

MIGUEL A. ALVIAR, COMPLAINANT VS. SERAPION A. GUERRERO, MUNICIPAL JUDGE OF SAN JUAN, ILOCOS SUR, RESPONDENT.

Adm. Mat. No. 754-MJ. January 30, 1975

Ponente: AQUINO, J.

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AQUINO, J.:

Miguel A. Alviar, a septuagenarian and former teacher, school registrar, notary and municipal secretary, in a verified complaint dated July 2, 1974, charged Municipal Judge Serapion Guerrero of San Juan, Ilocos Sur with alleged oppression, grave misconduct, abuse of authority and refusal to perform his official duty. He prayed that Judge Guerrero be disbarred and dismissed.

The complainant denounced Judge Guerrero for having supposedly confabulated with Daniel Alviar (a) in filing two complaints for theft in the municipal court of San Juan against Eufrosina A. Aquino, the daughter of the complainant, Criminal Cases Nos. 1231 and 1272 (Miguel A. Alviar is a co-accused in the second case) and (b) in filing an administrative complaint against her in the Commission on Elections.

Alviar explained that Judge Guerrero was motivated by vindictiveness because he was beaten by the complainant in a civil case which was decided in 1969 by the Court of First Instance of Ilocos Sur, Narvacan Branch.

Miguel A. Alviar further stigmatized Judge Guerrero (a) for having allegedly notarized a fictitious deed of sale of land and (b) for not issuing to him certified copies of the papers forming part of the expediente of Criminal Case No. 1272.

Judge Guerrero in his vehement comment denied the charges. He explained that the two theft cases and the administrative complaint against Mrs. Aquino, an election registrar, were filed by Daniel Alviar, her first cousin (Daniel's mother being Miguel's sister) and supposedly Miguel's tenant. Daniel Alviar was assisted by a lawyer in filing the complaints. Judge Guerrero stressed that he merely performed his official duties when he took cognizance of the two theft cases.

He clarified that he was not the loser in the civil case alluded to by Miguel A. Alviar, which involved the Lapog Educational Institute, now the San Juan Institute. Judge Guerrero said that it was Miguel A. Alviar and his cohorts who lost in all the civil and administrative cases which they had filed against the owners and administrators of the Institute and, therefore, it was Miguel who had long been harboring a deep-rooted grudge against him.

Judge Guerrero branded as a "foolish, preposterous and dirty" accusation the imputation that he notarized a fictitious deed of sale. He revealed that the sale was notarized in 1949 and that Miguel A. Alviar contested the vendor's right to sell a part of the land which, according to Alviar, belonged to Cesareo Aquino of whom Alviar's mother was an heir.

With respect to Miguel A. Alviar's request for copies of the papers forming part of the record of Criminal Case No. 1272, Judge Guerrero said that he ordered his clerk to comply with Alviar's request.

Judge Guerrero disclosed that although during the trial of Criminal Case No. 1231 Miguel A. Alviar uttered against him derogatory and threatening remarks, he (the respondent) held his peace and did not retaliate. He admonished Alviar to remain calm and respect the court as a temple of justice.

Judge Guerrero concluded that Miguel A. Alviar, in filing his charges, was impelled by hatred and a desire to harass, embarrass and molest the respondent who was nearing the retirement age.

There are unmistakable intimations in the record indicating that Miguel A. Alviar and Judge Guerrero have been feuding for more than two decades. Their protracted animosity seemingly stemmed from their squabbles over the management of the aforementioned Institute of which Mrs. Guerrero is the directress. The instant administrative case is the latest episode in their vendetta or intermittent strife.

Considering Judge Guerrero's comment on the complaint and Alviar's reply, it is evident that the complainant has not established any prima facie case against the respondent. Hence, an investigation by a Judge of the Court of First Instance is not warranted.

Miguel A. Alviar has not overcome the juris tantum presumption that Judge Guerrero regularly performed his official duties in connection with the two theft cases filed against Mrs. Aquino. The cases are still pending.

Alviar's imputation that Judge Guerrero had a hand in the filing of the administrative complaint against Mrs. Aquino in the Comelec is anchored on mere suspicion. The sea of suspicion or conjecture has no shores (*Dy Keng vs. Collector of Customs*, 40 Phil. 118, 123).

As to Judge Guerrero's alleged failure to act on Miguel A. Alviar's request for certified copies of the documents forming part of the expediente of Criminal Case No. 1272, it may be inferred from Judge Guerrero's answer that Alviar could secure those copies from the custodian of the record.

The charge that Judge Guerrero notarized a fictitious deed of sale may be lodged with the proper authorities, not in this Court. It is only when the proper judicial authority has conclusively established the truth of the charge that action may be taken against Judge Guerrero as a member of the bar.

He reached the age of seventy years on November 13, 1974. Inasmuch as Miguel A. Alviar's charges appear to be frivolous and do not merit any investigation, they should not be an obstacle to Judge Guerrero's enjoyment of retirement privileges.

His retirement has rendered moot the question of whether he should inhibit himself from trying Criminal Case No. 1231.

The machinery for disciplining judges should not be used to serve the ulterior purposes of a frustrated complainant who is induced by revenge, resentment or an improper motive. This Court will not allow itself to be embroiled in the conflicts between a private person and a judge over their private affairs and interests which do not affect the judge's official conduct or his comportment as a member of the judiciary.

WHEREFORE, the charges against the respondent are dismissed.

SO ORDERED.

Makalintal, C.J., Fernando, Barredo, and Fernandez, JJ., concur.

Antonio, J., was on leave.

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