

MUNICIPAL COUNCIL OF CASIGURAN, QUEZON, COMPLAINANT, VS. MUNICIPAL JUDGE VIRGILIO Y. MORALES, CASIGURAN, QUEZON, RESPONDENT.

Adm. Mat. No. 81-MJ. November 13, 1974

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

These are two administrative cases (Nos. 20 and 22 of the Court of First Instance of Aurora Subprovince), against Municipal Judge Virgilio Y. Morales of Casiguran, Quezon, which were both formally investigated by the Hon. Ernesto P. Valencia, then District Judge of Aurora Sub-Province, at Baler, Quezon. The first (No. 20) was filed in the form of a petition by Tomas Manzanero, addressed to the Secretary of Justice on March 10, 1971, charging respondent with alleged "abuses and unbecoming acts" in relation to an incident that happened in Casiguran, Quezon, on December 12, 1970, wherein respondent allegedly participated in divesting Tomas Manzanero of his licensed 22 caliber pistol and the subsequent refusal of respondent to return the gun notwithstanding the complainant's demand. The second, (No. 22), emanated from resolution No. 91 or (93) of the Municipal Council of Casiguran, Subprovince of Aurora, Quezon, dated August 22, 1972, requesting an investigation of respondent's frequent unauthorized absences and improper performance of his duties, constituting neglect of duty.

Both complainants and respondent presented their evidence to the Investigator (District Judge) who submitted the corresponding Report and Recommendation for respondent's exoneration in Case No. 20 and finding him liable in Case No. 22, with a recommendation in the latter case for his suspension of six months without pay.

The only issue to be resolved in Case No. 20, is whether or not the respondent participated or connived with other persons during the incident that happened within the Poblacion of Casiguran, Quezon, between 9:00 and 10:00 o'clock in the evening, on December 12, 1970, wherein the complainant Tomas Manzanero was divested of his licensed 22 caliber pistol, and for the respondent's alleged refusal to return it even after the complainant demanded its return. Respondent, in his answer dated August 18, 1971, completely denied complainant's version of the incident and claimed that the complainant's pistol came into the custody of the Municipal Court of Casiguran, Quezon, because a criminal complaint for attempted homicide (Criminal Case No. 145 of the Municipal Court of Casiguran) was filed by Sgt. Esequias B. Roxas of the local police against the complainant and his brother-in-law, Romulo Guerrero, on December 14, 1970. Respondent claimed that said firearm was surrendered by Justino Liwanag, complainant in the above-mentioned criminal case, to Cpl. Pablito Babilonia of the local police force after Liwanag had wrested said weapon from complainant Tomas Manzanero who allegedly pointed said gun, while drunk, to Justino Liwanag in an attempt to fire the gun at the latter.

Before complainant could present evidence, he prepared an Affidavit of Desistance stating that the filing of the administrative case against the respondent "arose simply from misunderstanding and that respondent Judge Morales had no intention to commit the act complained of." When complainant was called upon to present his evidence, he manifested before the Investigator-District Judge that he was not interested in prosecuting the case

and requested for its dismissal. The Court, however, proceeded with the investigation.

Complainant Tomas Manzanero testified that on the night of December 12, 1970, at Casiguran, when the incident happened, the respondent, while complainant had his back turned on the former, embraced him from behind and respondent's companions, Antonio Valencia, Justino Liwanag, and Patrolmen Romulo Curitana and Artemio Fabian helped each other in holding him and taking his gun from his pocket. He, however, stated that he believed that the intention of the respondent in taking his gun to protect him from further trouble. He admitted that when he requested respondent for the return of his gun, the latter informed him that the gun was surrendered to the Government because a criminal complaint was filed against him and his gun was not in the possession of respondent. He also admitted that before he filed his petition-complaint in Administrative Case No. 20, against respondent, on March 10, 1971, he knew that he was charged with attempted homicide in Criminal Case 145 of the Municipal Court of Casiguran, Quezon, filed on December 14, 1970.

Patrolman Artemio Fabian of the local police force of Casiguran, corroborated the testimony of complainant on his version of what happened during the incident on the night of December 12, 1970.

Sergeant of police Esequias B. Roxas of the Casiguran police force admitted that it was he who prepared and filed the criminal complaint for attempted homicide against Tomas Manzanero and one Romulo Guerrero. He also stated that he issued a certification, dated May 29, 1971, wherein he stated that an annotation appears on the Casiguran police blotter dated December 12, 1970, to the effect that Justino Liwanag, accompanied by Pat. Fabian, reported that Mr. Tomas Manzanero attempted to kill him (Liwanag) and he was able to get a .22 caliber pistol from the latter, which was surrendered to the police together with an empty shell.

