

DATU REMIGIO M. DUQUE JR., COMPLAINANT, VS. COMMISSION ON ELECTIONS CHAIRMAN SIXTO S. BRILLANTES, JR., COMMISSIONERS LUCENITO N. TAGLE, ELIAS R. YUSOPH, AND CHRISTIAN ROBERT S.

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A.C. No. 9912. September 21, 2016

Ponente: PERALTA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-9912/>**PERALTA, J.:**

Before this Court is a disbarment complaint filed by Datu Remigio M. Duque, Jr., (Duque) against former Commission on Elections (COMELEC) Chairman Sixto S. Brillantes, Jr., Commissioners Lucenito N. Tagle, Elias R. Yusoph, and Christian Robert S. Lim; Attys. Ma. Josefina E. Dela Cruz, Esmeralda A. Amora-Ladra, Ma. Juana S. Valleza, Shemidah G. Cadiz, and Fernando F. Cot-om; and Prosecutor Noel S. Action for Conduct Unbecoming a Lawyer, Gross Ignorance of the Law and Gross Misconduct.

The case stemmed from a Complaint dated May 26, 2011 filed by Duque against respondents Sheila D. Mabutol, Cleotilde L. Balite, Camilo M. Labayne, Reynaldo P. Erese, Jr., Ruth Joy V. Gabor, Luzviminda V. Galanga, Esmeraldo Galanga, Jr., Gavino V. Rufino, Jr., Zenaida T. Rufino, Melanie M. Tagudin-Cordova, Alona D. Rocacorba, Alma P. Bunag, Joey G. Lomot and Nena G. Bactas, docketed as I.S. No. 111-18-INV-11-D-0390, for alleged violation of election laws, particularly Sections 223, 224, Article 19, Section 261 (y) (17), (z) (21), and Article 22 of Batas Pambansa Blg. 881.

Duque, who ran for Punong Barangay of Lomboy, La Paz, Tarlac but lost, filed a petition for recount contesting the results in a number of precincts where respondents were chairman and members of the Board or Election Tellers (BETs), respectively. Duque alleged that there were several irregularities in the canvassing of the ballots, i.e., the discovery of alleged crumpled official ballots during the recount proceedings and unsigned election returns. Respondents, however, vehemently denied said allegations.

On June 13, 2011, Assistant Provincial Prosecutor Noel S. Adion recommended that the complaint for violation of Batas Pambansa Blg. 881 be dismissed for lack of jurisdiction as the COMELEC has the exclusive power to conduct preliminary investigation of all election offenses, and to prosecute the same. Duque moved for reconsideration but was denied in a Resolution^[1] dated September 21, 2011.

The records of the case were forwarded to the COMELEC.

On March 14, 2013, in its disputed Decision,^[2] as recommended by the Law Department of the COMELEC, the COMELEC En Banc^[3] dismissed the complaint for lack of probable cause. It found no violation of any of the pertinent election laws. It likewise pointed out that Duque failed to substantiate the complaint by clear and convincing evidence.

Aggrieved, complainant filed the instant disbarment complaint against Commissioners Brillantes, et al.

On July 1, 2013, the Court resolved to require respondents to Comment on the complaint against them.[4]

Respondents, through the Office of the Solicitor General, in its Comment[5] dated October 24, 2013, pointed out that respondents, being COMELEC Commissioners may only be removed from office solely by impeachment. As impeachable officers who are at the same time members of the Bar, respondent Commissioners must be removed from office by impeachment before they may be held to answer administratively for their supposed erroneous resolutions and actions.

Respondents likewise maintained that there exists no valid ground for their disbarment. While complainant insists that respondents conspired to deprive him of his constitutional rights by dismissing his complaint despite "voluminous evidence," complainant, however, failed to establish said allegation of conspiracy by positive and conclusive evidence. Other than his bare allegations of conspiracy, complainant failed to show how respondents acted in concert to deprive him of his constitutional rights or even specify the particular acts performed by respondents in the supposed conspiracy.

In his separate Comment[6] dated September 10, 2013, respondent Prosecutor Adion averred that the complaint against him has no legal and factual basis.

