

DELFIN M. TOBIAS, COMPLAINANT, VS. HON. VICENTE G. ERICTA, RESPONDENT.*A.C. No. 242-J. July 29, 1972*

Ponente: FERNANDO, J.

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A reading, even the most casual, of the administrative complaint against respondent Judge Vicente Ericta would suffice to make evident that it came from someone whose acquaintance with legal concepts is of the slightest, if it could be said that. It could justifiably have been dismissed outright as being merely another manifestation of an offended party venting his spleen on the unfortunate arbiter for failure to obtain in full measure the retribution he would exact from someone who had done him wrong. As evidently he was a layman, it did require a certain degree of temerity to call to task respondent Judge for alleged deficiency of legal knowledge. Of course, there was the further accusation of partiality. Moreover, as the complaint was endorsed to us by the Department of Justice and with complainant imputing to respondent Judge bias in favor of the two accused, this Court deemed it best to require comment. After all it is a prized ideal, one always to be approximated even if the imperfections of human nature prevent its full realization, that everyone who has an interest in a court proceeding is entitled to the cold neutrality of an impartial judge. Respondent Judge, however, instead of merely submitting his comments, chose to file an answer. What he did is certainly not to be deplored. For thereby a clearer picture emerged. The conviction becomes even stronger than that there is no basis for the complaint and that he is entitled to be fully absolved.

The specific allegations, in their totality, to follow the thinking of complainant, would demonstrate a lack in the fund of legal expertise of respondent Judge as well as a predilection in favor of the accused indicative of his bias. It would be useful though to have first a recital of the facts. From the answer of respondent Judge, the following appears: "On November 10, 1971, Assistant Fiscal Melencio S. Peña of Quezon City filed an information with the Court of First Instance of Quezon City accusing two defendants of a crime he designates as 'Robbery Hold-up'. * * * The case was set for arraignment on December 13, 1971. The two (2) defendants, namely, Remigio Nadonga y Manahan and Rolando Tupaz y Hernandez were detention prisoners. Both were arraigned on December 13, 1971. Because they had no counsel, the Court appointed Atty. Abelardo Andal as their counsel de-officio. Upon their arraignment, both defendants pleaded guilty. Thereupon, upon motion of Atty. Abelardo Andal, the defendants were allowed to prove the additional mitigating circumstance of drunkenness. Defendant Remigio Nadonga took the witness stand to prove drunkenness. After his testimony the fiscal did not ask for a chance to present rebuttal evidence and the case was submitted for decision. Hence, a judgment of conviction was forthwith rendered and promulgated in open Court after the plea of guilty. * * *"[1] The complainant in this case, Delfin M. Tobias, is the offended party in the above criminal case.

The charges will now be examined one by one. This is how respondent Judge refuted the alleged unusual consideration shown both defendants: "With respect to the first charge of leniency, the law allows leniency in the imposition of the penalty to defendants who plead guilty and who have mitigating circumstances in their favor. In this particular case, the Court appreciated in favor of the defendants the mitigating circumstances of plea of guilty

and drunkenness. The penalty prescribed for the offense charged in the information is prision correccional in its maximum period to prision mayor in its medium period or a range of four (4) years, two (2) months and one (1) day to ten (10) years. In view of the concurrence of two mitigating circumstances in favor of the defendants without any aggravating circumstances to offset the same, the defendants were entitled to a penalty one degree lower than that prescribed by law for the offense in accordance with Article 64, paragraph 5 of the Revised Penal Code. One degree lower is arresto mayor in its maximum period to prision correccional in its medium period which ranges from four (4) months and one (1) day to four (4) years and two (2) months. Under the law, respondent Judge could have imposed upon the defendants even as low a penalty as four (4) months and one (1) day. But he did not. He imposed a penalty of one (1) year. Thus, respondent Judge was not exactly very lenient. Even if he was, the penalty imposed was within the range fixed by law. Complainant claims he has evidence of recidivism and use of motor vehicle against the defendants. He should have so informed the fiscal before the filing of the information in order that it could have been properly alleged. The information filed alleges no aggravating circumstance."^[2] No further attention need be paid to the second charge that respondent Judge did not notify the offended party as to when the arraignment was set. Clearly the law does not so require. Nor did respondent Judge incur any failure to comply with a duty the law imposes on him when he did not send a copy of his decision to the offended party. Equally so, there is no merit to the alleged grievance of the offended party that while the information charges "Robbery Hold-up", the decision found the accused guilty of robbery merely. As was noted in the answer of respondent Judge, the appropriate legal terminology would be robbery with violence or intimidation of persons. It was unfortunate that the fiscal who filed the information was guilty of legal imprecision when he added the term "hold-up".

