

RAYMUNDO G. GARCIA, COMPLAINANT, VS. JUDGE AMANTE Q. ALCONCEL OF THE CIRCUIT CRIMINAL COURT OF MANILA, RESPONDENT.

Adm. Mat. No. 2499-CCC. January 30, 1982

Ponente: AQUINO, J.

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AQUINO, J.:

Justice Lorenzo Relova, the Court Administrator, submitted the following report on this case:

"This administrative complaint stemmed from a decision dated July 11, 1980 which acquitted the accused Isabelo T. Crisostomo in Criminal Cases Nos. CCC-VI-2329, CCC-VI-2330 and CCC-VI-2331. The dispositive portion of the decision rendered by respondent Judge Amante Q. Alconcel reads:

"Wherefore, the Court finds the accused, Isabelo T. Crisostomo, not guilty of the violations charged in all these three cases and hereby acquits him therefrom, with costs de oficio. The bail bonds filed by said accused for his provisional liberty are hereby cancelled and released.

"Pursuant to the provisions of Section 13, R.A. No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, and under which the accused has been suspended by this Court in an Order dated October 22, 1976, said accused is hereby ordered reinstated to the position of President of the Philippine College of Commerce, now known as the Polytechnic University of the Philippines, from which he has been suspended. By virtue of said reinstatement, he is entitled to receive the salaries and other benefits which he failed to receive during suspension, unless in the meantime administrative proceedings have been filed against him.

"The bail bonds filed by the accused for his provisional liberty in these cases are hereby cancelled and released."

"The verified complaint alleged that Judge Alconcel violated Section 13 of the Anti-Graft and Corrupt Practices Act when upon acquitting the accused Crisostomo payment of his salaries and other benefits were also ordered; violated the Constitution when he ordered the reinstatement of Crisostomo notwithstanding the fact that President Ferdinand E. Marcos had already appointed Dr. Pablo T. Mateo, Jr. as the permanent president of the Polytechnic University of the Philippines for a term of six (6) years; and violated the Revised Penal Code when he rendered an unjust judgment in said cases, actuated as he was with resentment and malice towards the prosecution witnesses who had denounced him to the Supreme Court.

"On the charge of violating Section 13 of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, respondent explained that his judgment of reinstatement and payment of salaries are subject to the condition that no administrative proceedings have been filed against Crisostomo, as in fact, he had denied in an order dated August 26, 1980 a motion for the issuance of a writ of execution as follows:

"This is a motion praying that a writ of execution be issued directing the Board of Regents and the Secretary of the Polytechnic University of the Philippines, ordering them to reinstate the accused to his position as President of the said University. It is admitted that administrative proceedings have been filed against said

accused which are still pending investigation.

'Undoubtedly, the reinstatement of the accused and his entitlement to the salaries and benefits which he failed to receive during suspension were based on Section 13 of R.A. No. 3019, as amended. The said section provides that such reinstatement and entitlement to salaries and benefits are dependent upon the non-existence of administrative proceedings filed against the accused.

'Moreover, the situation presently obtaining in the Polytechnic University of the Philippines is such that a permanent head has already been appointed by the President of the Philippines, a fact which has never been ventilated during the trial of these cases.

'In the opinion of the Court, said situation may require a determination as to who is entitled to the position of President of the Polytechnic University of the Philippines which is not within the province of the Circuit Criminal Court.

'Wherefore, the motion at bar is denied, for lack of merit.'

"With respect to the second charge, respondent argued that at the start of the trial he suspended Crisostomo pursuant to Section 13 of RA No. 3019. Upon acquittal, however, he had to order his reinstatement. But, considering that President Marcos has appointed another to the position, 'then the accused Isabelo T. Crisostomo who had been ordered reinstated must 'vacate' his office as mandated by Section 9, Article XVII.'

"Relative to the charge of violation of the Revised Penal Code, he averred that the same is a wild accusation 'which could only come from a prejudiced and guilt-oriented mind.'

"It is clearly manifest that there is nothing wrong in respondent's decision which ordered reinstatement and payment of salaries after the acquittal of the accused Crisostomo. They are the necessary consequence when the Court found him innocent of the crimes charged; otherwise, it would be inconsistent to a finding of not guilty. Section 13 of RA 3019 provides:

'SEC. 13. . . . but if he is acquitted he shall be entitled to reinstatement and to the salaries and benefits which he failed to receive during suspension, unless in the meantime administrative proceedings have been filed against him' (Italics supplied).

"And, the fact that somebody was appointed to the position of President of the University is of no moment. It would only mean that the accused Crisostomo must have to vacate the office as mandated by Section 9, Article XVII of the Constitution which provides:

'SEC. 9. All officials/employees in the existing Government of the Republic of the Philippines shall continue in office until otherwise provided by law or decreed by the incumbent President of the Philippines, but all officials whose appointments are by this Constitution vested in the Prime Minister shall vacate their respective offices upon the appointment and qualification of their successors.'

"At any rate, it is a well established pronouncement by the Court that 'only after the appellate court holds in a final judgment that a trial judge's alleged errors were committed deliberately and in bad faith may a charge of knowingly rendering an unjust decision be levelled against a trial judge' (Gahol vs. Riodique, 64 SCRA 494; Sta. Maria vs. Ubay, 87 SCRA 179).