For his part, respondent Commissioner Lim, through his counsel, echoed the other Commissioners' contention that as an impeachable officer, he must first be removed from office through the constitutional route of impeachment before he may be held administratively liable for his participation in the disputed Resolution. He added that Duque miserably failed to allege, much less submit a clear, convincing and satisfactory proof of any act of Lim which may be construed as a ground for disbarment. Respondent further pointed out that the COMELEC En Banc, in dismissing the complaint of Duque, properly applied paragraph (m), Section 3, Rule 131 of the Rules of Court which states that "it is presumed that official duty has been regularly performed;" hence, the members of the BETs enjoy the presumption of regularity in the performance of their official duties unless a clear and convincing evidence is shown to the contrary.

RULING

To begin with, the Court takes notice that respondents Sixto S. Brillantes, Jr., Lucenito N. Tagle and Elias R. Yusoph, all retired from the COMELEC on February 2, 2015. However, it does not necessarily call for the dismissal of the complaint, considering that the very thrust of the instant disbarment complaint is the issuance of a Resolution dated March 14, 2013 which dismissed E.O. Case No. 12-003,[7] where respondents Brillantes, Tagle and Yusoph concurred in, when they were still members of the COMELEC's En Banc.

Be that as it may, after a careful perusal of the facts of the case, the Court, however, finds no merit in the instant petition.

This Court, guided by its pronouncements in *Jarque v. Ombudsman*,[8] *In Re First Indorsement from Raul M. Gonzales*[9] and *Cuenco v. Hon. Fernan*,[10] has laid down the rule that an impeachable officer who is a member of the Bar cannot be disbarred without first being impeached. At the time the present complaint was filed, respondents-commissioners were all lawyers. As impeachable officers who are at the same time the members of the Bar, respondents-commissioners must first be removed from office via the constitutional route of impeachment before they may be held to answer administratively for their supposed erroneous resolutions and actions.

Nevertheless, even if the Court were to look into the assailed actions of respondents-commissioners as well as respondents-lawyers under the Code of Professional Responsibility, We find no specific actuations and sufficient evidence to show that respondents did engage in dishonest, immoral or deceitful conduct in their capacity as

lawyers.

The appreciation of the contested ballots and election documents involves a question of fact best left to the determination of the COMELEC, a specialized agency tasked with the supervision of elections all over the country. It is the constitutional commission vested with the exclusive original jurisdiction over election contests involving regional, provincial and city officials, as well as appellate jurisdiction over election protests involving elective municipal and barangay officials. Consequently, in the absence of grave abuse of discretion or any jurisdictional infirmity or error of law, the factual findings, conclusions, rulings and decisions rendered by the said Commission on matters falling within its competence shall not be interfered with by this Court.[11]

It must likewise be emphasized that the assailed actions of the respondents pertain to their quasi-judicial functions. The quasi-judicial function of the COMELEC embraces the power to resolve controversies arising from the enforcement of election laws, and to be the sole judge of all pre-proclamation controversies; and of all contests relating to the elections, returns, and qualifications.[12] Thus, the COMELEC, in resolving the subject complaint, was exercising its quasi-judicial power in pursuit of the truth behind the allegations in the complaint. The fact that the COMELEC's resolution was adverse to the complainant, in the absence of grave abuse of discretion, does not make a case for disbarment.

It is settled that a judge's failure to interpret the law or to properly appreciate the evidence presented does not necessarily render him administratively liable. Only judicial errors tainted with fraud, dishonesty, gross ignorance, bad faith, or deliberate intent to do an injustice will be administratively sanctioned. To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment.[13] As we held in *Balsamo v. Judge Suan*:[14]

It should be emphasized, however, that as a matter of policy, in the absence of fraud, dishonesty or corruption, the acts of a judge in his judicial capacity are not subject to disciplinary action even though such acts are erroneous. He cannot be subjected to liability - civil, criminal or administrative for any of his official acts, no matter how erroneous, as long as he acts in good faith. In such a case, the remedy of the aggrieved party is not to file an administrative complaint against the judge but to elevate the error to the higher court for review and correction. The Court has to be shown acts or conduct of the judge clearly indicative of arbitrariness or prejudice before the latter can be branded the stigma of being biased and partial. Thus, not every error or mistake that a judge commits in the performance of his duties renders him liable, unless he is shown to have acted in bad faith or with deliberate intent to do an injustice. Good faith and absence of malice, corrupt motives or improper considerations are sufficient defenses in which a judge charged with ignorance of the law can find refuge.

