

IN RE: DESIGNATION OF JUDGE RODOLFO U. MANZANO AS MEMBER OF THE ILOCOS NORTE PROVINCIAL COMMITTEE ON JUSTICE.

A.M. No. 88-7-1861-RTC. October 05, 1988

Ponente: PADILLA, J.

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PADILLA, J.:

On 4 July 1988, Judge Rodolfo U. Manzano, Executive Judge, RTC, Bangui, Ilocos Norte, Branch 19, sent this Court a letter which reads:

"Hon. Marcelo Fernan

Chief Justice of the Supreme Court

of the Philippines

Manila

Thru channels: Hon. Leo Medialdea

Court Administrator

Supreme Court of the Philippines

Sir:

By Executive Order RF6-04 issued on June 21, 1988 by the Honorable Provincial Governor of Ilocos Norte, Hon. Rodolfo Farinas, I was designated as a member of the Ilocos Norte Provincial Committee on Justice created pursuant to Presidential Executive Order No. 856 of 12 December 1986, as amended by Executive Order No. 326 of June 1, 1988. In consonance with Executive Order RF6-04, the Honorable Provincial Governor of Ilocos Norte issued my appointment as a member of the Committee. For your ready reference, I am enclosing herewith machine copies of Executive Order RF6-04 and the appointment.

Before I may accept the appointment and enter in the discharge of the powers and duties of the position as member of the Ilocos (Norte) Provincial Committee on Justice, may I have the honor to request for the issuance by the Honorable Supreme Court of a Resolution, as follows:

(1) Authorizing me to accept the appointment and to assume and discharge the powers and duties attached to the said position;

(2) Considering my membership in the Committee as neither violative of the Independence of the Judiciary nor a violation of Section 12, Article VIII, or of the second paragraph of Section 7, Article IX (B), both of the Constitution, and will not in any way amount to an abandonment of my present position as Executive Judge of Branch XIX, Regional Trial Court, First Judicial Region, and as a member of the Judiciary; and

(3) Consider my membership in the said Committee as part of the primary functions of an Executive Judge.

May I please be favored soon by your action on this request.

Very respectfully yours,

(Sgd) RODOLFO U. MANZANO

Judge"

An examination of Executive Order No. 856, as amended, reveals that Provincial/City Committees on Justice are created to insure the speedy disposition of cases of detainees, particularly those involving the poor and indigent ones, thus alleviating jail congestion and improving local jail conditions. Among the functions of the Committee are —

3.3 Receive complaints against any apprehending officer, jail warden, fiscal or judge who may be found to have committed abuses in the discharge of his duties and refer the same to proper authority for appropriate action;

3.5 Recommend revision of any law or regulation which is believed pre-judicial to the proper administration of criminal justice.

It is evident that such Provincial/City Committees on Justice perform administrative functions. Administrative functions are those which involve the regulation and control over the conduct and affairs of individuals for their own welfare and the promulgation of rules and regulations to better carry out the policy of the legislature or such as are devolved upon the administrative agency by the organic law of its existence (Nasipit Integrated Arrastre and Stevedoring Services Inc., vs. Tapucar, SP-07599-R, 29 September 1978, Black's Law Dictionary).

Furthermore, under Executive Order No. 326 amending Executive Order No. 856, it is provided that —

"SECTION 6. — Supervision. — The Provincial/City Committees on Justice shall be under the supervision of the Secretary of Justice. Quarterly accomplishment reports shall be submitted to the Office of the Secretary of Justice."

Under the Constitution, the members of the Supreme Court and other courts established by law shall not be designated to any agency performing quasi-judicial or administrative functions (Section 12, Art. VIII, Constitution).

Considering that membership of Judge Manzano in the Ilocos Norte Provincial Committee on Justice, which discharges administrative functions, will be in violation of the Constitution, the Court is constrained to deny his request.

Former Chief Justice Enrique M. Fernando in his concurring opinion in the case of Garcia vs. Macaraig (39 SCRA 106) ably sets forth:

"2. While the doctrine of separation of powers is a relative theory not to be enforced with pedantic rigor, the practical demands of government precluding its doctrinaire application, it cannot justify a member of the judiciary being required to assume a position or perform a duty non-judicial in character. That is implicit in the principle. Otherwise there is a plain departure from its command. The essence of the trust reposed in him is to

decide. Only a higher court, as was emphasized by Justice Barredo, can pass on his actuation. He is not a subordinate of an executive or legislative official, however eminent. It is indispensable that there be no exception to the rigidity of such a norm if he is, as expected, to be confined to the task of adjudication. Fidelity to his sworn responsibility no less than the maintenance of respect for the judiciary can be satisfied with nothing less."

This declaration does not mean that RTC Judges should adopt an attitude of monastic insensibility or unbecoming indifference to Provincial/City Committee on Justice. As incumbent RTC Judges, they form part of the structure of government. Their integrity and performance in the adjudication of cases contribute to the solidity of such structure. As public officials, they are trustees of an orderly society. Even as non-members of Provincial/City Committees on Justice, RTC judges should render assistance to said Committees to help promote the laudable purposes for which they exist, but only when such assistance may be reasonably incidental to the fulfillment of their judicial duties.

ACCORDINGLY, the aforesaid request of Judge Rodolfo U. Manzano is DENIED.

SO ORDERED.

Cruz, Paras, Feliciano, Gancayco, Bidin, Sarmiento, Cortes, Medialdea, and Regalado, JJ., concur.

