

**PASCUAL SANTIAGO AND CARMEN SANTIAGO, SPOUSES,
PETITIONERS (COMPLAINANTS), VS. HON. VICENTE T. SANTOS,
PRESIDING JUDGE OF BRANCH II, CITY COURT OF PASAY CITY,
RESPONDENT.**

A.M. No. 772-CJ. April 18, 1975

Ponente: AQUINO, J.

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AQUINO, J.:

Judge Vicente T. Santos of the Pasay City Court was charged by the spouses Pascual Santiago and Carmen Santiago with "grave misconduct, gross dishonesty and serious inefficiency" in a complaint dated March 29, 1974. They prayed that Judge Santos be dishonorably dismissed without retirement benefits and "with prejudice to employment" in a similar office.

In Civil Case No. 10316 of the Pasay City Court a complaint for ejectment was filed by the spouses Amor P. Marquez and Adelina Ocampo against their neighbors, the Santiago spouses. In that action, the Santiagos were required to vacate a lot (with an area of one hundred fifty square meters) located at 349 Pinagbarilan Street, Pasay City where the Santiagos had constructed a house allegedly valued at P75,000. The Marquez spouses claimed that they had a Torrens title over that lot. They bought it from the spouses Enrico Poblete and Silveria Ocampo who, in turn, had acquired it from a certain Jeremillo.

On the other hand, the Santiagos, in their answer, alleged that they leased the lot from Sinforoso Jeremillo who had a Torrens title for the lot. They pleaded that the City Court had no jurisdiction over the case because it was filed beyond the one-year period from the date of the supposed unlawful deprivation of possession.

The case was assigned to Judge Santos. The hearing of the case was postponed twice at the instance of plaintiffs Marquez and twice at the instance of defendants Santiago. The hearing was cancelled twice by agreement of the parties. The case was set for hearing on October 2, 1973 but the trial was not held because the Santiago spouses and their counsel were not present. The hearing was reset for October 8, 1973. The hearing was not held because the court had just transferred to its quarters in the new City Hall. The case was scheduled for hearing on November 29, 1973 but, upon motion of defendants Santiago, the hearing was transferred to December 6, 1973 at one-thirty in the afternoon.

However, that hearing was cancelled because Judge Santos had to attend a seminar at the Law Center of the University of the Philippines. On that afternoon Raul E. Espinosa, the lawyer of the Santiagos, asked that the hearing be reset for January 11, 1974. After Espinosa had left, Martin D. Pantaleon, the counsel for the Marquez spouses, arrived at the office of the clerk of court and requested that the hearing be transferred to January 3, 1974. Lucila Cruz, a court employee, changed the scheduled hearing to January 3, 1974 but inadvertently failed to inform Espinosa of the change.

On January 3, 1974, at eight-thirty in the morning, Judge Santos heard the case without being aware that the

counsel of the Santiagos had not been apprised that the hearing had been reset on that date. On January 7, 1974 Espinosa moved that the proceedings held on January 3 be set aside and that the Santiago spouses be allowed to present their evidence.

At the hearing of the motion for reconsideration on January 24, 1974, Judge Santos granted it and allowed defendants Santiago to present their evidence at one-thirty in the afternoon of February 7, 1974. The parties agreed that the hearing on that date was "intransferable".

However, on the eve of the hearing or on February 6, the counsel for plaintiffs Marquez filed an urgent motion for transfer of hearing. A copy of that motion was served on Atty. Espinosa. Judge Santos in the morning of February 7 denied the motion. The counsel for the Marquez spouses was aware of that denial order but Espinosa was not notified of it.

In the afternoon of February 7, the Marquez spouses and their counsel appeared while Espinosa, who had assumed that the hearing was cancelled, did not appear. Pascual Santiago was present. He asked Judge Santos to reset the case for hearing in view of his counsel's absence. Judge Santos did not heed Santiago's request. He issued a second order stating that the Santiago spouses had "waived their right to present their evidence and that this case is deemed submitted for decision".

