

BALDOMERO P. MESO, COMPLAINANT, VS. HONORABLE PLACIDO-REYES-ROA, RESPONDENT.

Adm. Case No. 226-J. March 29, 1972

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Complainant Baldomero P. Meso filed on November 2, 1971 the following charge against respondent Judge Placido Reyes-Roa of Branch I, 15th Judicial District of Surigao del Norte:

"3. That the complainant, had filed Election Exclusion Cases Nos. 2036, 2038, 2040, 2042 and 2044 respectively in Branch I, Court of First Instance of Surigao del Norte, against the respondent named therein for the ground of non-residence for six (6) months in Rizal, Surigao del Norte;

"4. That the respondent Judge scheduled the hearing of the above-mentioned Election Exclusion cases at Rizal, Surigao del Norte, on the 25th and 26th exclusively of October, 1971;

"5. That the respondent Judge at early morning of Oct. 25, 1971, was picked up by the launch of Mayor Ruben Ecleo of Dinagat, Surigao del Norte, a brother of Moises Ecleo, a rival candidate of the undersigned for the office of the Mayor of Rizal, Surigao del Norte this coming Election, Nov. 8, 1971, who caused the registration of the respondents in Election Expulsion cases above mentioned, and said respondent Judge took his breakfast in the residence of Mayor Ruben Ecleo and candidate Moises Ecleo, and after breakfast, the Judge, candidate Moises Ecleo, and the respondents in the aforesaid Exclusion cases proceeded to Rizal.

"6. That because of the absence of the lawyer of the respondents, Atty. Federico Costiniano, the respondent Judge postponed the hearing to 2:00 P.M.;

"7. That the respondent Judge herein objected to any evidence that the attorney of the petitioner desired to present, by saying that you cannot disprove(d) or introduce evidence against the official acts of the members of the Election Board; he objected to the presentation of the voters affidavit of the challenged registran(ce)ts, and all evidence which petitioner desired to present, in short, he acted as the lawyer of the challenged voters of Moises Ecleo;

"8. That after the adjournment of the session in the afternoon, the respondents, the Judge and Attorney for the respondents went to the house of Mayor Ruben Ecleo at San Jose, Dinagat and then passed the night with Moises Ecleo, and in the following morning after breakfast, the Judge, Moises Ecleo, Attorney of the respondent, Atty. Federico Costi(ni)ano went to Rizal to resume the hearing; and in the same attitude and manner, the respondent Judge acted as the attorney for the challenged voters. He even(t) resisted the petition of the petitioner that a Court's Commissioner be sent out to check if true that the challenged voters are really living on the houses, they have pointed to in the hearing or in their voters affidavits, and that said respondent Judge had verbally opined that we cannot disfranchise(d) the respondents because they are the evacu(t)ees, regardless of their residence in Rizal, Surigao del Norte." (Pp. 1-2, rec.).

On January 14, 1972, respondent Judge filed the following answer:

"2. That the complaint in essence, complains about the fact that the respondent presiding judge used a launch belonging to the brother of Moises Ecleo, rival candidate of the complainant in going to the municipality of Rizal (Sibanag Island), and accepted an invitation for dinner and passing the night at the house of Mayor Ruben Ecleo, brother of rival candidate Moises Ecleo; but complainant conveniently forgot to state that respondent as well as the entire court personnel had agreed to accept the invitation of complainant for lunch and also the invitation for supper extended to them by Mayor Ruben Ecleo as fully explained in the affidavit executed by Municipal Judge Pedro L. Azarcon which is marked as Annex "B":

"3. That paragraph 6 of the petition refers to the conduct of the hearing which is clearly the privilege of the presiding judge whether or not to proceed with or without the presence of counsels of both parties but does not necessarily imply that the presiding judge wanted to favor the rival candidate of complainant; and this also answers the next complaint of complainant in paragraph 7 as to the admission of evidence during the hearing;

"4. That respondent denies the allegation contained in paragraph 8 of the administrative complaint to the effect that he refused the petition of the complainant to have commissioners appointed for the purpose of verifying whether the voters actually resided in the municipality of Rizal as clearly evidenced by the court's order excerpt of which is marked as Annex "C" (;) and Annex "C-1";

"5. That the prayer contained in paragraph 2 asking that respondent be disqualified to continue the hearing of exclusion cases Nos. 2036, 2038, 2040, 2042 and 2044, has become moot and academic considering that these cases have already been dismissed as evidenced by Annex "D";

"That as a special defense respondent judge respectfully avers:

"a) That complainant merely utilized the present set of incidents to use as a lever to pressure the respondent judge to reconsider his order of confiscation dated September 6, 1971 in Crim. Case No. 58, wherein complainant acting as bondsman was declared forfeited in favor of the government in the amount of Sixty Thousand Pesos (P60,000.00) for failure of said complainant to produce the body of the accused in that said criminal case as evidenced by the order of the Court marked as Annex "E":

"b) In contrast, complainant announced to the whole world that the respondent judge is the best judge in the world when the latter awarded him damages in connection with a civil case which he filed and which decision is evidenced by Annex "F"." (Pp. 5-7, rec.).

To said answer are attached Annexes "B", "C", "C-1", "D", "E" and "F".

