

ALPIO BALLEZA, COMPLAINANT, VS. MUNICIPAL JUDGE ALFREDO BOLINAS OF BANATE, ILOILO, RESPONDENT.*A.M. No. 237-MJ. April 25, 1978*

Ponente: FERNANDO, J.

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The sole ground alleged by complainant Alpio Balleza in this administrative case against respondent Judge Alfredo Bolinas was that the latter tried an action for unlawful detainer in the absence of complainant who was the defendant. His failure to appear, he explained, was due to what he considered his belief that the scheduled hearing would be postponed. When respondent Judge was asked to comment, he stated that the motion for postponement came only after the trial and that even if it were otherwise, it was addressed to his sound discretion. A litigant should therefore not act on the assumption that it would be automatically granted. To stress his good faith, he pointed out that the prevailing party was not related to him and that in fact it was complainant who was a "close friend and a [distant relative]."[1] The matter was then referred to the Acting Judicial Consultant who, after investigation, submitted the following memorandum: "Complainant's charge that he, as defendant in the unlawful detainer case, was deprived of his day in court when respondent denied counsel for the plaintiff's motion to postpone (which he, complainant, thought would be granted by the court) and proceeded to hear the case in the absence of said defendant-complainant, has no leg to stand on, especially considering that the hearing thereof had previously been postponed several times and that neither party has a right to assume favorable action on the aforesaid motion. Indeed, despite the motion, plaintiff and his counsel nevertheless appeared at the hearing just in case it would be denied, as what happened. At any rate, said case is on appeal to the CFI of Iloilo wherein the above issue may be ventilated."[2] His recommendation was for "the dismissal of the instant administrative complaint for lack of merit."[3]

It is obvious in the light of the above relevant facts that this administrative complaint lacks justification. If it were not dismissed outright, it is primarily because of the principle adhered to by this Tribunal that in order to give full force and effect to the constitutional right to petition, a charge, even if on its face apparently lacking in sufficient gravity as to call for disciplinary action, must still be inquired into and acted upon.[4] Even the dismissal thereof serves a useful purpose. It does not only afford satisfaction to the complainant as well as to the respondent but also constitutes a reassurance to the general public that charges against members of the bench are not neglected or minimized.

WHEREFORE, the administrative complaint is dismissed for lack of merit. Let a copy of this resolution be spread on the record of respondent Judge.

Barredo, Antonio, Aquino, Concepcion, Jr., and Santos, JJ., concur.

[1] Affidavit of respondent Judge Alfredo Bolinas.

[2] Memorandum of the then Acting Judicial Consultant, retired Court of Appeals Justice Manuel P. Barcelona

dated April 28, 1975.

[3] Ibid.

[4] Cf. Tobias v. Ericta, Adm. Case No. 242-J, July 29, 1972, 46 SCRA 83; Bartolome v. De Borja, Adm. Case No. 1096, May 31, 1976, 71 SCRA 153.

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