

NONATO BARROSO, COMPLAINANT, VS. DISTRICT JUDGE ANDRES P. ARCHE, CFI, BRANCH II, BORONGAN, EASTERN SAMAR, RESPONDENT.

A.C. No. 216-CFI. September 30, 1975

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

This Administrative Complaint filed on March 13, 1973 with the President of the Philippines by Complainant Nonato Barroso (a retired former stenographer in respondent judge's court) against respondent Judge Andres P. Arche of the Court of First Instance, Branch II, Borongan, Eastern Samar was referred in due course through the Secretary of Justice to the Court on May 24, 1973.

The case was referred, after receipt of respondent's Comments, to Justice Sixto Domondon of the Court of Appeals for investigation, report and recommendation.

The investigating Justice has filed his report of investigation dated July 24, 1975, with a notation that he intentionally did not submit the report earlier because the facts and issues raised in the complaint and arising from complainant's dissatisfaction with the adverse decision rendered by respondent judge in complainant's personal case[1] against the Government Service Insurance System claiming underpayment of his retirement benefits, etc. "are squarely raised on appeal in CA-G.R. No. 50346-R" (complainant's appeal from the said adverse decision to the Court of Appeals) and he wanted to wait if possible for the termination of the appeal before releasing his findings, but finally decided not to wait anymore, since at the time of submittal of his report "the said appeal is still unassigned" and "not yet submitted for decision."

As found by the investigating Justice, the complaint is an aftermath of respondent judge's adverse decision of January 4, 1972 dismissing plaintiff as complaint against the GSIS wherein he sought to recover the total sum of P38,874.00 by way of retirement benefits under his own basis of computation rather than the sum of P22,590.00 actually paid him by the GSIS under the standard basis of computation. For having upheld the standard applied by the GSIS rather than his own interpretation of the retirement law whereby he would claim a right to receive a larger amount, complainant charged respondent judge with dishonesty, oppression, incompetence and inefficiency.

All the issues raised by complainant in his administrative complaint are the very errors assigned by complainant in the appeal earlier filed by him on January 31, 1973 from respondent judge's adverse decision, so much so that the Investigating Justice correctly submitted in his report that "we cannot rule on the correctness of complainant's assertions" because of the case being sub judice on appeal. Withal, Justice Domondon reported that "Suffice it to state that no evidence of significance was adduced during the investigation to show bias or malice in respondent judge in his decision"[2]; and that the questions deductions from complainant's retirement benefits made by the GSIS "were indeed approved by [respondent judge] in his decision but only after an apparently thorough

appreciation of the evidence, as the decision clearly shows"[3] but here again, the investigating Justice refrained from ruling on whether respondent judge erred in his appreciation of the evidence because this is precisely one of the errors assigned by complainant in his pending appeal.

Complainant's other charge of neglect of duty based on his claim that his case was decided only after a lapse of ninety (90) days was found by Justice Domondon to be without factual basis, as per the clerk of court's certification (Exh. 3) showing that "was filed on August 28, 1970, submitted for decision on October 7, 1971 as shown by Exhibit ' 1', and was decided on January 4, 1972." [4]

The Court finds in order the investigating Justice's conclusion that "On the whole, (he) finds the administrative complaint premature and prima facie unmeritorious." [5]

The Court rules that aside from being premature, complainant's filing of the administrative complaint raising exactly the same issues against respondent judge's adverse decision (this time as charges of dishonesty, oppression, incompetence and inefficiency) that he has assigned as errors in the appeal from the very same decision filed by him in the Court of Appeals (which is pending decision) is highly improper, if not malicious and intended merely to harass respondent judge.

Absent any manifest abuse, malice oppression or wrongful conduct, a losing party in a litigation who duly files, an appeal from the adverse decision to the higher courts must await the final outcome of his appeal, so that it may then be properly determined whether an administrative complaint may lie against the trial judge. For here, as found by the investigator, there has not been shown any malice or other wrongful conduct on the part of respondent judge in rendering his adverse decision — so that even if the appellate court by final judgment were to uphold complainant's appeal and find respondent judge's conclusions in his decision to be erroneous, respondent cannot be held administratively liable therefor, particularly since he was merely upholding the interpretation and standard of computation applied by the GSIS as the government agency charged with the implementation of the retirement laws.

As the now Chief Justice indicated in *Dizon vs. De Borja*, [6] if a litigant disagrees with a judge's rulings in the case, his remedy lies not in filing before this Court an administrative complaint but "to point out the errors on appeal from the decision" in the same judicial forum, for "To hold a judge administratively accountable for every erroneous ruling or decision he renders, assuming that he has erred, would be nothing short of harassment and would make his position unbearable."

WHEREFORE, the Complaint is DISMISSED for lack of merit.

Makasiar, Muñoz Palma, Aquino, and Martin, JJ., concur.

[1] Civil Case No. 1496 for sum of money of Court of First Instance of Eastern Samar, entitled "Nonato Barroso, plaintiff vs. GSIS, defendant."

[2] Report, page 4.

[3] *Idem*, page 6.

[4] *Idem*, p. 7.

[5] *Idem*, page 8.

[6] 37 SCRA 46. 52 (1971).

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