicion.

Under the circumstances, Judge Aguirre's act was improper considering that he opened himself to suspicions in

handling the case. His action also raised doubts about his impartiality and about his integrity in performing his judicial function.

We take note that the complained act was committed before the New Code of Judicial Conduct took effect on June 1, 2004. Under the circumstances, Judge Aguirre is liable under the provisions of the Code of Judicial Conduct and the Canons of Judicial Ethics.[25] Canon 2 of the Code of Judicial Conduct provides that "[a] judge should avoid impropriety and the appearance of impropriety in all activities." Carrying the same guiding principle is Canon 3 of the Canons of Judicial Ethics which states, "[a] judge's official conduct should be free from the appearance of impropriety, and his personal behavior, not only upon the bench and in the performance of judicial duties, but also in his every day life, should be beyond reproach."

In *Rosauro v. Kallos*,[26] we ruled that impropriety constitutes a light charge. Section 11(C) of Rule 140 of the Rules of Court[27] provides the following sanctions if the respondent is found guilty of a light charge:

C. If the respondent is guilty of a light charge, any of the following sanctions shall be imposed:

- A fine of not less than P1,000.00 but not exceeding P10,000.00 and/or;
- Censure;
- Reprimand;
- Admonition with warning.

The Investigating Justice recommended the penalty of reprimand with stern warning. In light of Judge Aguirre's death, however, we resolve to impose a fine of P5,000.00 instead. Jurisprudence holds that the death of the respondent in an administrative case, as a rule, does not preclude a finding of administrative liability, save for recognized exceptions.[28] None of the exceptions applies to the present case.[29]

The P5,000.00 fine shall be taken from the amount of P50,000.00 which we previously retained/withheld from Judge Aguirre's retirement benefits due to the administrative cases filed against him.[30]

WHEREFORE, we find Judge Jose Y. Aguirre, Jr. guilty of impropriety, in violation of Canon 2 of the Code of Judicial Conduct and Canon 3 of the Canons of Judicial Ethics. We hereby impose a fine of P5,000.00 which shall be deducted from the P50,000.00 withheld from his retirement benefits.

SO ORDERED.

Carpio Morales, Chairperson, Bersamin, Villarama, Jr., and Sereno, JJ., concur.

[1] Rollo, pp. 1-9.

[2] Now deceased.

[3] *Supra* note 1, at 2.

[4] They are: (1) Satisfaction of Judgment in the amount of P44,000.00 in RAB Case No. V-0104-2, Receipt dated January 20, 1987 issued by Atty. Napoleon Corral as counsel for the complainant and Receipts dated August 20, 1987 issued by Atty. Rogelio M. Necesario as counsel for Dioscoro Rubin (Annex "A" with submarkings); (2) Decision dated January 14, 1985 in RAB Case No. VI-0104-82 and Computation of Separation Pay (Annex "B"); (3) Order dated March 17, 1999 in Spec. Proc. No. 28, entitled "In the Matter of the Intestate Estate of the Deceased Spouses Dioscoro M. Rubin & Emperatriz C. Rubin, Feliciano Rubin, Judicial Administrator" (Annex

"C"); (4) Order dated October 20, 1999 in Spec. Proc. No. 28 (Annex "D"); (5) Order dated May 24, 1999 in Spec. Proc. No. 28 (Annex "F"); (6) Order dated June 10, 1998 in Spec. Proc. No. 28 (Annex "G"); (7) Letters dated February 17, 1999 and May 7, 1999 of Judge Aguirre to Feliciano Rubin (Annex "H" with submarkings); and (8) Excerpt from the Police Blotter Report (Annex "J"). Rollo, pp. 12-33.

[5] Decision dated July 19, 2002 and Resolution dated September 26, 2002 in CA-G.R. SP No. 70136, entitled "In the Matter of the Intestate Estate of the Deceased Sps. Dioscoro and Emperatriz Rubin, Heirs of Feliciano Rubin v. Hon. Judge Jose Y. Aguirre, Jr., Presiding Judge, RTC, Branch 55, Himamaylan, Negros Occidental."

