

DR. DOROTEO F. BALA, COMPLAINANT, VS. JUDGE MANUEL ROMILLO, JR., RESPONDENT.*A.M. No. 547-CFI. February 28, 1977*

Ponente: MUÑOZ PALMA, J.

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The complainant Dr. Doroteo F. Bala of Olongapo City instituted this administrative complaint against respondent Judge Manuel Romillo, Jr. then presiding Branch II of the Court of First Instance of Ilocos Norte at Laoag City in connection with an incident in Civil Case No. 3336-11 pending in said court wherein he was a party litigant. The incident occurred on September 25, 1973 after complainant had traveled all the way from Olongapo City to attend a hearing scheduled for said date before respondent judge only to find the courtroom closed, and claimed that he was the object of offensive and insulting language from respondent judge in the latter's chambers who ordered him and his daughter out of the premises.

Respondent filed a verified answer to the complaint, stating that "he did not meet or see" complainant on the date of the incident "neither in the courtroom, my chambers nor elsewhere" and that he had "never met this person (complainant); that it "must either be one of failure of memory of Mr. Bala by reason of senility or an outright malicious false accusation"; that when the case was called for hearing at 8:30 a.m. on the date in question, only counsel for plaintiff-movants appeared and since the record did not show that respondents (including Dr. Bala) were duly notified, the case was rescheduled for the following month, and respondent repaired to his hotel room to work on his pending decisions; and that he learned afterwards from his then branch clerk of court, Atty. Ernesto Madamba, that complainant had arrived that same morning at about 10:00 a.m. after adjournment of the day's session and that an altercation had ensued between Atty. Madamba and complainant but that Atty. Madamba had assured respondent that he (Atty. Madamba) had in no way by word or by deed insulted complainant as averred in the complaint.

Since the parties' verified assertions were diametrically in conflict, the case was referred for determination of the facts to Justice Buenaventura S. de la Fuente who after conducting the investigation, rendered the following report on the evidence adduced before him:

"At the date set for the initial hearing of this matter, accompanied by his daughter, complainant appeared without counsel. Complainant was an old man with a defective eyesight and had to be guided by his daughter as he moved about. Besides, he resided at a distant place, Olongapo City. Accordingly, the undersigned deemed it best for all concerned to proceed with the hearing after the complainant gave an affirmative reply to the question whether he was willing to go on with the hearing without a legal counsel and to present evidence in support of the allegations in his complaint.

"In view of this, the complainant and his witness were allowed by the undersigned to testify in narrative form, subject to cross-examination by counsel for the respondent judge. The pertinent portions of the transcript read as follows:

'Investigator:

'Do you have a lawyer?

'Doroteo Bala:

'None, sir.

'Investigator:

'Are you willing to go ahead with this investigation even without a counsel?

'Doroteo Bala:

'If it can be done that way I am willing.

'Investigator:

'You should have a lawyer to assist you in this case.

'Doroteo Bala:

'The question is how. I have almost nothing. I can't hire a lawyer.

'Investigator:

'At any rate, we will allow you to testify in a narrative form subject to cross-examination by the counsel for the respondent.' (t.s.n., pages 2-3.)

"In their testimonies, the complainant and his witness (his daughter Remedios Bala-Florita) narrated the details of the incident, which appear to be substantially as alleged in the complaint. Under cross-examination, however, the said complainant and his witness admitted or affirmed certain facts which, in the opinion of the undersigned investigator, would readily show their inability or failure to identify the person who allegedly shouted at complainant, using offensive language, at the CFI of Ilocos Norte on September 25, 1973.