Annex "B" is the affidavit of municipal judge Pedro L. Azarcon of Dinagat, Surigao del Norte which states:

"That some time before the elections of November 1971, the District Judge Placido Reyes-Roa informed me that in connection with the exclusion proceedings of voters of Cases Nos. 2036, 2038, 2040, 2042, 2044, and 2046, filed by municipal mayoral candidate Baldomero P. Meso, the district judge decided to hold the hearing right in the municipality of Rizal in view of the fact that some fifty (50) witnesses would testify and it would be costly and inconvenient for these witnesses to come over to Surigao City since the only means of transportation is by launches which have to cross the Great Pacific Ocean;

"That as is customary in such cases, I, as municipal judge of Rizal immediately made preparations for the transportation for the court personnel by hiring the launch of Mayor Ruben Ecleo of Dinagat for the sum of P40.00 as well as the lunch and supper;

"That considering the local living conditions in the municipality of Rizal is not only inadequate but almost primitive, I was only too glad that mayoral candidate Baldomero P. Meso and Mayor Ruben Ecleo of Dinagat extended to the Court personnel invitations for lunch and supper;

"That it was agreed by the court personnel that it would take lunch with mayoral candidate Baldomero P. Meso

and their supper with Dinagat mayor, Ruben Ecleo;

"That since there were no sleeping quarters available at the municipality of Rizal, I requested Mayor Ruben Ecleo to accom(m)odate the court personnel at a nearby island where he resides and where the court personnel, were lodged for the night;

"That after the two-day hearing, the presiding judge and the court personnel returned on the same launch owned by Mayor Ruben Ecleo who happens to be a brother of mayoral candidate Moises Ecleo." (P. 15, rec.).

Annex "C" is the order dated October 26, 1971, issued by the respondent judge in Election Cases Nos. 2036, 2038, 2040 and 2042, all for exclusion of voters, and stating that, after the petitioner in said cases submitted his evidence, upon petition of said petitioner, through counsel, the court will appoint a commissioner of its own choice to verify whether or not the persons mentioned in the four (4) exclusion cases are really residents of the respective places mentioned in their voters' affidavits, on condition that petitioner shall deposit the amount of P300.00 for the services of said commissioner (pp. 17-18, rec.), and that upon submission of the commissioner's report, the parties will consider the cases submitted for decision.

Annex "C-1" is the affidavit of Branch Clerk of Court Jose R. Teves of Branch I to the effect that petitioner Baldomero P. Meso, complainant herein, failed to make the required deposit, for which reason no commissioner was appointed by the court (Annex "C-1", pp. 19-20, rec.).

Annex D is the order dated November 6, 1971, dismissing all the five (5) inclusion cases, Nos. 2048, 2050, 2052, 2054, and 2056, upon motion of Baldomero P. Meso, as intervenor in said inclusion cases on the ground that said petitions were filed out of time, with the concurrence of counsel for petitioners in said inclusion cases.

Annex "E" is the order dated September 6, 1971 of respondent judge in Criminal Case No. 58 entitled "People vs. Brigido Lisondra, Jr., et. al.," directing the confiscation of the bail bond filed by herein complainant Baldomero P. Meso for the provisional liberty of one of the defendants (Annex "E", pp. 23-24, rec.).

Annex "F" is the decision dated October 28, 1969 of respondent judge in Civil Case No. 1842 entitled "Baldomero P. Meso vs. Canuto Servillas and Florido Bruzon" in favor of the plaintiff, herein complainant, awarding to the latter actual, moral and exemplary damages as well as attorney's fees (Annex "F", pp. 25-29, rec.).

The telegram addressed to Atty. Julian LaO dated January 30, 1972 requested Atty. LaO to secure a certification from the Supreme Court that there is no pending administrative case against respondent judge because said respondent is afflicted with a malignant tumor in the throat and is retiring from the service for incapacity (p. 32, rec.), which request was reiterated in another telegram dated January 31, 1972 because the respondent judge is in serious condition (p. 34, rec.). Said request for clearance was referred to the investigator, who submitted the following findings and recommendation:

" * * * that the acts imputed to respondent in the light of the explanation shed by the latter do not constitute any of the causes calling for administrative action against respondent, i.e. 'serious misconduct or inefficiency' under Section 1, Rule 140. Suspecting that the charges were filed in the heat of the political campaign during the last general elections, your Commissioner sent by air mail a letter to the complainant if he still desires to pursue the charges, Annex A. In answer, complainant filed an Affidavit of Desistance, Annex B, pertinently stating 'that complainant is no longer interested to pursue the said administrative complaint he having emerged victorious in said elections.'

"Under the circumstances, your undersigned Commissioner hereby returns the records of the case with the recommendation that the same be dismissed." (Pp. 44-45, rec.).

To be sure, the acts attributed to the respondent judge may not constitute serious misconduct or inefficiency. But

respondent revealed a lack of self-restraint or a becoming sense of delicacy when, in proceeding to hear the exclusion cases in the town where the voters reside, he utilized the motor launch of the incumbent mayor whose brother was a candidate for mayor of said town even for a fee and agreed to take his lunch with the court personnel in the house of the complainant who was also a candidate for mayor and to take supper as well as pass the night in the house of the incumbent mayor. The fact that the living conditions in the municipality are inadequate and almost primitive does not justify his enjoying the hospitality and accommodations furnished by the complainant and by the incumbent mayor whose brother, like the complainant, was running for mayor. A judge should have the necessary initiative and resourcefulness either to provide for the court's accommodations and supplies or to purchase the same from a neutral party, in order to avert any suspicion of partiality and thus maintain the image of "the cold neutrality of an impartial judge."

WHEREFORE, this administrative complaint against respondent Judge Placido Reyes-Roa is hereby dismissed, with the advice that henceforth, the respondent should exercise the requisite self-restraint and maintain a becoming sense of delicacy in his public and private life.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

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