

VERNETTE UMALI-PACO, BERNARDINO D. NG, ORLANDO H. HABITAN AND JOSEPHINE F. ANDRADA, COMPLAINANTS, VS. REINATO G. QUILALA, SUED IN HIS CAPACITY AS THE PRESIDING JUDGE OF THE REGI...

A.M. No. RTJ-02-1699 [Formerly OCA IPI No. 02-1444-RTJ]. October 15, 2003

Ponente: VITUG, J.

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VITUG, J.:

Complainants filed an administrative complaint against Judge Reinato G. Quilala, acting clerk of court Aida C. Lomugdang and court stenographer Lilia N. Batu of the Regional Trial Court, Branch 57, of Makati City. Acting on the recommendation of the Office of the Court Administrator (OCA), the Court docketed the complaint as a regular administrative matter which it then referred to Associate Justice Edgardo F. Sundiam of the Court of Appeals for investigation, report and recommendation.

Complainants were officers of the Philippine Retirement Authority, the defendant in an action for specific performance, entitled "Philippine Retirement Authority Members Association Foundation, Inc., (PRAMA) vs. Philippine Retirement Authority (PRA)," docketed Civil Case No. 01-112. Complainants charged respondent judge with bias and partiality on various occasions, among which was when respondent judge, during the hearing on plaintiff's application for a writ of preliminary injunction, led and coached Ramon Collado, a witness for PRAMA, and instructed the latter's counsel on what questions to ask. On 06 March 2001, respondent judge issued an order granting the motion of PRAMA to set the case for hearing without giving the counsel for PRA an opportunity to oppose it. On 20 March 2001, at the hearing on the prayer of PRAMA for the issuance of a writ of preliminary mandatory injunction, respondent judge remarked that he could very well issue the writ ex parte, impressing upon the plaintiff that he was in a position to resolve the application without having to hear the evidence for defendant PRA. In the same hearing, respondent judge unceremoniously interrupted Atty. Vernette Umali-Paco, the collaborating counsel for PRA and one of herein complainants, while Atty. Umali-Paco was explaining a matter propounded by the court.

Complainants further averred that during the hearing on the afternoon of 19 February 2001, respondent judge delegated to his acting clerk of court Aida C. Lomugdang, who was not a member of the bar, the task of receiving evidence from the parties, as well as of ruling on any objections which might be proffered thereon, thereby ignoring Section 9, Rule 30, of the 1997 Rules of Civil Procedure which requires (1) that the parties agree to the delegation in writing, (2) that the clerk of court be a member of the bar, and (3) that the clerk of court would not issue rulings on any objections which might be interposed. The non-compliance with the procedural rules was alleged to have been obliterated from the certified transcript of stenographic notes where, in connivance with respondent judge, respondent stenographer Lilia N. Batu had made it to appear that the session was presided over by Judge Quilala himself. In the assailed stenographic notes, the statements issued by Lomugdang were shown to have been made by Judge Quilala although the judge was neither present nor even in his chambers during the hearing.

Josephine Vigden stated in her affidavit that at a little past noon, after the end of the morning session, she was at the balcony of the building when she saw respondent judge hurriedly go down and board a car. She was also surprised to see a lady presiding at the afternoon hearing and making rulings on the objections raised by the parties. The account of Vigden was collaborated by Dolores Rigonan, counsel for PRA, who claimed that on that afternoon, when the hearing was about to proceed, she asked respondent Lomugdang on the whereabouts of the judge and Lomugdang replied, "Umalis na ho." When asked who could then rule on "objections," Lomugdang answered, "Parang ganun din attorney." Rigonan came to realize the serious implications of Lomugdang's response only when she saw a copy of the transcript of stenographic notes where it was made to appear that respondent judge was present during the proceedings.

Complainants finally asserted that subsequent to their filing of the instant administrative case against him, respondent judge blatantly showed hatred and a predilection for exacting vengeance against them by issuing orders favorable to PRAMA and prejudicial to the interests of PRA.[1]

In his comment, respondent Judge Quilala would call attention to the fact that the allegations of bias and partiality by complainants were made with little substance. He stated that it had been the practice of the court to ask questions to all witnesses of both parties appearing before him. During the hearing adverted to, there were instances when Ramon Collado, a witness who had difficulty in understanding the questions propounded to him, would be admonished by the judge to try to understand the question well or to simply answer the question. Referring to the charge that he hastily granted the prayer of counsel for PRAMA for an early setting of the case without giving the other party, PRA, the opportunity to oppose it, respondent judge explained that cases involving a prayer for injunctive relief necessitated expeditious and judicious resolution such that a hearing would even at times be dispensed with. According to him, the rules allowed him to issue a writ *ex parte* should he find the matter to be "of extreme urgency and that the applicant would suffer grave injustice and irreparable injury." Respondent judge, nevertheless, stressed that despite his judicial prerogatives, he did not immediately issue the writ, and his willingness to hear the argument of both parties should negate any accusation of bias and partiality on his part.

