

ATTY. HERMOGENES DATUIN, JR., COMPLAINANT, VS. JUDGE ANDRES B. SORIANO, REGIONAL TRIAL COURT OF MALOLOS, BULACAN, RESPONDENT.

A.M. No. RTJ-01-1640. October 15, 2002

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Recreant members of the judiciary must be denounced, but only when charges against them are substantiated. The administrative complaint at bar presents no such occasion.

The complaint arose from Civil Case No. 1335-8 (the civil case), a complaint for sum of money filed before the Regional Trial Court at Malolos, Bulacan on December 24, 1998 by a certain Olivia Natividad against one Teresita Lopez, which was raffled to Branch 13 thereof presided by Judge Andres B. Soriano, herein respondent. In said civil case, herein complainant Atty. Hermogenes Datuin, Jr. appeared as counsel for the defendant.

On October 13, 1999, in the course of the trial of the civil case, complainant filed a Motion for Disqualification of respondent the pertinent allegations of which read verbatim as follows:

- In the pre-trial conference of September 21, 1999, the Presiding Judge Hon. Andres B. Soriano, showed his partial and bias attitude in favor of the plaintiff by arrogantly hollering at counsel for the defendant without any justifiable cause or motive.
- When approached in Chamber the above-named Presiding Judge intimated to the defendant that should there be a buyer of the property covered by TCT No. 368418 of the defendant which is worth Ten (10) Million Pesos and which is admittedly being illegally withheld by the plaintiff without justifiable reason and which title has nothing to do with the subject matter of the plaintiff's claim of Php 531,000.00, the buyer should be made to appear before Him; thus, clearly showing His interest in the prospective transaction.
- After the pre-trial was concluded on September 21, 1999, the abovenamed Judge issued an order which, in its pertinent portion, reads as follows: "Pre-trial proceeded and in due course was concluded", without, however, reciting in detail the matters taken up in the conference contrary to and in violation of Rule 18, Sec. 7, . . . (Italics supplied).

Claiming that respondent failed to resolve the Motion for Disqualification for about three months, complainant filed a letter dated January 10, 2000, which was received at the Office of the Chief Justice on January 20, 2000, attributing to respondent "incompetency to hear and decide cases" and requesting that the motion be treated as an administrative charge against respondent "for removal from office".

Complainant's letter-complaint was endorsed for appropriate action to the Office of the Court Administrator (OCA) which, by 1st Indorsement dated February 9, 2000, directed respondent to file a Comment within ten (10) days from receipt thereof.

Respondent thus filed his Comment on March 7, 2000 denying the alleged non-resolution within three months of the Motion for Disqualification and claiming that 1) his grant of said motion by Order of December 27, 1999 disproves his alleged bias in favor of the plaintiff, 2) granting, for the sake of argument, that hollering at complainant at the September 21, 1999 pre-trial were true, that does not by itself demonstrate bias or partiality, and 3) he intended to subsequently issue the pre-trial order contemplated in Section 7 of Rule 18 of the 1997 Rules of Civil Procedure upon the “completion” of the transcript of stenographic notes taken during the pre-trial.

By Resolution of July 11, 2001, this Court’s Third Division referred the case to the Presiding Justice of the Court of Appeals (CA) for raffle among its associate justices, with the directive that the Associate Justice to whom the case is assigned SUBMIT his/her investigation, report and recommendation within sixty (60) days.

The OCA accordingly forwarded to the CA the record of the case which was raffled to CA Associate Justice Bienvenido L. Reyes for investigation, report and recommendation.

After conducting a hearing on September 19, 2001, the Investigating Justice submitted a REPORT on May 2, 2002 partly stating as follows:

After a circumspect reading of the records, We find nothing in the conduct of the respondent that would warrant any punitive action from the High Court. Outside his naked assertions, the imputation of impartiality against the public respondent was not amply substantiated by the complainant. In this regard, it needs to be underscored that in administrative cases akin to the instant controversy, it is the complainant who totes the burden of proving the respondent judge’s liability (*Concepcion v. Vela*, Adm. Matter No. 309-MJ, May 31, 1976, 71 SCRA 133). The evidence presented [is] not sufficiently convincing to compel the exercise of the disciplinary powers of the Supreme Court. We cannot simply syllogize on the culpability of the respondent judge on the basis of evidence which [is], at best, inconclusive and conjectural. (*Italics supplied*).

