

ATTY. NOE CANGCO ZARATE AND ATTY. ROSENDO CHAVES, COMPLAINANTS, VS. JUDGE ROBERTO B. ROMANILLOS, RESPONDENT.

A.M. No. RTJ-94-1140. March 23, 1995

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PER CURIAM:

These two administrative complaints were filed against Judge Roberto B. Romanillos of the Regional Trial Court of Basco, Batanes. However, the incidents subject of the said complaints occurred when respondent judge was detailed with the Regional Trial Court of Binan, Laguna, Branch 25.

In A.M. No. RTJ-94-1140, two separate complaints against respondent judge filed by Atty. Noe Cangco Zarate and Atty. Rosendo Chaves were consolidated. Atty. Zarate charged respondent judge with illegal solicitation, grave abuse of position and dishonesty, while Atty. Chaves filed charges of patent dishonesty, immorality, oppression, and other acts seriously inimical to the public service against respondent judge.

The charges filed by Atty. Zarate pertain to the alleged solicitation and receipt by respondent judge of P10,000.00 from a client of Atty. Zarate relative to Election Case No. B-1530 wherein Zarate's client, Mayor Roberto Gonzales, is the protestee and Leon C. Arcillas is the protestant pending before respondent's sala. On the other hand, Atty. Chaves alleged that during the Christmas season of 1993, respondent judge sent his couriers, his legal researcher Jimmy Ibana and a certain Atty. Roman Aquino to collect substantial bribe money from affluent litigants. Atty. Chaves likewise charged respondent judge with immoral conduct by frequenting bars and motels, using language unbecoming a judicial magistrate, and conducting himself in an unseemly manner, i.e. touching the delicate parts of waitresses and hostesses.

In A.M. No. RTJ-94-1218, Police Superintendent Marcelo E. Navarro, Jr. charged respondent judge with gross ignorance of the law for dismissing two criminal cases on the ground that the same were filed directly in court by a police officer, which respondent judge deemed to be "improper."

In a resolution dated May 25, 1994, the Court referred the cases for investigation, report and recommendation to Justice Delilah Vidallon-Magtolis of the Court of Appeals.

In her Report filed on October 18, 1994, Justice Magtolis resolved only the complaint filed by Atty. Zarate, as the two other complaints were not pursued and substantiated by complainants Atty. Chaves and Police Superintendent Navarro. The said complainants failed to appear at the investigative hearings scheduled and conducted by Justice Magtolis, despite their having received notice thereof, as evidenced by the registry return cards attached to the record.

Complainant Zarate presented three witnesses, namely himself, Atty. Marciano Brion, Jr. and Mrs. Cynthia Gomez Mercado. The gist of these witnesses' testimonies yield the following narration of the events which led to the filing of Zarate's complaint against respondent judge:

Leon C. Arcillas filed an election protest, docketed as Election Case No. B-530, against Mayor Roberto B.

Gonzales, who (the latter) was initially represented by Atty. Marciano Brion, Jr. Subsequently, herein complainant Zarate entered his appearance as collaborating counsel for Mayor Gonzales when Atty. Brion could no longer actively attend to the case due to other professional commitments.

The case was originally assigned to Executive Judge Rodrigo Cosico, but the latter voluntarily inhibited himself therefrom, resulting in the transfer of the case to the sala of herein respondent judge, who was then the newly assigned judge on detail to Branch 25 of the RTC of Binan, Laguna.

Culled from the Report of Justice Vidallon-Magtolis are the following antecedent facts:

Sometime in October of 1993, a certain Roman Aquino went to Mayor Gonzales' office to see him. Mrs. Cynthia Gomez Mercado, the Municipal Secretary, informed Aquino that the Mayor was out of the country. This notwithstanding, Aquino confided to Mrs. Mercado that he was a close personal friend and classmate of respondent judge under whom the election case against Mayor Gonzales was pending, and that respondent judge was in dire need of P10,000.00 for a trip to Cebu.

Mayor Gonzales had left some money earmarked for the incidental expense in connection with the election case, with Mrs. Mercado. However, the latter decided to first consult with Atty. Zarate before acting on Aquino's solicitation. Upon learning of the incident, Atty. Zarate entertained doubts whether it was really respondent judge who was asking for the amount stated by Aquino. Nevertheless, Atty. Zarate finally consented to give respondent judge the sum of money allegedly solicited, on condition that he would be the one to deliver the money in order to ascertain the truth behind Aquino's representations.