Respondent testified to support his version that he arrived at the scene of the incident on the night of December 12, 1970, after the altercation between Tomas Manzanero and Justino Liwanag and that he did not participate in taking the complainant's gun from him.

The Investigator gave more credence to respondent's version of the incident based on the reasoning that the corroborative testimony of Patrolman Fabian was more credible, being clear and positive and that the witness had no reason to tell a lie. We have no reason to disturb the Investigator's evaluation of evidence as he was in a better position to observe the witnesses when they testified before him. At any rate, even if the complainant's version is to be believed, it would not detract a bit from what clearly appears from complainant's own admission that when respondent participated in the act of divesting complainant of his .22 caliber pistol, the former was not motivated by illwill, bad motive nor personal animosity against complainant, but rather by respondent's desire to protect complainant from further trouble. The altercation in that incident was between complainant Manzanero and Justino Liwanag and nowhere is it shown in the pleadings and in the evidence that there was an altercation between Manzanero and the respondent. Respondent's inability to return the gun notwithstanding the demand of complainant is well explained by the established fact that a criminal complaint for attempted homicide was filed against the possessor of the licensed gun, complainant Tomas Manzanero, and the respondent did not have the gun in his possession, so that even if the latter wanted to return the gun he could not do so.

Respondent's conduct during the incident in question, motivated as he was by good motives — to prevent further trouble, to keep the peace, to prevent possible bloodshed — cannot be considered reprehensible. On the contrary, the respondent should be commended for his civic-mindedness in going out of his way and acting beyond the scope of his judicial duty just to keep the peace and prevent further trouble between the protagonists in the quarrel. The charge in Case No. 20 did not concern respondent's performance of duties, did not cast any reflection nor taint on his judicial work, and certainly did not concern his fitness for the position of municipal judge. We see no sufficient reason to deviate from the Investigator's recommendation that he be exonerated from this charge and

that Administrative Case No. 20 should be, as it is hereby, dismissed.

The charges in Administrative Case No. 22 are more serious in nature since they involve neglect of duty, frequent unauthorized absences and improper performance of duties. The Municipal Council of Casiguran, Quezon, in its Resolution No. 91 (same as No. 93) revealed that the respondent since January 1972, has been observed to be frequently out of town and not performing his duties as municipal judge of Casiguran; that he left Casiguran June 15, 1972, and until August 22, 1972, when Resolution No. 91 was promulgated, he had not returned; and many cases in the hands of the local chief of police could not be filed because of respondent's frequent long absence.

Respondent in his answer, dated September 19, 1972, denied the charges and stated that whenever he left his station on several occasions in the past, it was always on official business, or on sick or vacation leave. He alleged that he left his station on June 27, 1972, by virtue of a subpoena issued by the Court of First Instance of Aurora Subprovince in relation to Administrative Case No. 20 (the preceding administrative case discussed) and that he returned to his station immediately after said hearing; that on July 27, 1972, respondent went to Manila to fetch a typewriter from the Department of Justice intended for the municipal court of Casiguran; that on August 15, 1972, he left for Baler to attend the conference of all municipal judges of the Subprovince of Aurora which was convened by the District Judge; that he could not return to Casiguran because he was bedridden while in Baler due to influenza; his stay in Baler was prolonged because transportation to Casiguran was not available due to bad weather; that in August, 1972, there was only one pending criminal case (No. 189) in his court; that he assails the genuineness of Resolution No. 91, because it was prepared by the Municipal Secretary Romulo Guerrero of Casiguran without inquiring from the members of the Municipal Council whether or not they were voting for the resolution, and Mr. Romulo Guerrero was a witness against respondent in Administrative Case No. 20, and that the charges were not under oath but in the form of a resolution.

Pursuant to the third paragraph, No. 1, of Letter of Instructions No. 14-A, the case against the respondent was set for preliminary inquiry on October 24, 1972. On the scheduled date of inquiry the members of the Municipal Council of Casiguran, appeared but respondent did not and, instead, sent a telegram requesting a re-schedule of hearing because he could not appear due to lack of transportation. The Investigator-District Judge proceeded with the inquiry in the absence of respondent, but while Councilor Jesus Torre, Sr. was testifying, respondent arrived. Councilors Jesus Torre, Sr., Teodorico Molina, Jr., Venancio Angara, Jr., Mayor Guadaflor Esteves, Municipal Secretary Romulo A. Guerrero and Sgt. Esequias B. Roxas testified for the complainant Municipal Council.

Councilors Dalmacio Meneses, Agaton Miano Sr., and Alejandrina Fernandez, Vice-Mayor Fausto Torre, Clerk of Court Andres G. Cadiz and the respondent testified to establish the allegations in respondent's answer.