x x x x x x x x

Under pain of redundancy, the evidence proffered by the complainant, which consists chiefly of suppositions and uncorroborated statements, fall[s] short to discharge the compulsory burden of proof beyond reasonable doubt. Collectively, [it] fail[s] to establish that the public respondent was indeed inspired by any selfish intent and that he bore personal bias which is susceptible to obscure the merits of the case, betray the respondent’s objectivity and jeopardize his sense of judgment. The fact that even before an administrative case was filed against the respondent judge, he had already inhibited himself from the case belies the claim that he was partial to the complainants and that he took special interest in the property subject of the litigation. (*Italics supplied*).

The Investigating Justice thus recommended the dismissal of the complaint against respondent.

The recommendation is well-taken.

It is settled that in administrative proceedings the complainant has the burden of proving, in general by substantial evidence, the allegations in the complaint.[1] This complainant failed to discharge.

The Motion for Disqualification filed by complainant had already been granted by respondent, before the former lodged his letter-complaint, in order, to use respondent’s words, “to assure the parties that the civil case will be heard and tried without regard to personalities”.

With respect to complainant’s allegation that respondent yelled at him, absent evidence as to its content as well as the circumstances under which it was made, its import cannot be appreciated, hence, this Court cannot be so rash as to condemn respondent to punitive action.

Neither can this Court fault respondent on the basis of his intimation that should there be a buyer of the property subject of the civil case, the buyer “must be made to appear before him”. For complainant did not dispute at the

hearing of the present complaint before the Investigating Justice on September 21, 2001 that the “intimation” was made by respondent in open court in his attempt to settle the civil case before his sala.[2] The argument that respondent won’t be asking that the buyer be presented to him if he had no hidden agenda[3] is unadulterated speculation, hence, deserves no weight.

Respondent’s efforts to have the parties arrive at an amicable settlement in fact shows that he was carrying out the mandate to consider during pre-trial the possibility of an amicable settlement.[4]

Notatu dignum is the presumption of regularity in the performance of a judge’s functions[5], hence, bias, prejudice and even undue interest cannot be presumed, especially weighed against a judge’s sacred allegation under oath of office to administer justice without respect to any person and do equal right to the poor and the rich.[6]

As for respondent’s alleged violation of Section 7 of Rule 18 of the 1997 Code of Civil Procedure which reads:

SEC. 7. Record of pre-trial.—The proceedings in the pre-trial shall be recorded. Upon termination thereof, the court shall issue an order which shall recite in detail the matters taken up in the conference; the action taken thereon, the amendments allowed to the pleadings, and the agreements or admissions made by the parties as to any of the matters considered. Should the action proceed to trial, the order shall explicitly define and limit the issues to be tried. The contents of the order shall control the subsequent course of the action, unless modified before trial to prevent manifest injustice,

it is a matter of public policy that in the absence of fraud, dishonesty or corruption, the acts of a judge in his judicial capacity are generally not subject to disciplinary action, even though such acts are erroneous.[7] For a judge may not be held administratively accountable for every erroneous order or decision he renders. To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment.[8]

In respondent’s case, he has explained that his Order of October 21, 1999 was not the pre-trial order contemplated in above-quoted Section 7 of Rule 18 as he was wont to issue one only after the transcription of the stenographic notes taken during the pre-trial was completed to make sure that all the matters therein taken up are reflected in the order.[9] No prohibition against said practice is contained in the aforecited rule, and absent any showing of fraud, dishonesty or corruption on respondent’s part, no disciplinary action lies against him.[10]

With respect to the charge of incompetence,[11] complainant has failed to establish the same by the requisite proof.

Respondent’s alleged inaction on the Motion for Release of Title filed by complainant on September 7, 1999 opposition to which was filed on October 7, 1999 cannot amount to incompetence. For the Motion for Disqualification subsequently filed by complainant on October 18, 1999 had assailed the very objectivity of respondent to act on the civil case, which latter motion he granted, thus rendering unnecessary his resolution of the Motion to Release Title.