On February 9, 1974 Espinosa withdrew as counsel for the Santiago spouses. Atty. Eriberto H. Decena entered his appearance as counsel for defendants Santiago. He moved for the reconsideration of the order of Judge Santos which foreclosed defendants Santiago's right to present evidence. He contended that the Santiago spouses were denied due process of law.

The Marquez spouses opposed that motion. Judge Santos denied it in his order dated March 9, 1974. He rendered a decision dated March 19, 1974 wherein he ordered the Santiago spouses to vacate the lot in question, to remove their house therefrom, to pay the Marquez spouses a monthly rental of fifty pesos from November, 1970 until they vacate the lot and to pay five hundred pesos as attorney's fees.

The Santiago spouses moved for the reconsideration of the decision. The motion was denied. They filed a notice of appeal but their appeal was disallowed by Judge Santos because they failed to pay the appellate court docket fee and they did not post any appeal bond (See secs. 2 and 3, Rule 40, in relation to sec. 5(a)(12), Rule 141, Rules of Court).

Under the foregoing facts, which are found in the complaint and in respondent's comment and which do not justify a referral of the case to a Judge of the Court of First Instance for investigation, the issue is whether Judge Santos' management of the ejectment case renders him liable to any disciplinary action.

His controversial ruling was his refusal to allow the Santiago spouses to present their evidence after their lawyer failed to appear at the "intransferable" hearing scheduled on February 7, 1974. Complainants Santiago contend that Judge Santos denied them due process of law in not affording them a chance to ventilate their side of the case.

Considering that Pascual Santiago was in court in the afternoon of February 7th, a judge, endowed with more forbearance and equipped with a modicum of leniency, could have accorded the defendants a last opportunity to present their evidence. That might have been a more judicious course of action and it would obviate any charge of partiality.

In an adversary proceeding, fairness and prudence dictate that a judgment, based only on plaintiff's evidence adduced ex parte and rendered without hearing defendant's evidence, should be avoided as much as possible. In order that bias may not be imputed to the judge, he should have the patience and circumspection to give the

opposing party a chance to present his evidence even if he thinks that the oppositor's proofs might not be adequate to overthrow the case for the plaintiff. A display of petulance and impatience in the conduct of the trial is a norm of conduct which is inconsistent with the "cold neutrality of an impartial judge".

If Judge Santos erred or acted with some arbitrariness in denying the Santiagos' motion for reconsideration, that error was an error of judgment not tinged with malice. It would not be an indubitable ground for penalizing him administratively. It certainly was not misconduct, inefficiency or dishonesty.

The case had been set for hearing on May 5, 21, and 30, June 21, July 30, August 21, September 28, October 2, 8 and 30, November 29 and December 6, 1973, January 3, 1974 or thirteen times. February 7, 1974 was the fourteenth time the case was set for trial. The order made it clear that that the hearing was "intransferable". Considering that the case was an ejectment suit, which is a summary action that ordinarily should be expeditiously dispatched, it is understandable why Judge Santos was annoyed at the interminable cancellations of hearing.

Moreover, defendants Santiago, in their motion for reconsideration, did not show, by affidavits of merits what evidence they would present to controvert plaintiffs' Torrens title and to negate the right of the Marquez spouses to possess the disputed lot as an incident of their incontrovertible ownership.

Whatever error of judgment was committed by Judge Santos could have been corrected by means of a seasonable appeal to the Court of First Instance but defendants (now the complainants) Santiago were not able to perfect their appeal.

"To hold a judge administratively accountable for every erroneous ruling or decision he renders, assuming that he has erred, would be nothing short of harassment and would make his position unbearable" (Makalintal, J. in *Dizon vs. De Borja*, Adm. Case No. 163-J, January 28, 1971, 37 SCRA 46).

WHEREFORE, the complaint is dismissed.

SO ORDERED.

Makalintal, C.J., Fernando, Barredo, and Antonio, JJ., concur.

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