"Regarding Dr. Bala, the 84-year old complainant, the following were elicited during his cross-examination:

"1. That he needed a guide when he went to Laoag on September 25, 1973, because his eyesight 'was poor' or impaired by two eye operations, the first in 1969 and the second in 1972, which 'clouded' his vision (t.s.n., page 11);

"2. That in reply to the question whether he would be able 'to point to Judge Romillo, if you still remember him,' complainant admitted that he 'might make a mistake because I am very sure that my eyesight at present, the way I see every person or object is a little bit clearer than a shadow' (t.s.n., page 12); and

"3. That he 'did not look' at the face of the judge when he allegedly got mad, making it 'very hard [for him] to identify' said person (t.s.n., pages 14 and 15).

"Likewise, his daughter Remedios Bala Florita, under cross-examination, gave some notable answers, among others: 1. asked if she knew the respondent judge, said witness volunteered to 'point to him,' pointing to a gentleman seated beside respondent's counsel (Atty. Ranada) as 'Judge Romillo' (t.s.n., pages 21 and 22); 2. she admitted that she was not familiar with the face of the said gentleman, having met him 'only once' (t.s.n., page 22); 3. she was 'sure' about her identification, as she in fact saw him at the corridor before the start of the hearing (t.s.n., pages 22 and 23); and 4. when they inquired about the hearing, the gentleman was called by the lady clerk, and she 'assumed' that he was 'Judge Romillo', although he did not so identify himself. To quote the pertinent portions of her testimony:

'Q: Did you know where Judge Romillo is now?

'A: I can point to him, sir.

'Q: Will you please do that Dra. Florita?

'A. (Witness pointing to a gentleman seated beside counsel.)

'Q: You mean to say you are familiar with the face of the gentleman beside me now?

'A: No, I met him only once.

'Q: You met him only once but you remember him to be the one whom you describe as Judge Romillo in your testimony?

'A; Yes, sir.

'Q: And you are very sure of that?

'A: I am sure. That is why when I saw him this morning I said he is Judge Romillo.

'Q: When did you see him for the first time this morning?

'A: In the corridor outside, near the security guard. That was about one hour ago.

'Q: And upon seeing him you immediately recognize him?

'A: Yes, sir.

'Q: During the first time that you saw him on September 25, 1973, did somebody in the court room pointed to him as Judge Romillo? I mean, near the ante-chamber did somebody point to him and said he is Judge Romillo? I am referring to the gentleman beside me.

'A: He was called by the lady clerk and whom do you expect to go to about our hearing if not the judge himself.

'Q: So that, then he did not identify himself as Judge Romillo but you assumed that he was Judge Romillo?

'Yes, sir.

'ATTY. RANADA:

'That will be all with the witness.' (t.s.n., pages 21 to 24.)

"The gentleman referred to, when asked to identify himself, gave the following answer:

'I am Assistant Fiscal Ernesto Madamba. I came here to be a witness for Judge Romillo. I was requested to appear. In fact, really I am the one with whom the complainant had some sort of altercation and I really recognize the lady. I was then the Branch Clerk of Court of Branch II, Court of First Instance of Laoag, where Civil Case 3336-2 was then pending Your Honor.' (t.s.n., page 25.)

"Later on, Fiscal Madamba testified for the respondent, declaring that it was he, not the respondent judge, who had a verbal exchange with the complainant on September 25, 1973, as stated in his affidavit (which was marked Exhibit 1 for the respondent).

"To give the complainant another opportunity to retain the services of a legal counsel and to present such other evidence as he may desire in support of his complaint, the undersigned investigator reset the matter for another hearing on March 26, 1976. On that date, no one appeared for the complainant who, by letter dated March 17 (received March 26, at 2:00 o'clock p.m.), informed the investigator that he 'cannot come with a legal counsel' and that they have already 'pictured vividly ... the whole incident' in their declarations of February 27."

The Court after a review of the record concurs with the finding of the Investigating Justice that this indeed was a

case of mistaken identity and approves his recommendation for exoneration of respondent Judge.

ACCORDINGLY, the respondent Judge is exonerated from the charges and the case is hereby dismissed.

Makasiar, (Acting Chairman), Aquino, Concepcion, Jr., and Martin JJ., concur.

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