

SOFIA P. BALLEZA, COMPLAINANT, VS. MUNICIPAL JUDGE JOSE R. ASTORGA OF AJUY, ILOILO, RESPONDENT.*Adm. Matter No. 202-MJ. April 30, 1976*

Ponente: FERNANDO, Acting C.J.

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FERNANDO, Acting C.J.:

It is highly-prized ideal in adjudication announced in *Gutierrez v. Santos*[1] that a party to a trial "is entitled to nothing less than the cold neutrality of an impartial judge." [2] Accordingly, Rule 137 of the Rules of Court, for disqualification of judicial officers, provides: "No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record. A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above." [3] The relevance of the aforesaid rule is quite obvious in this administrative complaint against respondent Judge Jose R. Astorga. In essence, it consisted of three counts: Grave partiality in favor of an uncle, Roberto Astorga who, as set forth therein, was induced to file a criminal complaint for frustrated homicide against two sons of the complainant, Sofia P. Balleza, the alleged offense having arisen from a fight between the aforesaid parties; Oppression and persecution of the two sons, Rosendo Balleza and Paulino Balleza, Jr.; and Conduct prejudicial to the best interests of the service and to the administration of justice.

The charges were referred to Executive Judge Sancho Y. Inserto for investigation. The hearing was scheduled on February 20, 1975. In the report of Judge Inserto, received by this Court on March 4, 1975, it was noted: "When the case was called for hearing, the counsel for the complainant called the attention of the trial Judge to the Motion for Withdrawal and/or Dismissal signed and sworn to by the complainant Sofia P. Balleza dated February 7, 1975, which motion appears on pages 73 and 74 of the record. Among others, the aforementioned Motion for Withdrawal and/or Dismissal states: Relative to Count 1 in the letter-complaint, complainant realized that the respondent judge had no intervention in the filing of Criminal Case No. 1117 wherein her two sons were accused. In connection with Count II in the letter-complaint, complainant having misunderstood the advice of the respondent judge, his sincere desire being then to save the parties from trouble, the root cause being agrarian in nature. Relative to Counts III and IV of the letter-complaint, complainant realized that the presence of the respondent at the house of the Municipal Mayor of Ajuy when she was called for conference by the Mayor was coincidental and that the advice of the respondent on that occasion was made in good faith to protect the future of her two sons. * * * To ascertain the truth of the allegations in the Motion for Withdrawal and/or Dismissal, the trial judge ordered that the complainant be placed on the witness stand to testify. The statements contained in the Motion for Withdrawal and/or Dismissal were fully affirmed by the complainant in her testimony. * * *"[4] The concluding paragraph of such report made mention of the following: "No evidence against the respondent was adduced during the trial. On the contrary, the testimony of the complainant exonerates the respondent. In view of

this there seems to be no alternative but to consider the case closed." [5]

That same conclusion was reached by the then Judicial Consultant Manuel P. Barcelona. He did note however that if there had been a hearing, the failure of respondent Judge to abide by the requirement that he should inhibit himself, an uncle being one of the parties, could have been shown. While recommending then "that the complaint should be dismissed, because complainant's testimony not only failed to prove the specific charges, but on the contrary tended to exonerate respondent therefrom," he added, "still the latter should be warned to be more careful in his judicial actuations so as to avoid any suspicion of partiality, and that a repetition of the same acts will be dealt with more severely." [6]

This Court views the matter similarly. No penalty may be imposed in view of the absence of any evidence, the complainant herself, in her motion for withdrawal and/or dismissal, admitting the difficulty of substantiating the charges imputed to respondent Judge. That may be so, but there is this matter of apparent non-compliance by respondent Judge with Rule 137, an uncle of his being one of the parties, with the relationship presumably within the sixth civil degree of consanguinity. That cannot simply be ignored, as was correctly pointed out by Justice Barcelona. The people's faith in the administration of justice would be eroded if there be no full appreciation on the part of those occupying judicial positions that not only is impartial administration of justice a prime requisite, but also, it should be manifest. It is essential therefore that there be scrupulous adherence to the requirements of Rule 137. While this administrative case against respondent Judge is dismissed, still his attention should be called to the need for greater care in his judicial actuations to avoid the least appearance of partiality as well as to assure that there be fidelity to the commands of the highly-prized ideal of "the cold neutrality of an impartial judge."

WHEREFORE, the administrative case against respondent Jose R. Astorga is dismissed. Let a copy of this resolution be spread on his record.

Barredo, (Acting Chairman), Antonio, Aquino, and Concepcion, Jr., JJ., concur.

[1] L-15824, May 30, 1961, 2 SCRA 249.

[2] Ibid, 254. Cf. *del Castillo v. Javellana*, L-16742, Sept. 29, 1962, 6 SCRA 146; *People v. Gomez*, L-22345, May 29, 1967, 20 SCRA 293; *Austria v. Masaquel*, L-22536, Aug. 31, 1967, 20 SCRA 1247; *Pimentel v. Salanga*, L-27934, Sept. 18, 1967, 21 SCRA 160; *Zaldivar v. Estenzo*, L-26065, May 3, 1968, 23 SCRA 533; *Luque v. Kayanan*, L-26826, Aug. 29, 1969, 29 SCRA 165; *Geotina v. Gonzalez*, L-26310, Sept. 30, 1971, 41 SCRA 66; *Tobias v. Ericta*, Adm. Case No. 242-J, July 29, 1972, 46 SCRA 83; *Mateo Jr. v. Villaluz*, L-34756, March 31, 1973, 50 SCRA 19; *Umali v. Villaluz*, L-33508, May 25, 1973, 51 SCRA 84; *Palang v. Zosa*, L-38229, Aug. 30, 1974, 58 SCRA 776.

[3] Section 1 of Rule 137 of the Rules of Court.

[4] Report of Executive Judge Sancho Y. Inserto, 1-2.

[5] Ibid, 2.

[6] Memorandum of Judicial Consultant Manuel P. Barcelona, dated March 12, 1975.

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