

MARCIANA BUENAVENTURA, COMPLAINANT, VS. HON. MARIANO V. BENEDICTO, RESPONDENT.

Adm. Case No. 137-J. March 27, 1971

Ponente: CASTRO, J.

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CASTRO, J.:

On January 9, 1969, Marciana Buenaventura (hereinafter referred to as the complainant), the offended party in a criminal prosecutions[1] for forcible abduction with rape, and likewise the plaintiff in a civil action[2] for annulment of marriage, filed with this Court a complaint against the Honorable Mariano V. Benedicto (hereinafter referred to as the respondent judge) in whose sala both the aforementioned cases fell, seeking his removal from office on the basis of verified charges.

Imputed to the respondent judge are: (1) serious misconduct in relation to the criminal and civil cases; (2) immorality in connection with both cases; (3) gross inefficiency and incom-petence in relation to the criminal action; and (4) knowingly ren-dering an unjust judgment in the criminal case.

The factual incidents preceding the complainant's administrative action against the respondent judge are not complicated.

On September 13, 1967, the Provincial Fiscal of Nueva Eci-ja, upon a complaint[3] filed by a sister of the complainant and after conducting the preliminary investigation required by law, charged Raymundo Mariano and four others with the crime of forcible abduction with rape committed on the person of the complainant the court, with the respondent judge presiding, heard the case on the merits.

On October 21, 1967, the complainant filed an action against Mariano for annulment of marriage; this action was docketed in the same court presided by the respondent judge.

On November 11, 1968, the respondent judge rendered judgment in the criminal case, acquitting the defendants for failure the prosecution to prove the guilt of the accused beyond reasonable doubt.

On January 15, 1969, the complainant filed a petition this Court, seeking to inhibit the respondent judge from hearing the civil case still pending before the latter's sala. This petition was denied in a resolution dated January 29, 1969.

Returning to the case at bar, on February 8, 1969, the res-pondent judge filed his answer, denying the charges imputed to him by the complainant and alleging lack of factual or legal basis of the administrative complaint. By a resolution dated February 1969, this Court referred and assigned the administrative case the Honorable Carmelino Alvendia of the Court of Appeals for investigation, report and recommendation.

Subsequently, on May 6, 1969, this Court, acting upon the complainant's motion for reconsideration of this Court's resolution dated January 29, 1969 denying the said complainant's petition seeking to inhibit the respondent judge from taking further action on the civil case, expressed the view of the propriety of the said respondent judge

desisting from hearing the civil action to be subserve the ends of justice. In compliance with the aforesaid resolution, the respondent judge, on May 14, 1969, issued an order inhibiting himself from hearing the civil case and from further proceedings in the criminal action against another defendant not tried with the others.

On December 19, 1969, after proceedings and investigation duly conducted on the administrative complaint, the Honorable Justice Alvendia submitted his report wherein he states that the complainant failed to prove the charges against the respondent judge, with four exceptions, to wit:

1. The respondent judge allowed his clerk-messenger, Isauro Tuazon, to promulgate decisions in criminal cases, in violation of the provisions of section 6 of Rule 120[4] of the Rules of Court;
2. The respondent judge formed a committee to solicit contributions and/or donations of steel filing cabinets, electric fans, and other office equipment from private parties for his court in contravention of the spirit of section 24[5] of the Canons of Judicial Ethics;
3. The respondent judge, considering that the civil case for annulment of marriage filed by the complainant against one of the defendants in the criminal action remained pending before his sala, imprudently received the said complainant in his chambers prior to the promulgation of his decision in the criminal action; and
4. The respondent judge failed to resolve a motion filed by the prosecution for the suspension of the hearing of the criminal case until after trial and resolution of the civil case (on the ground that the latter raised a prejudicial question), in violation of the provisions of section 5, Republic Act 296, as amended.[6]

1. Anent the first recusation of serious misconduct, the Honorable Justice, Alvendia found only one among the acts alleged by the complainant as constituting the charge proved and, there-fore, demanding attention by this Court - that the respondent judge allowed his clerk-messenger, Isauro Tuazon, to promulgate decision in criminal cases. In this connection, the investigator also found that Tuazon, on those occasions when the deputy clerk of court delegated to him the promulgation of the respondent judge' decisions in criminal actions, promulgated only decisions of ac-quittal.