Atty. Zarate instructed Mrs. Mercado to bring the money to the sala of respondent judge where he would meet her, take the money and hand the same personally to respondent judge in order to establish whether it was actually he or only Aquino who was asking for the P10,000.00.

As agreed upon, Mrs. Mercado went to the court in Binan, Laguna between 8:00 and 9:30 in the morning of October 21, 1993, bringing with her P10,000.00 in denominations of P1,000.00 placed inside an envelope with the return address of "Municipality of Sta. Rosa, Laguna." While waiting for Atty. Zarate's arrival, Mrs. Mercado exchanged pleasantries with one of the court employees named Baby Cruz, who happened to be her friend. When Mrs. Mercado spotted Atty. Zarate outside the chamber of respondent judge, she went to him (Atty. Zarate), and handed the envelope containing the money.

Respondent judge's chamber was adjacent to that of Executive Judge Cosico. Before entering respondent judge's chamber, Atty. Zarate first went inside the chamber of Executive Judge Cosico and told him about respondent judge's alleged solicitation. Judge Cosico was apparently in a state of disbelief but he told Atty. Zarate, "Bahala ka na."

Thereafter, Atty. Zarate proceeded to the chamber of respondent judge. Once inside, Zarate told the respondent that he had with him the money which his (respondent's) classmate Roman Aquino was asking from Mayor Gonzales. He then placed the envelope containing the money on the desk of respondent judge. Thereafter, respondent judge thanked him, saying that he really needed the money for his trip to Cebu to see Congressman Pablo Garcia whose help he was soliciting for his lateral promotion to Branch 25 of the RTC of Laguna. Before leaving the respondent's chambers, Atty. Zarate told respondent judge that next time he needed "financial assistance," he should go to him (Zarate) directly and need not course his request through Roman Aquino as the latter's reputation in Sta. Rosa, Laguna was not good. Respondent judge assented, and mentioned that he would go to Cebu before the World Law Conference in Manila.

When Atty. Zarate emerged from respondent judge's chamber, he met Mrs. Mercado, spread out his hands and

said "Wala na, naibigay ko na." Thereafter, he went back inside Executive Judge Cosico's chamber to report on what had transpired.

As they left the court, Atty. Zarate expressed to Mrs. Mercado his apprehension about the outcome of the election case, fearful that Roman Aquino might ask for a larger sum of money from their opponent, protestant Leon C. Arcillas.

On January 13, 1993, a confrontation meeting between Atty. Zarate and respondent was held in the chamber of Executive Judge Cosico. The meeting was called by the latter in order to help the parties settle their dispute. Atty. Marciano Brion, one of complainant Zarate's witnesses in this case, and his co-counsel in the election case, testified before Justice Vidallon-Magtolis that he arrived late at the said meeting and that he heard respondent declare that he (respondent) thought the P10,000.00 given to him by Atty. Zarate was given in the spirit of Christmas.

In his verified answer dated April 29, 1994, respondent judge denied the charges levelled against him by Atty. Zarate, claiming that the same are mere malicious fabrications intended to stop him from proceeding with the revision of the contested and uncontested ballots in Election Case NO. B-1530. Respondent judge reasoned that if indeed he received the P10,000.00 with the knowledge of Executive Judge Cosico, the latter should have confronted him about it or withdrawn or recalled the election case from him. Respondent judge added that Atty. Zarate should have immediately moved for his inhibition instead of waiting for respondent judge's denial of his (Zarate's) motion for reconsideration of the order dated Dec. 1, 1993 whereby respondent judge directed the revision of ballots to proceed as well as respondent judge's denial of Zarate's motion for suspension of the revision.

Justice Vidallon-Magtolis however, took note of an earlier statement filed by respondent judge with the Supreme Court in connection with his request for transfer to another station, wherein respondent judge presented his own version of the events behind the instant complaint of Atty. Zarate, to wit:

On October 21, 1993, a certain Baby Cruz, an employee of the Binan MTC and a close friend of Atty. Zarate, together with one Cynthia Gomez, went to see respondent judge in his chamber and handed to him an envelope with the letterhead of the municipality of Sta. Rosa, Laguna, containing P5,000.00 representing his allowance for the World Law Conference. Respondent judge claimed that he made a request for the said allowance through his clerk of court. While respondent judge was counting the money, Atty. Zarate came in and proudly told him that he was the one who followed up the said allowance from the Municipality of Sta. Rosa, for which respondent judge thanked him.

