

ANTONIO RIVERA, COMPLAINANT, VS. CITY JUDGE SILVINO LU. BARRO OF GINGOOG CITY, RESPONDENT.

A.M. No. 2003-CTJ. February 28, 1980

Ponente: ANTONIO, J.

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ANTONIO, J.:

Respondent Silvino Lu. Barro, City Judge of Gingoog City, is charged with malfeasance and/or misfeasance in office by way of an affidavit dated July 10, 1978, executed by Antonio Rivera, Barangay Chairman of Barangay No. 12, Gingoog City.

The complaint states that in the evening of February 12, 1978, at Barrio Lunao, Gingoog City, Misamis Oriental, several persons, including one Arturo Barro, nephew of respondent Judge, were apprehended for illegal gambling. A criminal case was thereafter filed against said persons in respondent's sala (docketed as Criminal Case No. 63-78). On March 29, 1978, respondent Judge dismissed the case upon motion of Assistant Fiscal Cenon Alaba.

It is contended that because one of the accused is respondent's nephew, respondent should have inhibited himself from trying the case, pursuant to the provisions of Section 1, Rule 137 of the Revised Rules of Court.

In his Comment, respondent admits that one of the accused in said criminal case is his nephew; that he did not inhibit himself therefrom, although he intended to do so, because nobody manifested any objection and because he was informed that the prosecution was going to reinvestigate the case; that he took into account the fact that if the case is assigned to another judge, it would take several months to dispose of, unduly clogging the docket of the court; and that the dismissal of the case was not premised on the fact that one of the accused is his nephew.

Deputy Court Administrator Leo D. Medialdea recommends that respondent be held administratively liable without formal investigation, considering that his failure to inhibit himself at the very out-set constituted a violation of the rule intended to free the courts from any suspicion of bias and pre-judice.

We are in accord with the foregoing view. There is no excuse for respondent's failure to inhibit himself from participating in Criminal Case No. 63-78. As aptly noted, in *Paciano Basuan v. Juan A. Baes*,^[1] this Court said:

"The respondent admits having sat and partly acted in CAR Case No. 1438 wherein his nephew-in-law, Atty. Manuel M. de Baybay, was the counsel for the defendant Manuel Solomon. In his answer to the complaint, the respondent does not controvert the charge that he violated Section 1 of Rule 137 of the Rules of Court which bars a judge from sitting in any case in which he is related to any counsel appearing before him within the fourth degree, and in his "Supplemental Comment" he merely alleges that he 'subsequently disqualified himself from sitting in the case without hearing even partially a single witness.' The respondent's subsequent inhibition does not extenuate his culpability. The rule which he violated is intended to free courts from any suspicion of bias and prejudice. In view of the undisputed violation, a reprimand on the respondent is in order."

Respondent Judge has been twice held administratively liable by this Court, first in Administrative Matter No. 179-CJ (promulgated on September 28, 1973), wherein he was held guilty of gross error due to carelessness and

negligence and severely re-primanded and warned that a repetition thereof will be dealt with more severely, and second, in Administrative Matter No. 1587-CTJ (promulgated on August 23, 1978), wherein he was found remiss in the performance of his duties and ordered to pay a fine equivalent to his salary for one month.

WHEREFORE, in view of all the foregoing, respondent is found guilty as charged and, taking into account his previous administrative cases, hereby ordered to pay a fine equivalent to his salary for three (3) months.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., and Abad Santos, JJ., concur.

[1] Administrative Matter No. 585-CAR, December 26, 1974, 61 SCRA 475.

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