

JOSE RAÑOSA, COMPLAINANT, VS. JOSE R. GARCIA, RESPONDENT.

Adm. Mat. No. P-113. February 25, 1975

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

Respondent Jose R. Garcia, branch clerk of court of the Court of First Instance of Albay, Branch II, at Legaspi City, stands charged by complainant Jose Rañosa in a telegram-complaint dated October 3, 1972 for illegal practice of law for having appeared as attorney for plaintiffs in an illegal detainer case wherein complainant was defendant,[1] notwithstanding the civil service prohibition[2] against his doing so as a full-time officer of the court.

The investigation report submitted by Judge Arsenio G. Solidum[3] shows that from an examination of the records of the illegal detainer case "the [City] Court recognized [respondent] Atty. Jose R. Garcia as truly the counsel for the plaintiffs when it sent notices to the plaintiffs through him. Likewise, in recognition of his being the counsel for the plaintiffs, the lawyer for the defendants furnished him copies of pleadings." [4]

These findings of the investigating judge were duly documented, including an extensive eight-page "Opposition to defendants' 'Motion to Set Aside Order of Default' "with citations of authorities and jurisprudence signed by respondent as "counsel for plaintiffs."

Respondent, while denying having appeared as counsel for plaintiffs in the case, did admit in his comment that therein plaintiff Balsarza "is a long-time friend" who filed the complaint only after receiving his advice that the "complaint was 'alright'"; that when he met said Balsarza in a "chance meeting" at the City Court and Balsarza saw him "talking with the Judge in chambers," Balsarza approached him and consulted him about the meaning of summons, and he suggested that "Balsarza should better file a motion to declare the defendant in default;" and that "for dear old time's sake" he acceded to Balsarza's pleas to make the motion and "dictated to him (Balsarza) two or three paragraphs which he later reduced in typewritten form." Respondent passingly mentioned that complainant's motion to set aside the default order "was opposed by Balsarza" and denied "for lack of merit" without mentioning that it was he (respondent) who prepared and signed the extensive eight-page opposition thereto as "counsel for plaintiffs."

The investigating judge's conclusion that there is here "a clear and patent instance of illegal practice of law" is duly substantiated by the record.

Respondent's duties and responsibilities as branch clerk of court require that his entire time be at the disposal of the court served by him (sections 58 and 59 of the Judiciary Act, as amended) and hence under the cited civil service rule, respondent is well nigh absolutely prohibited from engaging in the practice of law and appearing as counsel or giving professional advice to litigants in a lawsuit as the same is clearly incompatible with the duties and functions of his office. The rule is designed to help maintain public confidence in the courts of justice and their officers and personnel and to remove from the latter any temptation or occasion for using their official position for private ends or gains, whether or not monetary compensation be involved, as well as to assure that

full-time officers of the courts such as respondent render the full time service required by their office so that there may be no undue delay in the administration of justice and in the disposition of cases as required by the Rules of Court.

Respondent's proffered justification that "no monetary consideration was involved except a cup of coffee to which Mr. Rañosa was also invited" and that his admitted intervention in his friend's case was "purely casual, unintended and isolated" and later to help try to effect an amicable settlement cannot excuse his grave infraction of the cited civil service prohibition. Worse, the record shows his claim to be false. In Administrative Case No. 54 for inefficiency and illegal practice of law filed against him on February 28, 1972, and investigated by Judge Roberto Zurbano of the Court of First Instance of Albay per his report dated May 4, 1972, it was duly established that respondent appeared as counsel in Case No. R06-WCU-A035 entitled "Jose Arcos, claimant vs. Golden Grace Department Store, respondent" and in Civil Case No. 888 of the City Court of Legaspi City entitled "Jose Arcos, plaintiff vs. Yu Su Peng, etc., defendant" wherein he appeared and attended the hearings on December 8, 1969 (in the first case) and the hearings on January 23, 1970 and March 13, 1970 (in the latter case). Respondent admitted the facts charged against him in his answer but made the same claim that he was not paid and merely helped a friend.

