

GERONIMO B. ZALDIVAR, COMPLAINANT, VS. HON. NUMERIANO ESTENZO, RESPONDENT.*Adm. Case No. 104. April 27, 1972*

Ponente: FERNANDO,J.

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This administrative case is closely intertwined with a certiorari petition filed by complainant Geronimo B. Zaldivar against respondent Judge Numeriano Estenzo.[1] The specific question in such petition is the competence of respondent Judge to pass upon and entertain a special civil action of prohibition to prohibit petitioner Zaldivar, then a municipal mayor, from appointing special policemen and agents who allegedly would be utilized for the purpose of terrorizing voters in the election that was held in November 9, 1965. The actuations of respondent Judge were impugned for entertaining such action asserted to be beyond his jurisdiction, allegedly due to his sympathy and support for one of the congressional candidates. In the decision rendered by us in the certiorari proceeding on May 3, 1968, finding for petitioner Zaldivar, we did note the "celerity and dispatch" in which respondent Judge granted the ex-parte preliminary injunction sought and his assumption without further study that his jurisdiction was undeniable. It was also stressed therein that a judge should take the utmost care to erase any impression that might be created as to his actuations politically motivated.

A recital of the proceedings in that certiorari petition is not amiss. As noted in our opinion: "In the language of the petition, dated May 9, 1966, petitioner being Geronimo Zaldivar and the principal respondent, Judge Numeriano Estenzo, of the Court of First Instance of Ormoc City, it was filed 'for the purpose of setting aside (a) the decision dated April 28, 1966, rendered by the Honorable Judge Numeriano Estenzo of the Court of First Instance of Leyte, 13th Judicial District, Fifth Branch, Ormoc City, in Special Civil Case No. 753-0, entitled 'Luis Porcare and Sotero Pepito, petitioners, vs. Feliciano Larrazabal, in his official capacity as Mayor of Kananga, Leyte, and Geronimo Zaldivar, in his official capacity as Mayor of Albueria, Leyte, respondents;' (b) the order for the arrest of petitioner issued in said case on the same date that the decision was promulgated; (c) the warrant of arrest issued pursuant to said order; (d) the order issued in said case dated November 5, 1965, granting the issuance of a writ of preliminary injunction; and (e) the writ of preliminary injunction so issued on the same date, on the ground that said decision, orders, warrant of arrest and writ of preliminary injunction were issued by the trial court without jurisdiction.'"[2] It went on as follows: "Petitioner was then the incumbent municipal mayor of Albueria, Leyte, named respondent in the special civil case referred to, while the other respondent, Sotero Pepito, was one of the petitioners in such case. The writ of preliminary injunction prayed for was granted by this Court in a resolution of May 20, 1966, which gave due course to the petition."[3] The answer of respondent Judge was next taken up in the opinion: "While the answer of respondent Judge Estenzo, dated June 15, 1966, contained his own version of the facts, there is no question that a decision in favor of the petitioner, now respondent Pepito, and against the respondent, now petitioner Zaldivar, in the above special civil action was rendered on April 28, 1966; an ex-parte order for the issuance of a preliminary injunction and the writ itself were issued on the same day the special civil action was filed; and the arrest of petitioner immediately followed by a warrant of arrest were ordered by respondent Judge."[4]

During the pendency of such certiorari proceeding, petitioner, now complainant Zaldivar, filed a manifestation with us charging respondent Judge with arbitrary and despotic conduct, manifest partiality, serious misconduct and the commission of offenses both under the Revised Penal Code and the Anti-Graft and Corrupt Practices Act in connection with his actuations in such case pending before his sala, subject of the certiorari proceeding. In the light of such manifestation, this Court resolved to require petitioner Zaldivar to file a separate administrative complaint against respondent Judge. Hence this administrative complaint.