"Wherefore, the undersigned respectfully recommends the dismissal of these charges for lack of merit."

Complainant Garcia was the executive dean of the Polytechnic University of the Philippines, formerly the Philippine College of Commerce, of which Crisostomo used to be the president. Garcia retired.

At the trial of the anti-graft case, Crisostomo testified that Garcia was relieved of his duties as acting dean of

undergraduate studies because he "was always sick, lying on (in) his chair and unable to attend to his duties, thereby causing him to lose the privileges which attached to the position of acting dean."

After a careful consideration of the complaint and respondent's comment thereon and the Court Administrator's evaluation thereof, we find that there is no merit in the complaint. Hence, it is hereby dismissed.

Contempt incident against lawyer Jose A. Subida. — Complainant Garcia was asked to file a reply to Judge Alconcel's comment. Lawyer Jose A. Subida, 47, admitted to the bar in 1974, filed in this Court an abrasive and intemperately worded reply containing the following "innuendoes and depreciatory" comments casting contempt and ridicule on respondent judge:

"... Complainant would have told him on his face then that absolute loss of confidence in the capacity of respondent judge to conduct trial ..."

"... Atty. Subida who was aghast as the aberrant behavior of respondent judge ... What kind of judge does the country have here?"

"... He promulgated his judgment in the criminal cases against the accused without acting on the said motion or petition. What kind of judicial proceeding is this?"

"... Is being called to the witness stand in the courts an occasion for the delivery of a Plaza Miranda style of speech?"

"Complaint cannot say whether or not respondent judge's explanation is a joke. But if it were, the joke could make the members of the Supreme Court die laughing. If respondent judge is in earnest, his explanation smacks of intellectual dishonesty. It is an egregious affront to the intelligence of the Honorable members of the Supreme Court."

"Does respondent judge know that once a judgment has become final and executory, the prevailing party is entitled to a writ of execution and the issuance of the writ is the court's ministerial duty ..."

"... His said order is itself a judicial aberration."

"... Unavoidably, this makes respondent judge more ignorant of current events than the rest of mankind."

"This contention of respondent judge betrays his lack of appreciation of his duty as a judge. Whether he knows it or not, respondent judge is an investigator of facts."

"His resort to argumentum ad hominem is most unbecoming of a judge, to say the least."

Respondent contends that the foregoing derogatory and disrespectful remarks serve to discredit not only himself but also this Court.

Respondent invokes the dictum set forth by Chief Justice Fernando in *Fortun vs. Labang*, L-38383, May 27, 1981, 104 SCRA 607, 616, that "a judge of an inferior court is deserving of the full protection of this tribunal against any form of vexation, inconvenience or harassment, the more so when, as is quite evident, haste and recklessness marked the conduct" of complainant's counsel.

Subida was required in this Court's resolution of October 26, 1981 to comment on Judge Alconcel's motion that he (Subida) be suspended for gross misconduct or punished for contempt of court. He received a copy of that resolution on November 13, 1981. Up to this time, he has not submitted his comment.

We hold that Subida's use of offensive language in his reply constitutes improper conduct or misbehaviour which, being a breach of judicial decorum, degrades the administration of justice and constitutes contempt of court.

A lawyer, being an officer of the court, should "observe and maintain the respect due to the courts of justice and judicial officers." He should respect the court, "not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its importance" and support the courts against "unjust criticism and clamor" (Sec. 20[b], Rule 138; Canon 1 of Professional Ethics).

A lawyer's oath binds him to observe good fidelity to the courts. He should not perform an act "involving any disrespect to the judicial office which he is bound to uphold" (Lualhati vs. Albert, 57 Phil. 86, 92). He should not use language which jeopardizes high esteem in courts, creates or promotes distrust in judicial administration, or which could have the effect of "harboring and encouraging discontent which, in many cases, is the source of disorder, thus undermining the foundation upon which rests that bulwark called judicial power to which those who are aggrieved turn for protection and relief" (Rheem of the Philippines vs. Ferrer, L-22979, June 26, 1967, 20 SCRA 441, 445).

As stressed in another case, a lawyer's duty is to uphold the dignity and authority of the courts to which he owes fidelity, "not to promote distrust in the administration of justice" (Surigao Mineral Reservation Board vs. Cloribel, L-27072, January 9, 1972, 31 SCRA 1, 16-17).

A lawyer who has a legitimate cause for grievance against a judge has the right to complain and ask that disciplinary action be taken against the erring judge, but he should use decorous and judicious language, not the vulgar expressions of derision and vilification. "Discipline and self-restraint on the part of the bar even under adverse conditions are necessary for the orderly administration of justice" (Malcolm, Legal and Judicial Ethics, 1949 Ed., 161-162).

For the contempt of court committed by lawyer Subida, which was aggravated by his unexplained failure to comply with this Court's resolution requiring him to comment on Judge Alconcel's motion, he is severely censured. The offensive and insolent expressions, which he used in his reply, are stricken out of the record. A copy of this resolution should be attached to his personal record in the Bar Confidant's office.

SO ORDERED.

Barredo (Chairman), Concepcion Jr., Abad Santos, De Castro, Ericta and Escolin, JJ., concur.

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