

THE COURT ADMINISTRATOR, COMPLAINANT, VS. HON. ANTONIO P. PAREDES, ALEJANDRO BALITON, LUIS ROD SANTOS, FLORENCIA TOLENTINO, RIZALINA CANTORIA, AND ANATOLIO ALONZO ALL OF BRANCH ...

Adm. Matter No. R-375-MTJ. September 30, 1987

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

On the basis of a newspaper item, published in the September 13, 1982 issue of *Tempo*, attributing various anomalies in the Metropolitan Trial Court of Manila to the respondents, the Court on September 16, 1982 ordered Justice Jaime R. Agloro and later Justice Vicente V. Mendoza, both of the Court of Appeals to conduct "preliminary" investigation of the matters cited in the news item.

On May 15, 1985, Justice Vicente V. Mendoza, while finding no evidence directly linking Judge Antonio P. Paredes to the irregularities, recommended the filing of specific charges against the respondents and the conduct of formal hearings to look into those charges.

The case was referred to Executive Judge Abelardo M. Dayrit for investigation, report, and recommendation.

The report of Judge Dayrit, dated August 25, 1987 follows in full:

"This administrative complaint or dishonesty and irregularity in the raffle of cases was instituted by then Acting Court Administrator Hon. Arturo B. Buena.

By virtue of a Resolution of the Court en banc dated March 31, 1987, this case was referred to the undersigned for investigation, report and recommendation.

Upon receipt of the records, the undersigned investigator immediately set this case for investigation on May 14, 1987 and May 21, 1987, at 2:00 o'clock in the afternoon, with notice to all the parties. While all the respondents appeared on May 14, 1987, nobody much less any witness for the (private) complainant appeared despite due notice, apparently indicating lack of interest or failure to prosecute (*Vda. de herber v. Manuel*, 99 SCRA 47 August 6, 1980). Whereupon, respondents submitted the case for resolution on the basis of the record and their comments which were filed with the Supreme Court.

The complaint charges Judge Antonio P. Paredes along with some members of the staff for 'dishonesty and irregularity in the raffle of cases in violation of Circular No. 8 dated September 23, 1974, is amended, Circular No. 20, dated October 4, 1979 and Circular No. 3, dated April 24, 1975.'

Justice Vicente Mendoza of the Intermediate Appellate Court was designated by the Court 'in replacement the late Justice Jaime R. Agloro' to conduct a preliminary fact-finding investigation of the charges exposed by Mr. Ruther Batuigas in the *Tempo* issue of September 13, 1982.

While the Supreme Court ordered Justices Agloro and Mendoza to conduct a preliminary fact-finding investigation, no preliminary investigation could have been conducted by either of them because as intimated

in the report of Justice Mendoza, there was no complaint nor witnesses to reckon with.

'As indicated above, the principal difficulty of conducting the investigation of the report in this case is the lack of complainant and witnesses.' (p. 10).

However, after the filing of the charges by the Acting Court Administrator, the Supreme Court required comments/explanation of respondents. All, except one Florencia Tolentino who has chosen to be phased out under Batas Pambansa Bilang 129 in 1983, submitted their comments.

Respondent Judge submitted on March 6, 1986 his resignation in the course of the reorganization of the judiciary which was duly accepted on January 7, 1987. He applied for disability retirement as early as April 24, 1985 due to poor health. His motion to dismiss filed on January 15, 1987, was referred by resolution in the rollo of this case, and for whatever appropriate action Judge (now Justice) Alfredo Benipayo might deem necessary to take thereon and for the submission of his recommendation within ten (10) days from notice.

Aside from denying the charges against him respondent Baliton was retired from the government service on April 18, 1986 upon reaching the age of 65. He invokes the ruling of the Supreme Court in the case of Bayhon v. Tabigne, Adm. Case No. 178-J, January 20, 1975 and Oliveros v. Judge Aquino, 87 SCRA 344, December 29, 1978 that the compulsory retirement of respondent renders the administrative complaint against him moot and academic, and no useful purpose can be served by acceding to the plea that there be further inquiry on the matter (Agsalud v. Ramos 6 SCRA 629).