[6]. Resolution dated December 11, 2002 in G.R. No. 155506, entitled "In the matter of the Intestate Estate of the deceased Spouses Dioscoro and Emperatriz Rubin, Heirs of Feliciano Rubin v. Hon. Judge Jose Y. Aguirre, Jr. and Aileen Ravina [Rubin], Judicial Administrator."

[7] Orders dated September 7, 1998, March 17, 1999, May 24, 1999 and August 23, 1999 in Spec. Proc. No. 28, Motion for Execution of the Order and Motion to Cite the Judicial Administrator for Contempt filed by Atty. Napoleon Corral in Spec. Proc. No. 28; Order dated November 13, 1998 in Spec. Proc. No. 28; Entry of Appearance by Atty. Nilo G. Sorbito in Spec. Proc. No. 28; Manifestation filed by Atty. Nilo G. Sorbito in Spec. Proc. No. 28; Opposition to the Manifestation filed by Atty. Napoleon Corral in Spec. Proc. No. 28; Letter dated August 21, 1999 to Chief Justice Hilario Davide, Jr. by Atty. Napoleon Corral; and letter dated August 23, 1999. Rollo, pp. 51-70.

[8] See Notes 4, 5 and 6; and rollo, pp. 71-112.

[9] Rollo, p. 117.

[10] Report dated June 29, 2004, p. 12.

[11] Ibid.

[12] Id. at 12-13.

[13] Request for Assistance Relative to Special Proceedings No. 28 Pending at [the] Regional Trial Court of Himamaylan, Negros Occidental, Branch 55, Presided by Judge Jose Y. Aguirre, Jr., Adm. Case No. RTJ-01-1624, March 26, 2001.

[14] Rollo, pp. 43-50; penned by CA Associate Justice (now Supreme Court Associate Justice) Martin S. Villarama, Jr., with the concurrence of CA Associate Justices (now Supreme Court Associate Justices) Conchita Carpio Morales and Mariano C. del Castillo.

[15] Id. at 41.

[16] Supra note 10, at 7.

[17] A.M. No. RTJ-90-483, September 25, 1998, 296 SCRA 88, 97, citing Hon. Judge Adriano Villamor v. Hon. Judge Bernardo Ll. Salas & George Carlos, 203 SCRA 540 (1991).

[18] Id. at 98.

[19] Balanay Jr. v. Martinez, G.R. No. L-39247, June 27, 1975, 64 SCRA 452, 461-462.

[20] Que v. Atty. Revilla, Jr., A.C. No. 7054, December 4, 2009, 607 SCRA 1, 17.

[21] A.M. No. P-07-2340, July 26, 2007, 528 SCRA 203, 209, citing Re: Affidavit of Frankie N. Calabines, 518 SCRA 268 (2007).

[22] *Avancena v. Liwanag*, A.M. No. MTJ-01-1383, July 17, 2003, 406 SCRA 300, 304.

[23] *Ibid.*

[24] A.M. No. MTJ-00-1245, January 19, 2000, 322 SCRA 255, 266.

[25] *Chuan & Sons, Inc. v. Peralta*, A.M. No. RTJ-05-1917 [Formerly OCA I.P.I. No. 04-2006-RTJ], April 16, 2009, 585 SCRA 93, 96.

[26] A.M. No. RTJ-03-1796, February 10, 2006, 482 SCRA 149, 162.

[27] A.M. No. 01-8-10-SC which took effect on October 1, 2001.

[28] *Mercado v. Salcedo*, A.M. No. RTJ-03-1781, October 16, 2009, 604 SCRA 4. The recognized exceptions to this rule are: first, when the respondent has not been heard and continuation of the proceedings would deny him of his right to due process; second, where exceptional circumstances exist in the case leading to equitable and humanitarian considerations; and third, when the kind of penalty imposed or imposable would render the proceedings useless.

[29] *Ibid.*

[30] *Pancho v. Aguirre, Jr.*, A.M. No. RTJ-09-2196, April 7, 2010, citing the Resolution, dated August 17, 2005, in A.M. No. 12054 Ret. (Compulsory Retirement of the late Judge Jose Y. Aguirre, Jr. [formerly Regional Trial Court Himamaylan, Negros Occidental, Branch 55]).

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