Tuazon, the report reveals, even testified during the investigatory proceedings that the deputy clerk of court entrusted to him the promulgation of the decision in the criminal case involved herein. This testimony remains unrebutted on record. Furthermore, the investigator found that Tuazon, in this particular instance, "went to the extent of assuming the prerogative of postponing the promulgation of the decision which, according to the evidence, was not even delegated by the respondent judge to the deputy clerk of court."

All these indicate laxity on the part of the respondent judgment in the supervision of his employees, states the investigator. Continuing, he says that this practice contravenes the provisions of section 6 of Rule 120 of the Rules of Court and may lead to incident "liable to involve, rightly or wrongly, the integrity of the Court and/or undermine the people's faith in the judiciary."

In reply, the respondent judge asserts that the documen-tary and testimonial evidence show that he entrusted his decision to Tuazon for delivery to the clerk of court and not for promulgation by the said clerk-messenger. With regard to the decision in the criminal action involved herein, he explains that he placed the same in an envelope and sealed it before entrusting it to Tua-zon for delivery to the clerk of court and that he ordered the pro-mulgation of the said decision by the clerk of court. If Tuazon himself read the dispositive portion of the decision, then he did so upon the instructions of the clerk of court and not upon his authorization, the respondent judge adds.

Section 67 of Republic Act 296, as amended, provides two grounds for the removal of judges: serious misconduct

and inefficiency. The complainant seeks the removal of the respondent judge on the first ground and enumerates a number of facts allegedly constituting the imputed charge of serious misconduct, five of which acts the Honorable Justice Alvendia found unsupported by evidence. The remaining one - that the respondent judge sanctioned the practice of his deputy clerk of court of delegating to the clerk-messenger the promulgation of decisions of acquittal in criminal cases - fails to fit into the accepted definition of serious misconduct. "Serious" means "important, weighty, momentous and not trifling,"[7] and "misconduct" refers to "a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer." [8] Misconduct" also implies "a wrongful intention and not a mere error of judgment." [9]

In the face of the denial by the respondent judge that he authorized Tuazon to promulgate his decisions plus his explanation why the act complained of created the false impression that he tolerated the practice of allowing the clerk-messenger to promulgate his decisions, we have no solid support to hold that the said respondent judge either acted in wanton disregard of or intended to violate the provisions of section 6 of Rule 120 of the Rules of Court. We find no reliable evidence on record to demonstrate that the act complained of was influenced by malice or induced by an intention to violate the law or spurred by a desire to debase the integrity of the court.

Nevertheless, on this count, although the act charged does not constitute serious misconduct on the part of the respondent judge as to warrant the severe administrative penalty of removal from the Bench, we believe that this act manifests the insouciance of the respondent judge in the supervision of the attendants of the court who aid him in the performance of his judicial functions. Assuming as true that the clerk-messenger read the dispositive portion of the decision in the criminal case involved herein upon order of the clerk of court, the respondent judge should have, upon notice and knowledge thereof, called the attention of the clerk of court and taken appropriate disciplinary measures against those who committed the disservice, instilling in them the sense of propriety and probity required of those who assist in the performance of judicial functions.

We find the inclination of the respondent judge to leniency in the administrative supervision of his employees an undesirable trait. Oftentimes, such leniency provides the court employees the opportunity to commit minor transgressions of the laws and slight breaches of official duty ultimately leading to vicious delinquencies. The respondent judge should constantly keep a watchful eye on the conduct of his employees. He should realize that big fires start small. His constant scrutiny of the behavior of his employees would deter any abuse on the part of the latter in the exercise of their duties. Then, his subordinates would know that any misdemeanor will not remain unchecked. The slightest semblance of impropriety on the part of the employees of the court in the performance of their official duties stirs ripples of public suspicion and public distrust of the judicial administrators. The slightest breach of duty by and the slightest irregularity in the conduct of court officers and employees detract from the dignity of the courts and erode the faith of the people in the judiciary.