After respondent judge returned the voucher to Baby Cruz, Atty. Zarate instructed the two ladies to go out as he had important matters to discuss with respondent judge. Atty. Zarate told the former that he knows of his (respondent's) application for permanent appointment to Branch 25, and that he is a close friend of Atty. Presbiterio Velasco and Mrs. Teresa Cruz Sison whom he (Zarate) could ask for help in getting respondent judge nominated to Branch 25. Atty. Zarate then invited respondent judge to have breakfast with him the following Saturday at a 5-star hotel to discuss the alleged move of the San Pedro Lawyer's League to block respondent judge's permanent appointment to Branch 25 considering that its president, Atty. Rosendo Chaves (the other complainant in A.M. No. RTJ-94-1140), was also applying for the position. Respondent judge however, informed Zarate that he would be unavailable that Saturday in view of his (respondent's) impending departure for Cebu to see Congressman Pablo Garcia whose help he is seeking in connection with his nomination to Branch 25.

Thereafter, Atty. Zarate left respondent judge's chamber. The latter followed him out, and he saw Baby Cruz, Cynthia Gomez (Mercado) and Atty. Malabanan waiting for Zarate. Respondent judge asked Cynthia Gomez if he

needed to submit a liquidation of expenses, to which Gomez responded in the negative. Respondent judge explains that he did not consider the response unusual since he had also received P5,000.00 from the Municipality of Cabuyao as well as other allowances from different municipalities, for which he was not asked to sign any receipt or voucher.

In the first week of December 1993, Atty. Zarate started asking favors from respondent judge in connection with Election Case No. B-1530. He requested that respondent judge reconsider his order dated December 1, 1993 directing the clerk of court to proceed with the revision of the remaining ballot boxes. After respondent judge had denied Zarate's motion for reconsideration of the said order, Zarate filed a motion for suspension of the scheduled revision. Atty. Zarate allegedly talked to respondent judge, asking him to grant the motion for suspension, or, to proceed with the revision but to decide the case in favor of his (Zarate's) client, Mayor Gonzales, offering P200,000.00 as downpayment and P300,000.00 as the remaining balance to be paid upon rendition of a favorable decision. Respondent judge told Zarate that he was talking to the "wrong judge," but that he (Zarate) need not worry, as he would decide the case fairly and solely on the merits.

After respondent judge had denied Zarate's motion for suspension of revision, Zarate filed a motion for respondent judge's voluntary inhibition on the ground that respondent was a mere temporary judge. At the hearing of the said motion, Zarate manifested orally as an additional ground for respondent judge's inhibition the allegation that the collaborating counsel for the protestant, Atty. Patrico Ngaseo, was respondent judge's former associate in another election case involving Mayor Bunye of Muntinlupa. Respondent judge admonished Zarate to be more careful in making baseless allegations against him, and, in open court, denied Zarate's motion for inhibition. After the hearing, Zarate followed respondent judge inside the latter's chamber, threatening him with drastic action due to confirmed reports that respondent had already received P100,000.00 from the protestant Arcillas through his classmate and courier, Roman Aquino. Judge Cosico and Atty. Marciano Brion, Zarate's collaborating counsel, who followed Zarate inside respondent judge's chamber, were present when Zarate stated that had he known that respondent judge would be difficult, he (Zarate) would not have worked for the release of the P5,000.00 which respondent judge received last October. Respondent judge berated Zarate for linking the amount to the election case but Zarate persisted and accused respondent judge of receiving a bigger amount.

In the afternoon of that same day, Zarate returned to respondent judge's chamber and threatened him with an administrative case. Zarate claimed that if respondent judge persisted in continuing with the election case, he (Zarate) could easily charge respondent judge for receiving the P5,000.00 given by Cynthia Gomez (Mercado) on October 21, 1994, which did not really come from the Treasurer's Office but was the personal money of Mayor Gonzales. Zarate added that Atty. Chaves of the San Pedro Lawyers League could also file charges against him for sending his "doberman" (Roman Aquino) to litigants and lawyers to ask for bribe money to finance his golf games and his escapades at the Abyss Karaoke Bar and Aspen Lodge Motel. To these threats, respondent judge retorted, "Kung ikaw ang pinakatarantado sa Binan, ako naman ang pinakamatapang sa Muntinlupa. Itanong mo kay Toting Bunye." Thereafter, Zarate left.