In such administrative complaint filed with this Court on July 5, 1966, it was alleged that the actuations of respondent Judge in such prohibition proceeding were not only tainted by serious misconduct, inefficiency and gross ignorance of the law, but also amounted to criminal offenses. It was contended that he should not have entertained such a petition as on the face thereof no cause of action was shown and the procedural requirements for prohibition were not complied with, notwithstanding which defects respondent Judge did issue ex-parte a writ of preliminary injunction even if there were no sufficient allegations to show that he had jurisdiction, thus rendering evident that he had deliberately allowed the use of judicial powers as an instrument in rendering aid and comfort to a candidate to a political office and to display his eagerness "to be of service to a congressional candidate." There was a further recital of such alleged failings of respondent Judge in this wise: "Respondent Judge, (1) in denying complainant's motion to dismiss the petition against him * * * on the ground that its purpose has already become moot and academic after the last election; (2) in denying the motion for reconsideration and answer to amended petition for contempt of Court, where the question of jurisdiction was raised * * *; (3) in unjustifiably refusing to defer the hearing of Special Civil Case No. 753-0 until after complainant is given the opportunity to ventilate the question of jurisdiction raised therein with this Honorable Court; (4) in unlawfully refusing to grant a continuance of the trial in Special Civil Case No. 753-0 so that complainant could present evidence in his favor; (5) in unreasonably depriving complainant of the opportunity to show to the trial court that Pepito's evidence did not support or has no bearing on the allegations in the petition against complainant; (6) in rendering an unjust partial and erroneous decision; (7) in issuing an order for the arrest of complainant simply because complainant failed to be present at the hearing on April 28, 1966, notwithstanding the fact that complainant was represented by counsel in that hearing; and (8) in insisting to continue the hearing of the amended petition for contempt, notwithstanding the fact that respondent judge has already lost control and jurisdiction of Special Civil Case No. 753-0 because an appeal from his decision thereon was already perfected, has masterfully woven and portrayed a malevolent design to use the powers of the trial court as a club or weapon with which to beat or whip complainant, not because he is guilty of contempt of court as charged, innocent as complainant is, but simply because the favored congressional candidate of respondent judge in the 4th District of Leyte lost in complainant's municipality during the last election." [5]

The actuations of respondent Judge were characterized in said complaint as being violative of the penal provisions on knowingly rendering an unjust judgment, rendering a judgment through negligence, issuing an unjust interlocutory order, and usurpation of executive functions. [6] Such manifest partiality moreover, according to the complaint, was likewise violative of the Anti-Graft and Corrupt Practices Act. [7] There was lastly this allegation: "That not only in Special Civil Case No. 753-0 has respondent judge flagrantly exhibited his loud partisan colors but also in all other cases filed in his sala, involving politics or of political nature, where respondent judge always invariably render decisions and orders in favor of the parties, counsel of parties, or interested persons known to be identified with or sympathetic to Congressman Dominador M. Tan or his faction, leaders and followers and against the parties, counsel of parties or interested persons known to be against or not in sympathy with the political leadership of Congressman Dominador M. Tan in the 4th District of Leyte, even to the extent of displaying whimsical, capricious, abusive and vindictive exercise of judicial authority." [8]

Respondent Judge was required to answer, which he did, in a pleading filed with this Court on August 16, 1966.

He sought the dismissal of the complaint against him, characterizing the allegations as false and malicious. In a resolution of August 26, 1966, this Court referred the matter to Justice Jesus Y. Perez of the Court of Appeals for investigation, report and recommendation.

After hearing the evidence submitted by both complainant and respondent Judge, Justice Perez submitted a fifty-page report and recommendation absolving respondent Judge from the charges of serious misconduct, inefficiency, gross ignorance of the law, issuance of unjust interlocutory orders, usurpation of executive functions, rendition of unjust judgment and manifest partiality in his actuation concerning the prohibition proceeding filed against complainant Zaldivar in his sala. Thus: "In conclusion, we find that respondent Judge cannot be held guilty of serious misconduct, in-efficiency and gross ignorance of the law, issuance of unjust interlocutory orders, usurpation of executive functions, rendition of unjust judgment and manifest partiality in his actuations in Special Civil Case No. 753-0 as charged by the complainant and that the evidence of the complainant is not sufficiently convincing to sustain the charge that, in his actuations in cases involving politics, respondent Judge had manifested his partisan partiality in favor of the political group of Congressman Dominador Tan or those sympathetic with said group by invariably always rendering decisions and issuing orders in favor of those identified with Congressman Tan's political faction and against those opposing the latter's political leadership." [9] The report of Justice Perez, however, did not go as far as holding the actuations of respondent Judge in connection with other cases pending before him as being totally free from the taint of partiality. Thus: "However, in the light of the actuations of respondent Judge in the case for the exclusion of Rodolfo Revilla and his wife from the voters' list of Ormoc City (Election Case No. 61), which actuations are referred to in the discussion of said case in the body of this report; respondent Judge's act in ordering the arrest of petitioner Torrecampo in Elections Case No. 18 for Torrecampo's failure to appear at the hearing of said case; the respondent's use of the car of Mayor Conejos for a private purpose; his sending of a telegram to the Executive Secretary informing the latter that a charge for grave oral defamation was filed against city councilor Jesus Lladoc; his imposition of a progressively increasing fine of P50.00, P75.00 and P100.00 upon Fiscal Maglasang after Mayor Conejos, in his capacity as a defense counsel in a criminal case, had spoken against the failure of said fiscal to inform the court that a witness whom the prosecution had subpoenaed would no longer be called to testify for the prosecution; and the respondent's reversal of the decision of Judge Vinzon in the case of Abaño vs. Aguipo, the respondent Judge must be admonished to be more prudent and careful in his actuations in cases involving partisan politics in order to avoid the least suspicion that his actuations in said cases are dictated by considerations of political leaning or sympathy." [10]