If at all, complainant felt aggrieved and wanted to properly proceed against the COMELEC, the remedy of an aggrieved party against a judgment or final order or resolution of the COMELEC is a petition under Rule 64 in relation to Rule 65 of the Rules of Court brought before this Court,[15] and not a disbarment proceeding. There being no evidence whatsoever tending to prove unfitness of respondents to continue in the practice of law and remain officers of the court, and there being no showing that respondents were motivated by bad faith or ill motive in rendering the assailed decision, the charges of conduct unbecoming a lawyer, gross ignorance of the law and gross misconduct against them, thus, must be dismissed.

We must reiterate that in disbarment proceedings, the burden of proof is on the complainant; the Court exercises its disciplinary power only if the complainant establishes her case by clear, convincing, and satisfactory evidence. Preponderance of evidence means that the evidence adduced by one side is, as a whole, superior to or has a greater weight than that of the other party. When the pieces of evidence of the parties are evenly balanced or when doubt exists on the preponderance of evidence, the equipoise rule dictates that the decision be against the party

carrying the burden of proof.[16]

The object of a disbarment proceeding is not so much to punish the individual attorney himself, as to safeguard the administration of justice by protecting the court and the public from the misconduct of officers of the court, and to remove from the profession of law persons whose disregard for their oath of office have proved them unfit to continue discharging the trust reposed in them as members of the bar. Thus, the power to disbar attorneys ought always to be exercised with great caution, and only in clear cases of misconduct which seriously affects the standing and character of the lawyer as an officer of the court and member of the bar.[17]

WHEREFORE, the instant disbarment complaint against respondents former COMELEC Chairman Sixto S. Brillantes, Jr., Commissioners Lucento N. Tagle, Elias R. Yusoph, and Christian Robert S. Lim, Attys. Ma. Josefina E. Dela Cruz, Esmeralda A. Amora-Ladra, Ma. Juana S. Vallez, Shemidah G. Cadiz, and Fernando F. Cot-Om, and Prosecutor Noel S. Adion is hereby DISMISSED for lack of merit.

SO ORDERED.

Velasco, Jr., (Chairperson), Perez, Reyes, and Caguioa,[*] JJ., concur.

November 3, 2016

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on September 21, 2016 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on November 3, 2016 at 10:50 a.m.

Very truly yours,

(SGD)

WILFREDO V. LAPITAN

Division Clerk of Court

[*] Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated September 19, 2016.

[1] Rollo, p. 28.

[2] Id. at 173-178.

[3] COMELEC En Banc composed of Sixto S. Brillantes as Chairman, with Commissioners Lucenito N. Tagle, Elias R. Yusoph, Christian Robert S. Lim, and Maria Gracia Cielo M. Padaca, concurring.

[4] Rollo, p. 60.

[5] Id. at 202-215.

- [6] Id. at 181-188.
- [7] Remegio M. Duque, Jr. v. Sheila D. Mabutol, et al.
- [8] A.C. No. 4509, December 5, 1995, 250 SCRA 11.
- [9] 243 Phil. 167, 170 (1988).
- [10] 241 Phil. 816, 828 (1988).
- [11] Punzalan v. COMELEC, 352 Phil. 538, 552-553 (1998).
- [12] Bedol v. Commission on Elections, 621 Phil. 498, 510 (2009).
- [13] Salvador v. Judge Limsiaco, Jr., 519 Phil. 683, 687 (2006).
- [14] 458 Phil. 11, 23-24 (2003). (Citations omitted)
- [15] Macabago v. COMELEC, 440 Phil. 683, 691-692 (2002).
- [16] Ylaya v. Atty. Gacott, 702 Phil. 390, 413 (2013).
- [17] Anacta v. Atty. Resurreccion, 692 Phil. 488, 497 (2012).

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