In evaluating the evidence presented by the parties, Investigating Justice Vidallon-Magtolis noted that in the two statements submitted by respondent judge to the Supreme Court, he never denied his association or close relationship with Roman Aquino. On the other hand, Cynthia Gomez Mercado clearly testified on how Aquino came to Mayor Gonzales' office and informed her that respondent judge was the one handling the revision of ballots in the election case but that he needed P10,000.00 for his trip to Cebu. Ms. Mercado's testimony was subjected to a thorough cross-examination by respondent judge but he failed to discredit the said testimony. This led Investigating Justice Vidallon-Magtolis to conclude that the alleged solicitation actually took place.

Similarly, Justice Vidallon-Magtolis was convinced that the alleged pay-off took place, as complainant Zarate and

Ms. Mercado clearly testified to the occurrence thereof. Despite the fact that Ms. Mercado did not actually witness the delivery of the envelope containing the P10,000.00 by Atty. Zarate to respondent judge, and the receipt thereof by the latter, the act of Zarate in spontaneously spreading his arms and indicating to Ms. Mercado in no uncertain terms that he had already delivered the money after coming out of respondent judge's chamber may be considered as part of the *res gestae* under Section 42, Rule 130 of the Revised Rules of Court. Zarate's statement was uttered immediately after the startling occurrence of respondent judge actually accepting the money without any qualms had just occurred, and at the time of the utterance, Zarate clearly did not have any opportunity to reflect, or contrive or devise a fabrication.

Justice Vidallon-Magtolis observed that the testimony of Atty. Zarate on the actual pay-off was not damaged but was in fact strengthened on cross-examination.

As to the confrontation meeting between the parties in Executive Judge Cosico's chamber on January 13, 1994, the investigating Justice held that the same could not have been called by Executive Judge Cosico with the intent to meddle in the election case from which he had earlier inhibited himself. Rather, the meeting was called to settle the differences between Atty. Zarate and respondent judge since by then, Zarate was already poised to file administrative charges against respondent judge. But what is most significant about the said meeting is the testimony of Atty. Brion thereon, who declared that he arrived late for the said meeting, but upon entering Executive Judge Cosico's chamber, he heard respondent judge make the declaration that he thought the P10,000.00 received by him from Atty. Zarate was given in the spirit of Christmas.

As noted by Justice Vidallon-Magtolis, respondent judge's denial of ever receiving P10,000.00 from Atty. Zarate is shallow and unconvincing in view of the fact that it is uncorroborated by any other evidence.

Respondent judge asserts that the contents of the envelope marked "Municipality of Sta. Rosa" was the P5,000.00 allowance for his attendance at the World Law Conference, and that the same was personally delivered to him by Baby Cruz and Cynthia Gomez Mercado. But these allegations are worthless since respondent judge did not even present Baby Cruz, an employee of his court, to substantiate the said claims. On the other hand, Cynthia Gomez Mercado categorically denied that she participated in the delivery of respondent judge's allowance for the World Law Conference, although she admitted knowing about the request for such allowance, as the same was submitted to the Municipality of Sta. Rosa, of which she is the municipal secretary. Moreover, Mrs. Mercado testified on cross examination that the allowance was paid in check and not in cash, considering that there was no prior allocation therefor, and that the same was taken from Mayor Gonzales' discretionary fund. Investigating Justice Vidallon Magtolis was convinced that Mercado was telling the truth in view of her spontaneous answers and her demeanor on the witness stand.

Respondent judge emphasizes the fact that herein complainant Atty. Zarate filed the instant administrative case only after respondent judge had denied his motion for reconsideration of the order dated December 1, 1993 directing the revision of ballots to proceed, his motion for suspension of the revision, as well as his motion for respondent judge's inhibition on the ground that he is only a temporary judge in Binan. Atty. Zarate admitted that he filed administrative charges against respondent judge only after the denial of the foregoing motions filed by him, but explained that this was due to the request of other judges, including Executive Judge Cosico to "go slow" in filing an administrative case against respondent judge. Zarate added that his motion for respondent judge's inhibition on the ground of the latter being a temporary judge was in fact suggested by another judge, Judge Sultan, in order that respondent judge will be afforded an opportunity to inhibit himself from the election case without any damage to his professional reputation.