On the question of genuineness of Resolution No. 91 (same as No. 93) of the Municipal Council of Casiguran, there can hardly be any doubt as to its authenticity. The resolution accomplished its purpose when it paved the way for an investigation of the charges of unjustified absences and neglect of duty against the respondent. It served as an instrument to bring out the truth not only for the respondent's sake but also for the good of the public service. The testimony of Councilors Jesus Torre, Sr., Teodorico Molina, Jr., Venancio Angara, Jr., Mayor Guadaflor Esteves and Municipal Secretary Romulo A. Guerrero, taken separately and collectively, more than satisfy the requirement of preponderance of evidence to establish clearly that the Municipal Council of Casiguran had a regular meeting on August 22, 1972, wherein one of the subjects discussed was the alleged frequent and unexcused absences of respondent, its prejudicial effect on cases to be filed in the municipality and the administration of justice for the local residents, and that Resolution No. 91 (same as No. 93) was actually adopted by the Municipal Council.

On the issue of frequency of unexplained absences leading to neglect of duty by the respondent, we find no

sufficient basis to alter the Investigator-Judge's findings of facts. On an evaluation of the evidence presented, the Investigator correctly concluded that respondent was not in his station at Casiguran, Quezon, from December 26, 1971, to January 13, 1972. From January 14 to 29, 1972, respondent presented ample evidence that he was in the performance of his duties at his station. From January to May 1972, especially in May 1972, respondent was frequently absent from his station, being out of town. In May 1972, Councilor Angara saw respondent in Manila and when the former returned to Casiguran, respondent was not yet there. The respondent stated in his answer and in his testimony that whenever he was out of his station at Casiguran, Quezon, he filed application for sick leave, or it was during summer vacation, or was on official business, or for appearance in the Department of Justice, which were all authorized absences.

The available records in the Court of First Instance of Aurora Subprovince, at Baler, conclusively show, as per certification by the Deputy Clerk of Court in charge of the records of municipal judges, that according to the certificates of service filed by respondent from January 1, 1972, to August 31, 1972, he filed no application for either vacation or sick leave. The only application on record was for 5 days sick leave, from August 21, 1972, to August 25, 1972, which was forwarded to the Department of Justice.

The inevitable conclusion, is that the respondent was absent from his station at Casiguran from December 26, 1971, to January 13, 1972, and for certain periods during the months of February and May 1972, without the proper application for leave of absence.

For the period from June 15, 1972, to August 22, 1972, it is shown by the evidence presented that respondent was at his station on June 15 and 16, 1972; that he left Casiguran on June 27, 1972, to appear at the hearing in Administrative Case No. 20 (previously discussed) and returned to Casiguran on June 30, 1972. On July 27, 1972, he left his station for Manila to fetch a typewriter for his Office from the Department of Justice and he returned to Casiguran on August 7, 1972. On August 17, 1972, respondent attended the conference of municipal judges at Baler. The claim of respondent that he left Casiguran on August 15, 1972, and returned on August 26 or 27, 1972, is not correct, because he was still at Baler, Quezon on August 28, 1972.

Although respondent was able to justify his absences from Casiguran from June 27 to 30, 1972, and from July 27 to August 7, 1972, because he was on official business during those periods, yet he failed to file the proper application for leave of absence, or at least notify the District Judge so that another municipal judge could have been assigned to his station to prevent disruption of the public service. The complainant sufficiently established that because of the respondent's absences, several cases (those of Messrs. Astrera, Tud and Calugtong) could not be filed in his court and they were just settled extrajudicially.

We have before us a judicial officer who is unmindful of the exigencies of the public service and neglectful of his duties to the prejudice of the residents of Casiguran, Quezon, who were from time to time deprived of the services of the local court for redress of their grievances. It has always been consistently emphasized among municipal judges that the municipal courts afford the first and most often the last legal remedies to poor litigants, especially those in the remote regions of the country. These judges should always be imbued with a high sense of duty and responsibility in the discharge of their obligation to promptly and properly administer justice. The respondent totally ignored the demands of official duty which require sacrifice of one's personal interest and convenience for the public good. By the outcome of this case we deem it fit to set an example to those who want to remain in the public service, lest in the pursuit of their own personal ends they forget that total dedication to duty is exacted of a worthy public servant.

WHEREFORE, respondent should be, as he is hereby, removed from office as Municipal Judge of Casiguran, Quezon Province.

IT IS SO ORDERED.

Makalintal, C.J., Teehankee, Barredo, Makasiar, Antonio, Fernandez, Munoz Palma, and Aquino, JJ., concur.

Castro and Fernando, JJ., took no part.

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