

**MIGUEL AGILADA, COMPLAINANT, VS. JUDGE ALOYSIUS C. ALDAY, CITY COURT, BRANCH II, QUEZON CITY, RESPONDENT.***A.M. No. 866-CJ. July 31, 1975*

Ponente: FERNANDO, J.

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It goes without saying that this Court, on the assumption that its attention would be duly called, would not tolerate on the part of any occupant of the bench the least sign of partiality or abuse of authority and certainly would not close its eyes to instances of ignorance of the law. The administrative charge by one Miguel Agilada against City Judge Aloysius C. Alday[1] imputed to him such failings; complainant, a defendant in an ejectment case, alleged that notwithstanding the fact that he had not paid for a period comprised between April, 1970 and June, 1974, a detainer suit against him was still entertained by respondent Judge, who refused to dismiss the case on jurisdictional grounds, there being the added accusation that such situation was prompted by his favoritism for the affluent plaintiff. The alleged abuse of authority was premised on his setting for hearing so many cases each day thus causing hardships and inconveniences to litigants who are made to wait without any assurance that the cases will in fact go to trial.

The complaint filed on the third day of January, 1975 was referred to respondent Judge, who, on February 22, 1975, commented on the charge of partiality and ignorance of the law in this wise: "It is true, as Mr. Agilada appears to state in his complaint, that the ejectment complaint in Civil Case No. 11-24921 alleges that even since he commenced occupancy of the premises as lessee thereof in April 1970 up to the present, he has not yet remitted any payment of the agreed monthly rental, his arrears having aggregated to the total amount of P4,000.00, which is now due and outstanding. However, Mr. Agilada failed to mention that plaintiffs demand on him to vacate the premises, by reason of said non-payment of rentals, was made only on May 21, 1974 thru a formal letter of demand of said date and which was reiterated in another letter of demand dated June, 1974. In not sustaining the contention of defendant that the Court lacks jurisdiction because the complaint was allegedly filed beyond the one-year reglementary period under Sec. 1, Rule 70 of the Rules of Court, I hereby respectfully deny that I acted out of partiality or ignorance of the law; I simply acted in the light of Sec. 1, in relation to Sec. 2, Rule 70 of the Rules of Court and pertinent jurisprudence thereon. For, it is not the mere failure to pay rents, but the owner's demand for the tenant to vacate the premises, when the latter has failed to pay rents on time, and the tenant's refusal or failure to vacate, which render the withholding of possession unlawful, x x x." [2] As to the alleged abuse of authority, he stated the following: "I hereby respectfully deny that I have abused the authority of my office in the manner alleged in Mr. Agilada's complaint or in any other manner, for that matter. In the performance of my talks, I feel that I can state in all humility that I have given the fullest time and the best efforts that I can possibly give. Regarding the number of cases by which the court calendars, it may suffice here to state that the same is reasonably consistent with the demands of the court's current load, that it is not unreasonably big, and that it does not take an hour to read the calendar." [3]

The clarity with which respondent Judge was able to show through his answer the baseless character of the

accusation against him prompted the Judicial Consultant, retired Justice Manuel P. Barcelona of the Court of Appeals, to recommend that this complaint be dismissed for lack of merit. We accept such a recommendation.

1. It cannot be said that respondent Judge rendered himself in any way liable for any disciplinary action. It is complainant, not respondent Judge, who is ignorant of the specific jural norm that is controlling. He could not understand why his motion to dismiss was not granted. If he were cognizant of the law, he would know the reason why. Thus his complaint gives the impression that it was inspired by the feeling of resentment on the part of a losing party. His failure then to put an end to an action for ejectment can hardly be ascribed to partiality. Parenthetically, it is difficult to muster sympathy for a litigant who admittedly had been in default for well-nigh four years. Nor could abuse of authority be imputed to respondent Judge because of the manner in which he would prepare his daily calendar. Complainant should realize that on a matter like that, the discretion of the occupant of the bench is entitled to some respect. It is noteworthy that except for this particular complainant, who apparently suffers from the pangs of frustration, nobody else had any occasion thus far to criticize respondent Judge on that score.

2. It only remains to be added that every complaint against a member of the judiciary is not to be ignored. That is to vitalize the constitutional right to petition.[4] Still it would be advisable for a layman, like complainant, to consult a knowledgeable member of the bar before he would indict a judge for alleged ignorance of the law. There should be a realization on the part of the non-members of the profession that there are technical doctrines which necessarily are not within their grasp. While certainly that is no reflection on them, still it must be admitted that a certain degree of care and prudence should be exercised by them before filing complaints based on such ground. It is more than just probable that the lack of knowledge, assuming that it exists, can be imputed not to the party charged but to the one who, without justification, felt himself aggrieved.

WHEREFORE, the complaint against respondent City Judge Aloysius C. Alday is dismissed for lack of merit.

Makalintal, C.J., Barredo, Aquino, and Concepcion, Jr., JJ., concur.

Antonio, J., is on official leave.

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[1] City Court of Quezon City, Branch II.

[2] 2nd Indorsement of Februarv 22, 1975.

[3] Ibid

[4] Cf. Tobias v. Ericta, Adm. Case No. 242-J, July 29, 1972, 46 SCRA

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