2. Count two surfaced only in the course of the investigation conducted by the Honorable Justice Alvendia. The complainant bases the second challenge on the ground that the respondent judge, using his official position and power, formed a committee to solicit contributions and donations of office equipment for his court from private parties, in contravention of the provisions of section 24 of the Canons of Judicial Ethics. The respondent judge vigorously refutes this, denying that he participated, directly or indirectly, in the fund-raising or in the solicitation of donations.

In his proffered explanation, the respondent judge states that when he assumed office in Branch V of the Court of First Instance of Nueva Ecija, he found the court premises in a deplorable "state of disarray" - most of the records laid out or placed on the floor, and the rest kept inside unlocked cabinets. He also found no available law books at hand. Clerk and employees of the court shared and occupied one table. Twice, the respondent judge tried to obtain financial assistance for the improvement of the court premises - first, from the provincial treasurer, then,

from the Department of Justice - but he received none. Then, the presidents of the bar associations of Nueva Ecija and other practicing lawyers of the province approached him and offered suggestions. Thereafter the lawyers decided to create a committee to raise funds and solicit donations. The respondent judge merely appointed the members of the committee and offered suggestions. Thereafter the lawyers decided to create a committee to raise funds and solicit donations. The respondent judge merely appointed the members of the committee.

The committee according to the respondent judge, conducted the campaign with the knowledge, if not with the tacit approval, of the Department of Justice. In fact, at the end of the campaign, certificates of appreciation were given to those who assisted the committee and contributed to the success of the undertaking which bore the official notation of the Judicial Superintendent of the Department of Justice. Eventually, the committee turned over the books and office equipment to the District Judge through the clerk of court, who, in turn, officially turned them over to the provincial government as to form part of the property of the province.

A careful reading of section 24 of the Canons of Judicial Ethics shows that the said section dwells mainly on the prohibition against the use by a judge of his official power and prestige to persuade others to participate or contribute to the success of business promotions or campaigns for charity. Briefly, section 24 requires a judge to refrain from private business ventures or charitable enterprises so as not to give occasion for any suspicion that he utilizes the power of his office or the influence of his name for the success of such undertakings or to give rise to any situation wherein his personal interest might conflict with the impartial performance of his official duties. Section 24 thus appropriately and accurately applied, the act of the respondent judge in appointing the members of the campaign committee does not fall within its contemplation. To hold otherwise would countenance an interpretation unduly strained.

Be that as it may, we can not simply ignore the act of the respondent judge and state that we find nothing objectionable at all in this conduct. True, his well-intentioned desire to provide the court premises with the necessary equipment motivated him to accept the suggestion of the lawyers of Nueva Ecija and, then, to appoint the members of the committee for the campaign. However, for reasons of extreme probity and delicacy, he should have declined to assume the appointing prerogative to avoid the slightest hint of involvement, personal or official, in the campaign.

To our mind, although the act of the respondent judge in taking part in the appointment of the members of the campaign committee constitutes no serious breach of judicial ethics, such act nevertheless could engender several misinterpretations likely to cause doubt that he enjoys no more than normal social relations with those whom he appointed to the campaign group. The respondent judge should have avoided any act giving rise to any suggestion calculated to impair the image of impartiality and independence of the courts.

We, however, find it disenchanting that the respondent judge had to turn to the private sector for the essential needs of his court when the obligation is the Government's to provide him the necessities required by the complexity of court work. Circumstances compelled the respondent judge to do so. The Government paid no heed to his fervid pleas for financial assistance in the acquisition of the equipment necessary for the efficient and productive business of the court. The Government gave him no support. We, therefore, find no cogent reason to blame the respondent judge in accepting the help offered by the lawyers in Nueva Ecija to provide the court with facilities of great utility to the convenient dispatch of court work.

3. On the third charge, the complainant assails as imprudent the conduct of the respondent judge of receiving her in his private chambers and of allegedly discussing with her the merits of the criminal action, considering that at that time the civil case filed by the complainant still remained unresolved before his sala. The respondent judge admits that he met with the complainant when the latter requested an audience with him but disclaims that he discussed

the criminal case with her. In fact, the respondent judge alleges that when the complainant tried to start a discussion on the merits of the criminal case, he told her to refer to his decision on the said case which he ordered promulgated earlier that day.[10] The respondent judge further claims that it is his practice not to allow any of the parties to confer with him on any case pending before his sala without the presence of the other party.