As regards the claim that he did not listen to the dissertations of complainant Atty. Vernetta Umali-Paco during the hearing of 20 March 2001, respondent judge felt that since Atty. Umali-Paco was not a party to the case, she could not very well participate in the proceedings. He was not obliged, he said, to hear the pontifications and lectures of Atty. Umali-Paco that might only serve to delay the proceedings.

Respondent judge denied that he had violated Section 9, Rule 30, of the 1997 Rules of Civil Procedure when he delegated the reception of evidence of the parties and the rendition of rulings on objections to the acting clerk of court considering that the hearing on the afternoon of 19 February 2001 was scheduled merely for the presentation of documentary evidence, consisting basically of accounting figures, as well as for the reconciliation of certain records. Respondent judge averred that with the knowledge and consent of the parties and their counsel, he designated respondent Aida Lomugdang, the acting clerk of court, to undertake what was purely a ministerial matter. The proceedings took place in the courtroom while he remained in his chambers taking up matters that equally needed his immediate attention. In any event, respondent judge said, Lomugdang acted impartially and that, indeed, both parties and their respective counsel had agreed to and expressed no objection to the delegation and, having voluntarily submitted themselves to her ruling, they should be deemed to be in estoppel from assailing the proceedings.

Respondent Lomugdang, in her case, explained that before the start of the afternoon hearing, Atty. Vernetta Umali-Paco, in the presence of Atty. Dolores Rigonan and Atty. Felisberto Verano, inquired if she was a member of the bar. She replied that she was not a lawyer. She asked them if they had any objection but, not hearing any, she went on to receive the evidence. In the course of the proceedings, the counsel of the respective parties raised

objections to questions being propounded by either side on which she was then asked to rule on. It was upon their insistence, she said, that she made rulings on their objections. Lomugdang lamented that Attorneys Umali-Paco, Felisberto Verano and Dolores Rigonan, who knew better the rules of procedure than she, had consented to the proceedings rather than opted to call the attention of the judge. She said that not only did they fail to make any objection but that also they did not bother to have the proceedings nullified.

Relative to the charge against respondent stenographer Lilia N. Batu that she connived with respondent judge in falsifying judicial records, respondent Batu narrated that the case of the parties was scheduled to be heard on the morning of 19 February 2001 but, for lack of material time, Atty. Felisberto Verano, counsel for PRAMA, moved to have the hearing continued in the afternoon. Respondent judge granted the motion and ordered the parties to be present for the continuation of the hearing at two o'clock that afternoon. It was solely because she was under the impression that the afternoon hearing was but an extension of the morning proceedings that respondent stenographer Batu caused it to appear as such on the first page of the transcript of stenographic notes. She stressed that she had no intention of falsifying any official document or making any untruthful statement.

In administrative proceedings, the complainant has the burden of substantiating the charges asseverated in the complaint.[2] According to complainants, respondent judge exhibited partiality and bias on four separate occasions - 1) by leading or coaching a witness for the plaintiff, 2) by granting the motion of the plaintiff to set the case for an earlier hearing without giving the counsel for the defendant an opportunity to oppose it, 3) by commenting, during one hearing, that he could issue the writ of preliminary injunction ex parte, and 4) by unduly interrupting one of the complainants, Atty. Vernetta Umali-Paco, while the latter was explaining a matter in open court. Complainants claimed that Judge Quilala had coached the main witness for the plaintiff, Ramon Collado, during the hearing held on 13 and 19 February 2001, for the issuance of a writ of preliminary injunction. It was proffered that respondent judge, instead of ruling on an objection, would reform the question of counsel for the plaintiff thereby enabling the witness to answer.