After carefully going over the report and recommendation as well as the pleadings and memoranda filed, we sustain the recommendation that respondent Judge should be admonished to display greater prudence and care in the performance of his judicial functions, especially in those cases of a political character, to erase any suspicion of his yielding to partisan considerations. We had occasion to note as much in the opinion in the certiorari proceeding of Zaldivar vs. Estenzo. [11] Thus: "One last point. The norm expected of a judge, expressed in language both lucid and forceful by Justice Dizon, bears reiteration: 'It has been said, in fact, that due process of law requires a hearing before an impartial and disinterested tribunal, and that every litigant is entitled to nothing less than the cold neutrality of an impartial judge * * *. Moreover, second only to the duty of rendering a just decision, is the duty of doing it in a manner that will not arouse any suspicion as to its fairness and the integrity of the Judge.' It is difficult enough to attain the ideal of a presiding judge being 'wholly free, disinterested, impartial and independent,' as was noted in the Gutierrez decision. It becomes doubly difficult for such qualities to be in evidence whenever the matter before him is so enmeshed and so intertwined with partisan considerations that even if he could justly lay claim to such attributes, he still would be susceptible to the suspicion, by whichever group may feel that its just claim is rejected, that he acted not in accordance with the cold dictates of reason, but with the promptings and urgings of his sympathy and predilections in whatever direction that may lie. To repeat,

the conclusion reached as to the lack of jurisdiction of the courts of first instance in litigations of this character would go far in fortifying and bolstering the belief in the reality of a truly independent judiciary, free from partisanship and aloof from politics." [12]

WHEREFORE, respondent Judge is hereby admonished with the end in view that henceforth his judicial performance would not lend itself to the interpretation that he has not lived up to the exacting standard required of judges, who must at all times carefully guard themselves against the intrusion of partisan politics. Let a copy of this resolution be forwarded to the Department of Justice.

Reyes, J.B.L., Acting C.J., Makalintal, Castro, Barredo, and Antonio, JJ., concur.

Makasiar, J., voted in favor of the foregoing decision.

Teehankee, J., reserves his vote.

Zaldivar, J., did not take part.

Concepcion, C.J., on official leave.

[1] Zaldivar vs. Estenzo, L-26065, May 3, 1968, 23 SCRA 533.

[2] Ibid, p. 535.

[3] Ibid.

[4] Ibid, pp. 535-536.

[5] Complaint, par. 4(e).

[6] Ibid, pars. 5 to 7, citing Arts. 204, 205 and 240 of the Revised Penal Code.

[7] Ibid, par. 8, citing Sec. 3(e) of Republic Act No. 3019 (1960).

[8] Ibid, par. 9.

[9] Report and Recommendation, pp. 48-49.

[10] Ibid, pp. 49-50. In connection with the case for exclusion of Rodolfo Revilla, the report of Justice Perez contained the following: "However, the actuations of respondent Judge in the proceeding for the exclusion of Revilla and his wife as voters of Ormoc City wherein respondent Judge personally filed an answer of some fifteen (15) pages in the prohibition case before the Supreme Court, whereas, Revilla's counsel merely filed in said case a manifestation adopting respondent Judge's said answer when, under Section 5, Rule 67 of the Rules of Court then enforced, it was the duty of the person interested in sustaining the validity of questioned order or proceeding of the trial court to appear both in its behalf and on behalf of respondent Judge; the act of respondent Judge in sending telegrams to the Clerk of the Supreme Court informing said clerk that Atty. Abas could not file his answer in the prohibition case because he was not furnished with copy of the petition and requesting that the petitioners in the prohibition case be required to furnish Atty. Abas with a copy of such petition; the sending by the respondent Judge to the Clerk of the Supreme Court of various telegrams asking that any notice, order, or decision in the prohibition case be addressed to him either at Ormoc City or Baybay City and respondent Judge's actuation in telegraphing the Secretary of Justice asking that a Solicitor or attorney of the Department of Justice be designated to appear for him in the Supreme Court in the prohibition case and that respondent Judge be authorized to go to Manila to assist said Solicitor before the Supreme Court are actuations which have given rise

to the suspicion of Revilla of the personal interest of respondent Judge in excluding him (Revilla) from the list of voters of Ormoc City in order to disqualify Revilla from running against Congressman Tan. Respondent Judge should be admonished against a repetition of such actuations in similar cases especially those involving politics." Ibid, pp. 22-23.

[11] L-26065, May 3, 1968, 23 SCRA 533.

[12] Ibid, pp. 541-542.

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