In the case at bar, he admits that he made an exception and agreed to receive the complainant, then accompanied by her sister, sister-in-law, a court employee and a court helper, in his chambers. He states that he wanted to soften, as much as possible, the impact of her defeat in the criminal case. Moreover, he sought to find out whether the complainant contemplated withdrawing the civil action or was determined on continuing the same.

We take note of the laudable practice of the respondent judge of not discussing with the interested parties any case pending before him. We also take note of the fact that the respondent judge, in making an exception re the case at hand, agreed to meet with the complainant in his chambers only upon the latter's request and insistence. Although we are inclined to believe that the respondent judge received the complainant in his chambers not to discuss the merits of the criminal case but to assuage whatever emotional ache and distress she felt as a result of the decision of acquittal in the criminal action and to find out what course of action she contemplated to take on the civil case in view of the turn of events, we nonetheless feel that the respondent judge should have precluded any mention whatsoever of the civil action for the same was then pending before his sala. This conduct of the judge indicates lack of reasonable discretion. Such conduct, too, more often than not, party-litigants misconstrue as personally motivated. Many inferences are, that may be drawn by suspecting minds from acts of judges over-zealously accommodating to interested parties.

On the other hand, we believe that the complainant was not entirely without fault. For reasons we do not know, for reasons we can not surmise, she endeavored with utmost persistence to see the respondent judge in his private chambers not only once but twice.

We might add here, en passant, that the complainant, in her administrative complaint, also imputed to the respondent judge acts of immorality allegedly committed when the said respondent judge met with her again in his private room. She claimed that the respondent judge tried to grab her breasts on the pretext of looking for contusions. This charge the Honorable Justice Alvendia discounted as incredible - without any factual basis. For on that alleged occasion, the respondent judge felt weak and weary to receive visitors so much so that he refused to see another caller, municipal judge Sergio Denoga of Cabaio, Nueva Ecija. At that time, too, the respondent judge's wife was in his chambers, attending to his needs. Furthermore, the complainant's own witness, the court stenographer, whom she claimed brought her to the respondent judge's chambers, denied having done so. All these compelled the investigator to disbelieve the charge of immorality against the respondent judge.

4. The fourth and final charge relates to the respondent judge's alleged failure to resolve a motion filed by the prosecution to suspend the hearing of the criminal case until after final disposition of the civil action for annulment of marriage. In his explanation, the respondent judge states that when the prosecution raised the possibility of the existence of a prejudicial question and asked for the suspension of the proceedings, he suggested it would be better for him to continue hearing both the criminal and civil cases. In effect, the respondent judge alleges, such ruling constituted a denial of the motion for suspension. In fact, he continues, the prosecution construed the same as a denial of the motion for suspension and the fiscal neither raised the question again in the subsequent hearings on the criminal action nor made any reference thereto in his memorandum.

The record reveals that the respondent judge made an earnest effort to act on the motion for suspension of the hearings on the criminal action. In his honest belief that the civil case posed no prejudicial barrier, he decided to continue hearing the criminal case. The only error, if error it may be called, the respondent judge committed

consisted of not denying the motion for suspension in clear and categorical terms so as not to leave any room for misinterpretation and controversy. The respondent judge should have made a formal ruling on the motion to enable the parties to know the reason or ground for such ruling and to provide the party aggrieved by the action on them motion sufficient opportunity to avail of the necessary action for relief from the ruling.

In the case at bar, however, if the respondent judge real-ly failed to act on the motion as the complainant points out, then, the subsequent hearings on the criminal case afforded the prosecution all the opportunity to ask the respondent judge to make a definitive ruling on the matter. Yet, the prosecution proceeded to the termination of the trial, filed its memorandum, and sub-mitted the case for decision without any further mention of the question.

