

MAYOR ROGELIO J. ROA, SR., COMPLAINANT, VS. JUDGE FAUSTO H. IMBING, REGIONAL TRIAL COURT, BRANCH 18, PAGADIAN CITY, RESPONDENT.

A.M. No. RTJ-93-935. March 11, 1994

Ponente: NOCON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/8d1ceedaafda/>

NOCON, J.:

This has reference to a sworn complaint of Mayor Rogelio J. Roa, charging respondent Judge Fausto A. Imbing with gross ignorance of the law relative to Election Case No. 120, entitled "Hadji Haron Kiram vs. Mayor Rogelio J. Roa," an election protest case.

Complainant, who is the Municipal Mayor of Alicia, Zamboanga del Sur alleges that he was duly elected in the May 11, 1992 election. The protestant, one of the defeated candidates filed the aforesaid election protest case and complainant filed his "Answer with Counter-protest." Pursuant to the Orders of the respondent Judge, the protestant and the complainant were required to make cash deposits in the amount of P25,000.00 and P10,000.00 respectively to defray the expenses incidental to the protest and counter-protest, including the fees paid to the members of the Revision Committee.

Complainant assails the aforementioned orders claiming that the same, insofar as its application to him is concerned, is desultory and illegal since he had not requested the revision or re-opening of any ballot box.

Respondent Judge in his comment avers that complainant having filed a counter-protest, by praying that protestants be ordered to pay P50,000.00 per appearance in Court as attorney's fees and with cost to protestant, complainant is required by law, specifically, Sec. 10 Rule 35 of the Comelec Rules and Procedure, to make cash deposit which shall be applied to the payment of all expenses incidental to such counter-protest.

Respondent Judge in his Supplemental Comment prays that the instant administrative case be dismissed for being moot and academic in view of the appeal filed by complainant in the relative election protest case.

After a careful study of the records of the case, the only issue that should be resolved in the instant administrative complaint is whether or not respondent Judge is liable for Gross Ignorance of the Law in requiring the complainant to pay P10,000.00 as cash deposit to cover incidental expenses.

Section 10, Rule 35 of the Comelec Rules and Procedure provides:

Sec. 10. Cash Deposit - (a) In any protest, counter-protest or protest-in--intervention not requiring ballot revision, the protestant, the COUNTER-PROTESTANT, or intervenor as the case may be shall upon the payment of the filing fee make a cash deposit in the amount of five hundred pesos (P500.00) which shall be applied to the payment of all expenses incidental to such protest, counter--protest or protest-in-intervention. When circumstances so warrant, additional cash deposits may be required."

Thus, the law is clear that cash deposit should be made by the counter-protestant which shall be applied to the

payment of all expenses incidental to the counter-protest.

Under Section 7 (b), Rule 35 of the Comelec Rules and Procedure, a counter-protest is that filed by the protestee who desires to impugn the votes received by the protestants in other precincts.

As stated in the Comment of the Respondent Judge and in the Answer with Counter-Protest filed by complainant in Election Case No. 120, complainant only prayed that protestant be required to pay P50,000.00 every appearance in Court as attorney's fees. This is not the counter-protest contemplated by law as it does not, in any way, impugn the votes received by protestants in any other precincts. This is but only a counterclaim made by the complainant to what he thinks to be a malicious election protest filed against him. It is but a claim for relief sought by herein complainant for payment of attorney's fees which he incurred in defending his right.

Although the answer of the complainant to the complaint filed against him in the election protest case was titled ANSWER WITH COUNTER-PROTEST, the same does not affect the fact that complainant filed a counterclaim and not a counter-protest. It has been a settled rule that what is material is the content of the pleading and not the title it bears.

Therefore, complainant not being a counter-protestant under the election protest case, respondent Judge should not have ordered complainant to pay the cash deposit as the law does not require it.

However, these facts alone are not sufficient to justify the dismissal from the service of the respondent Judge on the ground of gross ignorance of law. The law requires that the error or mistake of a judge "must be gross or patent, malicious, deliberate or in bad faith." [1]

As held in the case of *Pilipinas Bank vs. Tirona-Liwag*. [2]

"Good faith and absence of malice, corrupt motives or improper consideration are sufficient defenses protecting a judicial officer charged with ignorance of the law and promulgation of an unjust decision from being held accountable for errors of judgment on the premise that no one called upon to try the facts or interpret the law in the administration of justice can be infallible."

It cannot be said that the respondent Judge acted with malice in requiring complainant to pay the cash deposit. Respondent Judge believed in all seriousness although erroneously that a counter-protest was filed by complainant, misled perhaps by the caption of the pleading filed entitled "Answer with Counter-Protest," which is right and legal if a counter-protest was really filed. Thus, respondent Judge acted in the honest belief that he is supported by the law in requiring cash deposits. Moreover, the amount of the deposit required is but reasonable under the circumstances considering that the respondent Judge together with the Revision Committee were to review votes cast in 30 precincts.

However, we find respondent Judge guilty of negligence. A judge owes it to the public and to the legal profession to know the factual basis of the complaint and the very law he is supposed to apply to a given controversy. He is called upon to exhibit more than just a cursory acquaintance with the statutes and procedural rules. Party litigants will have greater faith in the administration of justice if judges cannot just be accused of apparent deficiency in the analysis of the facts of the case and in their grasp of the legal principles. For service in the judiciary means a continuous study and research on the law from beginning to end. [3]

WHEREFORE, finding respondent Judge Fausto H. Imbing guilty of negligence, he is hereby ordered to pay a FINE of One Thousand Pesos (P1,000.00) with WARNING that a repetition of the same and similar acts in the future will be dealt with more severely.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Puno, Vitug, and Kapunan, JJ., concur.

[1] Legal Ethics, 4th Edition, Ruben E. Agpalo, p. 471.

[2] AM No. CA-90-11, October 18, 1990, 190 SCRA 834.

[3] Id., at p. 454.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.