

RAUL GARAY, COMPLAINANT, VS. HON. ANSBERTO P. PAREDES, RESPONDENT.*A.C. No. 263-J. April 24, 1974*

Ponente: ESGUERRA, J.

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This administrative case was initiated on October 26, 1972, on a sworn complaint of Raul Garay addressed to the Secretary of Justice, charging the Hon. Ansberto P. Paredes, formerly of Branch III of the Court of Industrial Relations (CIR), and now Presiding Judge thereof, with (1) Dishonesty in the public service; (2) Falsification of official document; (3) Whimsical conduct (sic handling) of cases; (4) Partiality and knowingly rendering unjust interlocutory orders, and (5) Ignorance of the law. The respondent Judge was required to answer the complaint and thereafter the Court resolved to refer this case to the Honorable Jose Leuterio, Associate Justice of the Court of Appeals, for investigation, report and recommendation. On February 14, 1973, the Investigator recommended dismissal of the complaint and the dispositive portion of his report and recommendation is couched as follows:

"IN VIEW OF THE FOREGOING, your Investigator reiterates that the complaint be dismissed for abandonment, lack of courtesy to your Investigator, and disregard of his authority; and for lack of merit, to exonerate the respondent of the charges."

It appears that Justice Lcuterio set the investigation of the case on February 1, 1973, at 2:00 o'clock p.m., but counsel for the complainant moved for the postponement of the investigation on the ground that he had just been retained by complainant to represent him and was not ready. The investigation was moved to February 6, 1973, despite vigorous objection of respondent.

On February 3, 1973, counsel for the complainant filed a request for the issuance of subpoena duces tecum to the Treasurer or Auditor and to the Registrar or Assistant Registrar, of the University of Sto. Tomas to bring with them the records or payroll vouchers covering the professorial fees of respondent, and also his schedule of classes for the first semester of the school year 1972-73. Subpoena ad testifwandum were also requested for the following witnesses: Judge Arsenio Martinez; Chief Hearing Examiner Mariano Tuazon; Examiners Lim, Cruz, and Quejas; Deputy Clerk Santos; Stenographers Manalo, Sta. Maria and Martinez, all of the Court of Industrial Relations (CIR).

On the day set for the investigation, February 6, 1973, at 1:25 p.m. (hearing was scheduled at 2:00 p.m.) counsel for complainant, instead of appearing in court, filed a motion to suspend the investigation in view of the resolution of the Supreme Court dated January 30, 1973, requesting Justice Leuterio to comment on complainant's previous motion for respondent's suspension from office during the pendency of the case. Justice Leuterio promptly recommended as unnecessary respondent's suspension as the records of the Court of Industrial Relations under the custody of respondent, which complainant desired to present in evidence, can be produced by subpoena duces tecum. The non-appearance of both complainant and his counsel, on the day of the hearing, was regarded by Justice Leuterio as abandonment of the complaint and a blatant disregard of his authority, the motions filed by

complainant being considered by him as intended simply to harass herein respondent. Hence he recommended dismissal of the complaint. We are fully in accord with the recommendation of Justice Leuterio and we hereby order the complaint dismissed on the basis of the following findings of fact based on the evidence presented by the respondent in the absence of the complainant.

As regards the first charge of Dishonesty in the public service, there is no evidence to show that respondent taught in the University of Sto. Tomas during office hours in violation of the civil service rules and office regulations. On the contrary, when the records of the University requested by complainant were brought before the Investigator, they only bolstered up the denial of respondent that he ever taught during office hours. The Registrar and the Treasurer of the University certified that the class schedule of respondent was from 5:00 to 6:00 p.m. on Tuesday; 5:00 to 7:00 p.m. on Thursday and 4:00 to 6:00 p.m. on Saturdays, and respondent Judge attached to his Answer a copy of his permit to teach from the Department of Justice (Exhibit "1-A").

The second charge that respondent Judge falsified official documents is baseless. Complainant claims that respondent Judge in ULP Case No. 5295 caused it to appear that his hearing examiner, Consolacion Q. Quejas, made and submitted a report on said case when the record of the case shows no such report; that respondent Judge compels his examiners to prepare and submit drafts of decisions which he puts into final form and signs as his own, which practice the complainant brands as "Intellectual dishonesty and moral bankruptcy". Justice Leuterio's report belies the allegation of complainant Garay on this point. According to his report, hearing examiner Quejas submitted a report on ULP Case No. 5295, the original of which was shown and submitted to him during the hearing. Complainant Garay's accusation that respondent Judge's committed intellectual dishonesty is devoid of merit. Hearing examiners and/or researchers are precisely employed to assist the CIR Judges in the study of cases. Their studies are usually submitted in the form of a report or memorandum or what the complainant calls a draft of the decision. However, the Judge is in no way bound to adopt the same but may modify or reverse it according to what he thinks is just and in accordance with the substantial evidence presented and the law (*Kalafo vs. Luz*, L-27782, July 31, 1970, 34 SCRA 337,359).