At this point, we pause to make an observation. We have examined the decision of the respondent judge in the criminal case involved herein; the same prima facie appears to be correct. This decision of sixty-six pages includes a complete statement of the evidence adduced by the prosecution and by the defense, a pains-taking analysis of the said evidence and of the applicable law, and the reasons why he entertained reasonable doubt as to the guilt of the accused.

Upon the foregoing dissertation, we find that the respondent judge:

1. Has been remiss in the supervision of his court employees by failing, upon learning that the deputy clerk of court on three occasions had entrusted to the clerk-messenger the promulgation of decisions of acquittal, to take corrective action and to discipline the erring court employees;
2. Had involved himself in a program to furnish his court, ill-equipped at the time of his assumption of office as presiding judge thereof, with the necessary facilities, by appointing the members of the campaign committee which solicited donations and contributions;
3. Failed to exercise requisite care and discretion by receiving the complainant in his private chambers, considering that the civil case for annulment of marriage filed by the said complainant (against one of the accused in the criminal action) was yet pending before his sala; and
4. Failed to resolve in explicit unmistakable terms the prosecution's motion for suspension of the criminal action based on the ground that the civil action for annulment of marriage constituted a prejudicial question.

All told, the respondent judge, to our mind, is not guilty of serious misconduct or inefficiency. We nevertheless are of the considered view that the acts of commission as well as of omission properly imputable to him, while not warranting the imposition of any disciplinary sanction, clearly demonstrate the need for greater care, prudence and discretion in his future actuations.

ACCORDINGLY, this Court admonishes the respondent Judge Mariano V. Benedicto (a) to exercise close and unremitting supervision over his Subordinates, and (b) at all times to adhere to the full intendment of each and all of the Canons of Judicial Ethics.

Concepcion, C.J., Reyes, Dizon, Makalintal, Zaldivar, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

[1] Criminal Case 420 entitled PEOPLE OF THE PHILIPPINES v. RAYMUNDO MARIANO, ET AL.

[2] Civil Case 300 entitled MARCIANA BUENVENTURA v. RAY-MUNDO MARIANO.

[3] Amended on October 11, 1967

[4] Section 6, Rule 120, in part reads:

"Section 6. Promulgation of judgment. - The judgment is promulgated by reading the judgment or sentence in the presence of the defendant and any judge of the court in which it was rendered. The defendant must be personally present if the conviction is for a grave offense; if for a light offense, the judgment may be pronounced in the presence of his attorney or representative. And when the judge is absent or outside of the province or city, his presence is not necessary and the judgment maybe promulgate or read to the defendant by the clerk of court."

[5] "Section 24. Business promotions and solicitations for charity. He should avoid giving ground for any reasonable suspi-cion that he is utilizing the power or prestige of his office to persuade or coerce others to patronize or contribute, either to the success of private business ventures, or to charitable enterprises. He should, therefore, not enter into such private business, or pursue such a course of conduct, as would justify such suspicion, nor use the pow-er of his office or the influence of his name to promote the business of others; he should not solicit for charities, nor should he enter into any business relation which, in the normal course of events reasonably to be expected, might bring his personal interests into conflict with the impartial performance of his official duties."

[6] "Sec. 5. Judge's certificate as to work completed. – District judges, judges of city courts, and municipal judges shall certify on their application for leave, and upon salary vouchers presented by them for payment, or upon the payrolls upon which their salaries are paid, that all special proceedings, applications, petitions, motions, and all civil and criminal cases which have been under submission for decision or determination for a period of ninety days or more have been determined and decided on or before the date of making the certificate, and no leave shall be granted no salary shall be paid without such certifi-cate.'

[7] In re Impeachment of Horrilleno, 43 Phil. 214.

[8] Ibid.

[9] Ibid.

[10] Parenthetically, the respondent judge acted under the impres-sion that the complainant already knew the nature of his decision in the criminal case because he ordered the pro-mulgation of the said decision earlier that day. He later found out to his consternation that the same had not yet been promulgated for, according to the investigator, the complainant herself, having learned from the court stenographer the nature of the decision and fearing that her sister, then with her, might collapse, persuaded the clerk-messenger of the court not to promulgate the same. In truth, therefore, the complainant, when she met with the respondent judge, already knew about the decision of ac-quittal because of the advance information given her by the court stenographer.

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