Investigating Justice Edgardo Sundiam made this observation in his report; viz:

"From the aforementioned 'exchanges' of the counsel of the parties, the witness and respondent Judge during the testimony of plaintiff PRAMA's witness Collado, it appears that respondent Judge deviated from the ordinary course of listening merely to the testimony of a witness and merely ruling on objections. It appears that respondent Judge, instead of ruling on objections, advised the witness to just understand or answer the question or respondent Judge ordering the reforming of the question or making suggestions or asked the question himself. Albeit such actuations of respondent Judge were not irregular per se, on the excuses that he himself wanted clarifications on some issues or facts being elicited or wanted the taking of the testimony not to drag on due to persistent objections of a party's counsel, however, a presiding Judge should keep himself in doing so 'to the minimum' to prevent himself from appearing as 'counsel' of a party and to prevent any party from suspecting that he was favoring the other. At any rate, from the aforementioned testimony of Ramon Collado, the undersigned investigating Justice can not decipher any clear-cut showing that respondent Judge was partial towards plaintiff PRAMA's witness, Ramon Collado." [3]

It is within the sound discretion of the trial judge to ask questions from witnesses, if only to clarify what may appear to him to be vague points in the narration. Questions designed to avoid obscurity in the testimony or to elicit additional relevant evidence are not improper. The judge may aptly need to intervene in the presentation of evidence in order to expedite the resolution of a case and prevent unnecessary waste of time.[4] Judges, however, should be extremely careful so as not to be misunderstood, and they must refrain from making comments, remarks or suggestions that could lead to even the slightest suspicion that he is thereby unduly assisting a party or counsel.

Verily, Judge Quilala deviated somewhat from usual practice when he ignored the objection of counsel and,

instead, asked the question himself. Investigating Justice Sundiam, nevertheless, was correct in holding that bias and partiality could not necessarily be inferred therefrom. Ramon Collado, the Chief Operating Officer of plaintiff and a Spanish national, concededly found difficulty understanding the questions propounded to him, as well as in making himself understood, at the hearing. Respondent judge must have thought it best to take a hand in the examination of the witness and to allow the latter to properly make his narration, given the circumstances.

With regard to the charges that respondent judge granted plaintiff's motion for the plaintiff for an earlier hearing without giving the defendant an opportunity to be heard thereon, the Court shares the views of Justice Sundiam that no patent irregularity could also be deduced therefrom-

"While it shows that before the subject motion was filed, seeking for an earlier hearing (for March 9 and 13, 2001) on plaintiff PRAMA's prayer for a writ of preliminary mandatory injunction, there were already previously set hearing dates for the same (March 20 and 23, 2001), however, the undersigned investigating Justice could not find any patent irregularity on the part of the respondent Judge in granting earlier dates of hearing considering that the incident being heard was whether or not to grant the writ of preliminary mandatory injunction. Prayers for injunctive reliefs are given priority in the attention of the court. Thus, the granting of the motion, by itself, did not necessarily prove the claim of complainants that respondent Judge was bias against defendant PRA and partial to plaintiff PRAMA." [5]

When respondent judge uttered the statement that he could issue a writ of preliminary injunction ex parte (during the hearing on 20 March 2001), complainants, unfortunately, mistook that to mean that he could rule on plaintiffs' prayer for preliminary injunction without hearing the evidence. Judge Quilala explained that he was simply stating a procedural fact. Indeed, under the rules, a writ of preliminary mandatory injunction ex parte could be issued without it being necessarily conditioned on prior notice and hearing.[6] Where the delay would prevent an effective relief or might result in serious damage, hearing could justifiably be dispensed with,[7] although, as a matter of course, such a rule, considering the peremptory nature of the extraordinary remedy, must be strictly and restrictively applied.[8]

The foregoing notwithstanding, enough could be gleaned from the records about respondent judge's unnecessary bickering with counsel for the defendant. His utterances could easily and very well be mistaken for, if not reflective of, a mark of arrogance. Rather than rule on the objection of Atty. Rigonan, respondent judge instead brushed off the matter with what would appear to be a conceited show of a prerogative of his office, a conduct that falls below the standard of decorum expected of a judge. In the words of the investigating Justice -

"[The] statement of respondent Judge appears to be a reckless one, uncalled for x x x. Trial judges should be circumspect, carefully judicious and foremost, legally correct in their pronouncements or utterances, especially in open court, to avoid any showing of ignorance, arrogance or bias or partiality to a party. x x x Parenthetically, subject statement of respondent Judge could have been worded in a more judicially suitable manner, short of showing his irritation towards respondent PRA's counsel, which may only tend to suggest his bias against defendant PRA's counsel or partiality to the other party. Trial judges should be circumspect and act with proper judicial decorum in their pronouncements or utterances, especially in open court." [9]

With respect to the charge that respondent judge left his chambers on the afternoon of 19 February 2001 and that he delegated to acting clerk of court Aida C. Lomugdang, who was not even a lawyer, the task of receiving evidence for the parties, the pertinent rules of procedure indeed were obviously ignored.