Respondent Judge likewise moves to dismiss the instant case against him for being moot and academic based on the doctrine of acceptance and resignation. (Lopez v. Judge Guevarra, 65 SCRA 13; Reconose v. Tumalak, G.R. Adm. Matter No. 329-MJ, April 30, 1976, 70 SCRA 458).

Significantly, the Supreme Court has dismissed Administrative Case No. RTJ-86-2 for lack of merit and also the dismissal of Administrative Case No. R-727-MYJ, also involving respondent Judge, for having become moot and academic, again on the principle of acceptance of respondent judge's resignation. In these cases, the High Court stressed that it saw 'no compelling reason to continue further the investigation of these cases.'

Conformably, however, with the resolution of the Supreme Court dated March 31, 1987, the undersigned, in addition to the ground that the case has become moot and academic has seen it proper to pass upon the merits of the case as briefly as possible.

It should be recalled that Court of Appeals Justices Jaime Agloro (deceased) and Vicente Mendoza were heretofore authorized by the Supreme Court to conduct a preliminary fact-finding investigation of the instant case. Rightfully, Justice Mendoza deplored that 'the principal difficulty of conducting the investigation of the case was the lack of complainant and witnesses.' He also stated that the absence of complainants and witnesses makes it difficult to state exactly what part each had in the apparent fixing of the cases in the City Court of Manila' (p. 8 Mendoza Report).

On the charge of dishonesty, there is no evidence whatsoever that respondents Paredes and Santos had ever made any collection from any violator of any municipal ordinance brought to his court. There is nothing irregular in the disposition of special arrested cases. All of the requirements in the disposition of said arrested cases have been complied with. In fact, the Official Receipt No. 7467774, dated August 24, 1982, is indicated on the Information of Criminal Case No. 199753, indubitably proving that the payment of the fine and costs were duly collected by the cashier. The allegation of collecting P60.00 or more as fine from each vendor and the lion's share being shared by respondents Judges Paredes and Santos is obviously belied by the Information cited above. The alleged violators never mentioned the names of said respondents or their participation in their affidavits which were attached to the NBI report (Annexes C, D, E and F, Comment). Undoubtedly, there is no iota of evidence that links respondents judge and Santos to the charge of dishonesty.

Insofar as the charge of irregularity in the raffle of cases is concerned, complainant charges violations of

Circular No. 7 dated September 23, 1974, as amended by Circular No. 20 dated October 4, 1979, and Circular No. 3 dated April 24, 1975. Circular No. 7 has no application in the raffle of cases in the Court of First Instance of Manila (now Regional Trial Court). Circular No. 20 has likewise no application to the instant case because it refers to disposition of criminal cases already raffled. Circular No. 3 is no longer applicable because it was revoked or repealed effective August 1, 1985 (See Supreme Court's en banc Resolution dated July 30, 1985). In other words, Circular No. 3 was no longer in existence when the instant complaint dated September 17, 1985 was filed on September 26, 1985. Obviously, there could be no prosecution from any alleged violation of a dead and inexistent law.

Be that as it may, an examination of the record reveals nothing irregular in the raffle of cases conducted by respondent judge in Branch X of the Metropolitan Trial Court. The absence of irregularity in the raffle of civil cases was confirmed by Mrs. Dalusong, Taca and Rodriquez (See Annexes "T", "U", and "V" of the Record) who were the authorized representatives of the Acting Clerk of Court in every raffle conducted in Branch X. In their affidavits given to the NBI, said representatives categorically stated that they saw no anomaly in the raffle of cases conducted in open court in Branch X of the City Court presided by respondent judge.

The staff members of respondent judge were not members nor representatives of the raffle committee but their duties were to extend administrative and clerical assistance in the raffle. In the case of respondent Florencia Tolentino, no further discussion of her participation in the raffle is necessary as she opted to be phased out sometime in 1983 in the course of the reorganization of the judiciary by virtue of BP No. 129.

The other judges who were supposed to attend the raffle of cases as members of the raffle committee during specified periods of time never appeared despite a reminder by the executive judge (See Annexes "Y", "Y-1", "Y-2", "Z", "Z-1" and "AA-1" of Annex "B" of the complaint respectively). In their absence, respondent judge had no recourse but to go on with the raffle as the daily raffle had been mandated by Circular No. 3 without exception. This lack of attention by assigned judges to the raffle of cases was rightly deplored by Justice Agloro in his report (pp. 7-8 partial report J. Agloro, November 8, 1983).