The dismal consequence of such unauthorized practice of law by respondent leading him to be inefficient and neglectful in the discharge of his official duties is shown in the record of said Adm. Case No. 54 where the investigating judge found him guilty as charged of having incurred long delays in his duty (despite repeated requests of counsel) to transmit to the appellate courts the duly approved records on appeal in appealed cases within the ten-day reglementary period — in some cases for as long as three years' delay.[5]

Hence, the Secretary of Justice in a 3rd indorsement dated March 16, 1973 to the President of the Philippines of said Adm. Case No. 54 recommended respondent's separation from the service by way of considering him resigned from the service. Action thereon however was overtaken by the proclaimed effectivity of the 1973 Constitution whereunder the power of administrative supervision and discipline over all inferior courts and personnel was transferred to this Court. In view of respondent's transgressions and poor record of service, his continuation in the service can no longer be tolerated.

ACCORDINGLY, the respondent is ordered DISMISSED from the service.

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

[1] Civil Case No. 1149 of the City Court of Legaspi, Branch II, entitled "Leonardo Balsarza, et al., plaintiffs vs. Jose O. Rañosa, et al., defendants."

[2] Rule XVIII, section 12 of the Revised Civil Service Rules provides that: "No officer or employee shall engage directly in any private business, vocation, or profession or be connected with any commercial, credit, agricultural, or industrial undertaking without a written permission from the head of Department: Provided, That this prohibition will be absolute in the case of those officers and employees whose duties and responsibilities require that their entire time be at the disposal of the Government: Provided, further, That if an employee is granted permission to engage in outside activities, the time so devoted outside of office hours should be fixed by the chief of the agency to the end that it will not impair in any way the efficiency of the officer or employee: And provided, finally, That no permission is necessary in the case of investments, made by an officer or employee, which do not involve any real or apparent conflict between his private interests and public duties, or in any way influence him in the discharge of his duties, and he shall not take part in the management of the enterprise or become an officer

or member of the board of directors." Executive Order 103, Series of 1913 contains substantially the same provisions.

[3] The investigation was transferred to Judge Solidum by the Executive Judge, Hon. Ezequiel S. Grageda since respondent was appointed to and was serving in the latter's branch (Branch II) as branch clerk of court.

[4] Notes in brackets supplied.

[5] Civil Cases Nos. 512, 526 and 925 jointly heard by Branch II of the Albay court of first instance and Civil Cases Nos. 3359, 3535, among others, as to which the investigating judge found that: "(I)t appears that Civil Cases Nos. 512, 526 and 925 were heard jointly by the CFI of Albay, Branch II. The decision was rendered on January 26, 1967. The joint records on appeal that were filed by Attys. Rodolfo A. Madrid and Moises C. Kallos were approved on July 25, 1968 and on February 12, 1970, respectively, and they were only elevated to the Court of Appeals on March 10, 1972; in Civil Case No. 3359 which was also heard by Branch II of the CFI of Albay, the record on appeal was also approved on July 10, 1968 and it was elevated to the Court of Appeals on January 28, 1970; in Civil Case No. 3535 which was similarly heard by Branch II of the CFI of Albay, the record on appeal was approved on November 24, 1970 and it was elevated to the Court of Appeals on November 18, 1971; in Civil Case No. 1705, erroneously numbered in the complaint as Civil Case No. 1708, the record on appeal was approved on August 22, 1969 and it is not shown that the record on appeal has been elevated to the Court of Appeals; and the records of Civil Case No. 1776 and Naturalization Case No. 90 were not produced by the respondent despite the letter that was sent to him by the Clerk of Court, thus there is no way of ascertaining when the records on appeal were approved and elevated to the Court of Appeals and to the Supreme Court, respectively. However, the respondent said that the petitioner in Naturalization Case No. 90 has withdrawn his appeal but as the record was not produced it could not be ascertained whether the petitioner has really withdrawn his appeal."

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