Much less could there be any basis for the last specified grievance, the alleged ignorance of respondent Judge when he failed to sentence the accused to suffer subsidiary imprisonment in case of inability to pay the indemnity of P4,000.00. It did suffice for him in his answer to quote the letter of the then Undersecretary of Justice, now Solicitor General, Estelito P. Mendoza, to complainant regarding this point. Thus: "And insofar as the decision does not require subsidiary imprisonment, this is but in accordance with Republic Act 5465 approved on April 24, 1965 which amends Article 39 of the Revised Penal Code by requiring subsidiary imprisonment only in the event of failure to pay the fine imposed but not in case of failure to pay reparation of damage caused."^[3] Nothing can be clearer, therefore, than that respondent Judge has not in any wise, in this particular case at least, rendered himself susceptible to the accusation that he did not live up to the exacting standard of the law.

One last word. There appears to be a querulous note in the answer of respondent Judge. He was not at all happy about having to answer a complaint that, as he pointed out, betrayed on its face ignorance of elementary legal doctrines. Such reaction, while understandable is not justifiable. The constitutional right to a petition, to enable the citizen to air his grievances,^[4] would certainly be emasculated if the response of the governmental body to which it is addressed is one of indifference. The fate of the people and the supremacy of the Constitution would thereby be sorely tested. What is worse, a safety valve against a violent reaction would be closed. This constitutional guarantee requires then that complaints against officialdom be seriously attended to. Where meritorious, the remedy could be supplied. If found to be devoid of substance, the party charged is vindicated with the complainant having the satisfaction of at least having been listened to. There is thus fidelity to what the Constitution ordains.

More specifically, if this Court were not to take pains to inquire seriously into any imputation of misconduct on the part of a lower court, it exposes itself to criticism. It may be indicted for not living up to its responsibility. Care is to be taken then lest a failure to pay attention to any administrative suit against a judge may be characterized as abdication of a solemn trust. Any other norm of conduct might result in the diminution of the confidence reposed in the judiciary. At any rate, respondent Judge was merely asked to comment. That is a

midway step between a curt and summary dismissal of a complaint, invariably the product of a sincere conviction that one has been wronged, even if not infrequently, without sufficient basis, and giving it due course by requiring an answer. Apparently unaware of such a difference, respondent Judge submitted an answer explaining in detail his actuation. As was noted at the outset, it was well that he did so. For, as has been made so clearly evident, what was done by him was fully in accord with the law. Moreover, the least suspicion that his conduct was impressed with leniency towards the accused cannot justly be entertained. His vindication is thus entire and complete. Respondent Judge, under the circumstances, should be the last to begrudge that part of his valuable time had to be devoted to putting things in their true light for the benefit, not so much of this Court, but of the complainant and the lay public.

WHEREFORE, the administrative complaint against respondent Judge is hereby dismissed.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Castro, Teehankee, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

[1] Answer, p. 2.

[2] Ibid, pp. 3-4.

[3] Ibid, p. 7.

[4] According to Article III, Section 1, par. 8 of the Constitution: "No law shall be passed abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and petition the Government for redress of grievances."

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