With regard to complainant’s invocation[12] of paragraph 1-A (2) (d) of Supreme Court Circular No. 1-89 which provides that “if a trial is to be conducted, the judge shall fix the necessary trial dates to complete the presentation of evidence by both parties within 90 days from initial hearing”, he has failed to show its application to the present complaint. If he seeks to apply this provision to the alleged failure of respondent to resolve the Motion for Disqualification within three months, he (complainant) failed to refute respondent’s claim that the motion was submitted for resolution on November 16, 1999 and was resolved on December 27, 1999[13] or within the 90-day period.

A word on the following italicized utterances of complainant addressed to respondent during the hearing of September 19, 2001 before the Investigating Justice:

ATTY. DATUIN:

Judge, why don't you be candid.

Judge, you should be candid.

There are three titles. The trouble with you, you don't even memorize the matters taken in the proceedings.[14]

X X X X X X X X

The trouble with you (referring to complainant) is you don't know your law.[15]

X X X X X X X X

ATTY. DATUIN:

That is his main reason even in his Motion for Reconsideration that is provided under the rules of court, that a judge should wait for the transcript.

I don't understand because I have been practising for half a century.

Earlier judges were very smart then.

Immediately after every incident submitted, they rule.

I don't understand why counsel is not candid.[16]

X X X X X X X X (Italics supplied).

As a member of the bar, complainant is charged with the duty to conduct himself with courtesy, fairness and candor toward his professional colleagues[17], and to avoid using language which is abusive, offensive or otherwise improper.[18] For public confidence in the legal system may be eroded by the unfitting deportment of a member of the bar.

WHEREFORE, finding the charges against respondent without adequate factual and legal bases, they are hereby DISMISSED.

SO ORDERED.

Puno (Chairman), Panganiban, Sandoval-Gutierrez, and Corona, JJ., concur.

[1] Lorena v. Encomienda, 302 SCRA 632, 641 (1999) (citation omitted); see Office of the Court Administrator v. Sumilang, 271 SCRA 316, 324 (1997).

[2] Rollo at 56.

[3] Id. at 57.

[4] RULES OF COURT, Rule 18, Sec. 2 (a); see SC CIRCULAR No. 1-89, par. I-A (2) (a).

[5] People v. Belaro, 307 SCRA 591, 600 (1999); RULES OF COURT, Rule 131, Sec. 3 (m).

[6] Soriano v. Angeles, 339 SCRA 366, 375 (2000) (citations omitted).

[7] *Canson v. Garchitorena*, 311 SCRA 268, 287 (1999) (citations omitted).

[8] *Santos v. Orlino*, 296 SCRA 101, 106-107 (1998) (citations omitted).

[9] *Rollo* at 45.

[10] Said practice does not defeat the purpose of a pre-trial as pronounced by this Court in *Son v. Son*, 251 SCRA 556, 564 (1995):

A pre-trial is meant to serve as a device to clarify and narrow down the basic issues between the parties, to ascertain the facts relative to those issues and to enable the parties to obtain the fullest possible knowledge of the issues and facts before civil trials and thus prevent that said trial from being carried on in the dark. Pre-trial is primarily intended to make certain that all issues necessary to the disposition of a case are properly raised. Thus, to obviate the element of surprise, parties are expected to disclose at a pre-trial conference all issues of law and fact which they intend to raise at the trial, except as may involve privilege or impeaching matters. The determination of issues at a pre-trial conference bars the consideration of other questions on appeal.

[11] The CODE OF JUDICIAL CONDUCT of course provides that “[a] judge should be the embodiment of competence, integrity and independence” (CANON 1, Rule 1.01). Incompetence has been defined as “[t]he state or fact of being unable or unqualified to do something” [BLACK’S LAW DICTIONARY 768 (7th ed. 1999)].

[12] *Rollo* at 36.

[13] *Id.* at 37, 43.

[14] *Id.* at 54.

[15] *Id.* at 56.

[16] *Id.* at 63.

[17] CODE OF PROFESSIONAL RESPONSIBILITY, CANON 11.

[18] *Id.* CANON 8, Rule 8.01

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