Justice Vidallon-Magtolis found Zarate's explanations to be plausible. Said investigator took note of the fact that

practicing lawyers usually exercise caution before filing administrative charges against judges. Thus, Justice Magtolis did not find it far-fetched that Zarate heeded the request of other judges not to immediately file a case against respondent judge. It was only after a series of setbacks in the election case which convinced Zarate that respondent judge was favoring the opposing party that he filed charges against respondent judge.

The Investigating Justice likewise took note of respondent's admission that he frequents the Abyss Karaoke Bar to sing his favorite songs and to dance with the owner, Mrs. Annie Chua, and the Aspen Lodge Motel to chat with friends and former clients who own the establishment. Although Justice Vidallon-Magtolis observed that there is nothing wrong per se in going to such places, nonetheless, respondent judge failed to explain his being seen in the aforementioned public places in the company of one Bing Peralta, who is known to be a political leader of protestant Arcillas in Election Case No. B-1530, as well as hostesses. For this behavior, Justice Vidallon-Magtolis held that respondent judge failed to maintain himself above reproach and suspicion, thus falling short of the exacting standards of conduct required of a member of the bench.

Canons 2 and 3 of the Code of Judicial Ethics mandates that a judge should avoid impropriety and the appearance of impropriety in all activities and a judge should perform official duties honestly, and with impartiality and diligence (cited in *Office of the Court Administrator v. Gaticales*, 208 SCRA 508 [1992]).

In the case of *Mejia v. Pamaran* (160 SCRA 457 [1988]), it was held that:

"Those who are involved in the administration of justice from the highest to the lowest level must live up to the strictest standard of honesty and integrity in the public service. The general public should respect and support such imperative. No attempt to influence them one way or the other much less to bribe them should be made. One cannot buy a bad case nor sell a good one. No amount of money can make out a good case out of a bad one. And even if one succeeds in so doing it would certainly be uncovered and reversed on appeal. Justice will prevail."

The Court fully agrees with the findings of Investigating Justice Magtolis.

As to respondent's counter-allegation against Atty. Zarate, particularly that the latter offered respondent the sum of P500,000.00 as consideration for respondent's resolving the election contest in favor of Zarate's client, respondent utterly failed to adduce any shred of evidence to substantiate the said claim.

Considering the foregoing, respondent Judge Roberto B. Romanillos is hereby found guilty of grave and serious misconduct affecting his integrity and honesty. He deserves the supreme penalty of dismissal. However, respondent, in an obvious attempt to escape punishment for his misdeeds, tendered his resignation during the pendency of this case. His resignation as Presiding Judge of the Regional Trial Court, Branch 13, Basco, Batanes, effective September 9, 1994, was accepted by President Fidel V. Ramos in a letter to respondent dated October 6, 1994. The letter of the President was transmitted by Executive Secretary Teofisto T. Guingona, Jr. to respondent through the Chief Justice on October 10, 1994. Consequently, we are now precluded from dismissing respondent from the service. Nevertheless, the ruling in *People v. Valenzuela* (135 SCRA 712 [1985]), wherein the respondent judge likewise resigned before the case could be resolved, finds application in this case. Therein it was held that the rule that the resignation or retirement of a respondent judge in an administrative case renders the case moot and academic, is not a hard and fast rule. In the aforesaid *Valenzuela* case (supra.), this Court citing *Perez v. Abiera* (64 SCRA 302 [1975]), held that:

"xxx (T)he jurisdiction that was Ours at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased to be in office during the pendency of his case. The Court retains its jurisdiction either to pronounce the respondent official innocent of the charges or declare him guilty thereof. A contrary rule would be fraught with injustices and pregnant with dreadful and dangerous

implications. x x x If innocent, respondent official merits vindication of his name and integrity as he leaves the government which he has served well and faithfully; if guilty, he deserves to receive the corresponding censure and a penalty proper and imposable under the situation."

ACCORDINGLY, in view of our aforestated finding that respondent Judge Romanillos is guilty of grave and serious misconduct which would have warranted his dismissal from the service had he not resigned during the pendency of this case, and it appearing that respondent has yet to apply for his retirement benefits and other privileges if any; the Court, consistent with the penalties imposed in Valenzuela (supra.), hereby orders the FORFEITURE of all leave and retirement benefits and privileges to which herein respondent Judge Romanillos may be entitled WITH PREJUDICE to reinstatement and/or reemployment in any branch or instrumentality of government, including government-owned or controlled agencies or corporations.

SO ORDERED.

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

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