The so-called Chinese cases which found their way in the expose of a certain Ruther Batuigas, appear to have sparked this investigation. And yet, when we go into the bottom of the accusation, we see that the facts were obviously presented in a rather unfair and distorted fashion.

It is to be observed that the investigation made by the NBI was confined only to 'Some Civil Cases Assigned to Each Branch', as the title of the report reads. And so, on the basis of a partial listing of civil cases with so-called Chinese names, the NBI made the gratuitous conclusion that most of these cases were channeled to Branch X presided by respondent judge.

In the face of this unfair and haphazard investigation made by the NBI, respondent judge took it upon himself and at his own expense to prepare a complete and exhaustive compilation of all civil cases with so-called Chinese names covering the years 1980, 1981 and 1982. And surprisingly, the result was just the opposite of what the NBI found. There was an almost equal distribution of so-called Chinese cases during the period referred to among the different branches of the Metropolitan Trial Court of Manila. The list of all said Chinese cases is attached to the respondent judge's comment as Annexes 1, 1-A, 1-B and 1-C.

Additionally, while cases may bear Chinese names, this is really of no consequence because so-called Chinese names, most of whom belong to native Filipino citizens as well as to naturalized Filipinos abound everywhere in the country. In fact, numerous government officials and employees, clergymen and members of congress bear Chinese names.

Verily, the undersigned investigator finds nothing irregular in the discharge of functions by the respondents. The members of the staff of respondent judge, even if they attended the raffle, cannot be said to be dishonest either, as their official duties had been regularly performed.

Since an administrative case is regarded as penal in character, no less than a convincing proof is required for conviction. It is this proof that is sorely wanting. It is also worthy to note that the prosecution did not file any opposition or objection to respondents' motion to dismiss. And the highly respected Justice Mendoza made the finding in his report that 'there is no evidence that directly links Judge Paredes to the irregularity.' (p. 8 Report of Justice Mendoza).

As held in one case, the respondent judge is entitled to exoneration when the charges against him were not established by preponderance of evidence (*Buyoc v. Zosa*, 22 SCRA 1235).

No less than complainant in his Memorandum dated August 6, 1986 made an observation that 'the facts of record are not sufficient to provide a basis for determining whether or not the respondents maybe held administratively liable.' (Supreme Court Resolution dated October 14, 1986 in Adm. Matter No. R-375-MTJ).

Finally, as observed by Justice Alfredo Benipayo who last investigated this case before the same was assigned to the undersigned, that -

'In line with the ruling of this Honorable Court in *Angel Reconose v. Municipal Judge Teofilo Tumulak*, 70 SCRA 458, the undersigned respectfully recommends the dismissal of the administrative complaint against the respondent judge. As decided in said case, the acceptance of the respondent Judge's resignation by the President has made moot and academic the instant complaint.'

'There were subsequent developments. The records likewise show that on May 31, 1973, the resignation of Judge Teofilo N. Tumulak was accepted by the President. Under the circumstances no further action need be taken on these administrative cases against Teofilo Tumulak.' (*Reconose v. Tumulak*, 70 SCRA 458).

WHEREFORE, for lack of evidence and merit, it is respectfully recommended that the administrative case against all the respondents be dismissed and that respondents Judge Antonio P. Paredes and Atty. Alejandro Baliton be allowed to retire with all the privileges and benefits appurtenant thereto."

Immediately after the newspaper article reported alleged anomalies in the raffling of cases in Manila, the Court ordered the Court Administrator to implement remedial measures that would correct any possible shortcomings in the raffle system, make it more fair and objective, and help insure that it would be beyond suspicion. The Court Administrator has reported that he has followed the Court's directive.

After considering the entire records of this administrative case, the Court finds the report of Judge Dayrit in order and, accordingly, approves it.

WHEREFORE, the administrative case against the respondents is hereby DISMISSED for insufficiency of evidence. The applications for benefits based on the retirement of respondents Antonio P. Paredes and Alejandro Baliton are given DUE COURSE. The Court Administrator is directed to process said applications.

SO ORDERED.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, and Cortes, JJ., concur.

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