Charges 3, 4 and 5 being interrelated, We have decided to discuss them together. The charge that respondent Judge was whimsical in the way he handled and assigned his cases is unfounded. Commonwealth Act 103 and Republic Act No. 875 provide for the procedure by which cases are heard and they define the extent of the authority of hearing examiners. The contention of complainant that "Judge Paredes issues no commissions or orders of reference of the cases he assigns to hearing examiners, resulting in confusion as examiners do not even know the extent of their authority to hear and receive evidence", is without any basis. It is the practice in the CIR, as explained by respondent herein, that the Presiding Judge would assign a group of examiners to a particular Associate Judge and the latter in turn may verbally or in writing assign a case to an examiner. In the assignment of cases, it is the sole prerogative of the Judge to determine whether a hearing examiner shall handle the entire case or merely an incident thereof, depending on such factors as adeptness of the examiner who may not prove equal to the task because of the complexities of the issues involved, or such consideration as the examiner's prejudices, the antecedent circumstances, etc.

Similarly, the charge that respondent Judge ordered the cancellation of the hearing en banc of Case No. 3164-V set for April 27, 1972, because he decided for purely personal reasons to go up to Baguio and there hear Case No. 57110-ULP involving Suyoc Mines, Inc. (a case allegedly never heard by him before), is unfounded. Record shows that Case No. 57110-ULP had been set for hearing in Baguio as early as March 20, 1972 (Exh. "4" of respondent). On the other hand the cancellation of the hearing of Case No. 3164-V was not on order of respondent Judge but on the initiative of the Assistant Clerk of Court (Exh. "3-B" of respondent).

Complainant's charge of partiality towards Atty. Emiliano Morabe who refers to the respondent as his

"Compadre" is unsubstantiated and, therefore, cannot be entertained. There is no scintilla of proof to show that Atty. Morabe was ever favored in any of the cases where he appeared as counsel before the respondent especially in Case No. 3164-V entitled "Raul Garay vs. Capitol Hills Golf Club", where complainant is the petitioner. Moreover, an indirect imputation or insinuation of partiality is not one of the grounds enumerated in the 1st paragraph of Section 1, of Rule 127, for the disqualification of judges (*Velez v. CA*, L-24703, July 31, 1970, 34 SCRA 109, 113). However, the respondent voluntarily inhibited himself from further taking part in the said case where Atty. Morabe is counsel for the defendant. In his Order of November 11, 1972 (Exh. "11") respondent reasoned out in support of his withdrawal:

"The undersigned (respondent herein) found that the charges embodied therein are all false, include scurrilous attacks against the undersigned, his good name and his competence in the manner he has been disposing the above-entitled case and effuse so much virulence that they are likely to tarnish the image of justice. Should petitioner lose his case, he would feel he was a victim of revenge. Should he prevail, others would conclude the Court was intimidated. As none of these instances would serve the interest of justice, it is best that the undersigned refrain from further taking part in this case."

Complainant imputes ignorance of the law to the respondent Judge. The impression We gathered from a perusal of the whole record shows otherwise. Complainant wanted respondent Judge to send his hearing examiners to the office of Atty. Morabe and there inspect, locate and bring to court documents described in complainant's motion for inspection and production of documents. The aforementioned motion is in the nature of an application for search warrant which is in the nature of a criminal process. Although it is akin to a writ of discovery, it has no relation to civil processes and is not available to individuals in civil proceedings, or as a process for adjudication of civil rights. While originally exploratory in character, its use has, by constitutional and statutory provisions, now been restricted to specific cases and under well-defined conditions. (*Moran*, Comments on the Rules of Court, Vol. IV, 1963 ed. 338). Moreover, the motion was denied not by respondent Judge alone but was taken up and resolved by the court en banc in its resolution dated July 26, 1972, upholding the action of respondent Judge (Exh. "E").

After considering the case in the light of the evidence presented by the respondent Judge, in the absence of complainant who failed to appear at the hearing which was re-scheduled on February 6, 1973, at his behest, and after carefully examining the report of investigation and recommendation of the Investigator, We are persuaded that the charges against the respondent are without merit.

WHEREFORE, the complaint is dismissed and respondent Judge is exonerated of the charges against him.

Makalintai, C.J., Zaldivar, Ruiz Castro, Fernando, Barredo, Makasiar, Antonio, Fernandez, Muñoz Palma, and Aquino, JJ., concur.

Teehankee, J., in the result,

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