Section 9, Rule 30, of the Rules of Civil Procedure provides:

"Sec. 9. Judge to receive evidence; delegation to clerk of court. --- The judge of the court where the case is pending shall personally receive the evidence to be adduced by the parties. However, in default or ex parte hearings, and in any case where the parties agree in writing, the court may delegate the reception of the

evidence to its clerk of court who is a member of the bar. The clerk of court shall have no power to rule on objections to any question or to the admission of exhibits, which objections shall be resolved by the court upon submission of his report and the transcripts within ten (10) days from termination of the hearing."

The rule is unequivocal and admits of no further discussion; neither agreement by the parties nor their acquiescence can justify its violation.

Respondent stenographer Lilia N. Batu, likewise, was also remiss, albeit without any apparent ill-motive, in her duty to accurately record the proceedings before the court. The afternoon session was clearly separate from the morning hearing. A transcript of stenographic notes should be a faithful and exact recording of all matters that transpire during a court proceeding.[10]

The Court cannot with certitude pass upon the various other claims of complainants, such as respondent judge's refusal to recuse himself from the case, his contempt orders, and the like, which are appurtenant to Civil Case No. 01-112 and not to this administrative matter.

WHEREFORE, the Court finds (a) respondent Judge Reinato G. Quilala guilty for conduct unbecoming a judge and of violating Section 9, Rule 30, of the Rules of Court, and he is hereby penalized with a fine of Ten Thousand (P10,000.00) Pesos; (b) respondent acting clerk of court Aida C. Lomugdang guilty of having acted in contravention with the rules on the reception by her, albeit upon the directive of respondent judge, of evidence without herself being a member of the bar, and she is hereby SEVERELY REPRIMANDED; and (c) respondent stenographer Lilia N. Batu to have been remiss in her duty to accurately reflect the circumstances surrounding the proceedings in the afternoon hearing of 19 February 2001, and she is ADMONISHED to henceforth be circumspect in her duties. Respondents are each warned against committing any further infraction on their part.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Carpio, and Azcuna, JJ., concur.
Ynares-Santiago, J., on official leave.

[1] These "questionable" orders consisted of -

a)

An Order dated 30 April 2001 ordering the issuance of a writ of preliminary mandatory injunction upon the posting of a bond by plaintiff PRAMA;

b)

In Order dated 07 May 2001, respondent judge issued a writ of preliminary mandatory injunction;

c)

On 14 February 2002, respondent judge ordered defendant PRA to reinstate the Memorandum of Agreement and issued instructions to depositary banks to remit commissions due to the plaintiff, otherwise a contempt order will be issued;

d)

On 29 April 2002, respondent judge directed defendant PRA to comply with the court's orders, otherwise a contempt order will be issued;

e)

On 29 April 2002, respondent judge denied defendant PRA's prayer for dissolution of the writ of preliminary mandatory injunction;

f)

on 13 June 2002, respondent judge ordered the reinstatement of Ramon Collado, the witness for PRAMA, as consultant of defendant PRA and ordered the latter to pay plaintiff PRAMA one-half percent of the commission received by defendant PRA from banks, etc., and warned defendant PRA of contempt if it fails to comply;

g)

On 18 June 2002, respondent judge cited defendant PRA and its officers in contempt of court;

h)

On 24 June 2002, respondent judge issued another contempt order penalizing the board of trustees and officers of defendant PRA with a fine of P30,000.00 each.

[2] Cortes v. Agcaoili, A.M. No. RTJ-9-1414, 20 August 1998, 294 SCRA 423.

[3] Report and Recommendation, Court of Appeals Associate Justice Edgardo F. Sundiam, A.M. No. RTJ-02-1699, pp. 18-19.

[4] Cosep v. People, G.R. No. 110353, 21 May 1998, 290 SCRA 378.

[5] Report and Recommendation, Court of Appeals Associate Justice Edgardo F. Sundiam, A.M. No. RTJ-02-1699, p. 19.

[6] Tay Chun Suy v. CA, G.R. No. 91004-05, 20 August 1992, 212 SCRA 713.

[7] Ortigas & Co., Ltd. Partnership v. Judge Ruiz, G.R. No. 33952, 09 March 1987, 148 SCRA 326.

[8] Belisle Investment & Finance Co., Inc. v. State Investment House, Inc., G.R. No. 71917, 30 June 1987, 151 SCRA 630.

[9] Report and Recommendation, Court of Appeals Associate Justice Edgardo F. Sundiam, A.M. No. RTJ-02-1699, pp. 20-21.

[10] Almario v. Resus, A.M. No. P-94-1076, 22 November 1999, 318 SCRA 742.

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