Gutierrez, Jr., J., please see dissenting opinion.

Melencio-Herrera, J., joins the dissent of J. Gutierrez in a separate opinion.

Fernan, C.J., Narvasa, J., and Griño-Aquino, JJ., I join Justice Gutierrez's dissent.

DISSENTING OPINION

GUTIERREZ, JR., J.:

The Constitution prohibits the designation of members of the judiciary to any agency performing quasi-judicial or administrative functions. (Section 12, Article VIII, Constitution.

Insofar as the term "quasi-judicial" is concerned, it has a fairly clear meaning and Judges can confidently refrain from participating in the work of any administrative agency which adjudicates disputes and controversies involving the rights of parties within its jurisdiction. The issue involved in this case is where to draw the line insofar as administrative functions are concerned.

"Administrative functions" as used in Section 12 refers to the executive machinery of government and the performance by that machinery of governmental acts. It refers to the management actions, determinations, and orders of executive officials as they administer the laws and try to make government effective. There is an element of positive action, of supervision or control.

Applying the definition given in the opinion of the majority which reads:

"Administrative functions are those which involve the regulation and control over the conduct and affairs of individuals for their own welfare and the promulgation of rules and regulations to better carry out the policy of the legislature or such as are devolved upon the administrative agency by the organic law of its existence (Nasipit Integrated Arrastre and Stevedoring Services Inc. v. Tapucar, SP-07599-R, 29 September 1978, Black's Law Dictionary.)"

we can readily see that membership in the Provincial or City Committee on Justice would not involve any

regulation or control over the conduct and affairs of individuals. Neither will the Committee on Justice promulgate rules and regulations nor exercise any quasi-legislative functions. Its work is purely advisory. I do not see anything wrong in a member of the judiciary joining any study group which concentrates on the administration of justice as long as the group merely deliberates on problems involving the speedy disposition of cases particularly those involving the poor and needy litigants or detainees, pools the expertise and experiences of the members, and limits itself to recommendations which may be adopted or rejected by those who have the power to legislate or administer the particular function involved in their implementation.

We who are Judges cannot operate in a vacuum or in a tight little world of our own. The administration of justice cannot be pigeonholed into neat compartments with Judges, Fiscals, Police, Wardens, and various other officials concerned erecting water-tight barriers against one another and limiting our interaction to timidly peeping over these unnecessary and impractical barriers into one another's work, all the while blaming the Constitution for such a quixotic and unreal interpretation. As intimated in the majority opinion, we should not be monastically insensible or indifferent to projects or movements cogitating on possible solutions to our common problems of justice and afterwards forwarding their findings to the people, public or private, where these findings would do the most good.

The majority opinion suggests the giving of assistance by Judges to the work of the Committees on Justice. Assistance is a vague term. Can Judges be designated as observers? Advisers? Consultants? Is it the act of being "designated" which is proscribed by the Constitution or is it participation in the prohibited functions? If Judges cannot become members, why should they be allowed or even encouraged to assist these Committees? The line drawn by the majority is vague and unrealistic.

The constitutional provision is intended to shield Judges from participating in activities which may compromise their independence or hamper their work. Studying problems involving the administration of justice and arriving at purely recommendatory solutions do not in any way involve the encroachment of the judiciary into executive or legislative functions or into matters which are none of its concerns. Much less is it an encroachment of the other departments into judicial affairs.

As the visible representation of the law and of justice in his community, the Judge should not shy away from public activities which do not interfere with the prompt and proper performance of his office, but which, in fact, enhance his effectiveness as a Judge. He cannot stop mingling in civic intercourse or shut himself into solitary seclusion. The Committees on Justice will also be immensely benefited by the presence of Judges in the study groups. The work of the Committees is quite important. Let it not be said that the Judges — the officials most concerned with justice — have hesitated to join in such a worthy undertaking because of a strained interpretation of their functions.

It is well for this Court to be generally cautious, conservative or restrictive when it interprets provisions of the Constitution or statutes vesting us with powers or delimiting the exercise of our jurisdiction and functions. However, we should not overdo it. The basic principles of constitutional interpretation apply as well to the provisions which define or circumscribe our powers and functions as they do to the provisions governing the other departments of government. The Court should not adopt a strained construction which impairs its own efficiency to meet the responsibilities brought about by the changing times and conditions of society. The familiar quotation is apt in this case — constitutional provisions are interpreted by the spirit which vivifies and not by the letter which killeth.

I, therefore, dissent from the majority opinion and vote to allow Judge Rodolfo U. Manzano to become a member of the Ilocos Norte Provincial Committee on Justice.

DISSENTING OPINION

MELENCIO-HERRERA, J.:

I hesitate to give such a restrictive and impractical interpretation to Section 12, Article VIII of the 1987 Constitution, and thus join the dissent of Justice Gutierrez, Jr.

What I believe is contemplated by the Constitutional prohibition is designation, for example, to such quasi-judicial bodies as the SEC, or administrative agencies like the BIR. Those are full-time positions involving running the affairs of government, which will interfere with the discharge of judicial functions or totally remove a Judge/Justice from the performance of his regular functions.

The Committee on Justice cannot be likened to such an administrative agency of government. It is a study group with recommendatory functions. In fact, membership by members of the Bench in said committee is called for by reason of the primary functions of their position.

The matter of supervision by the Secretary of Justice provided for under EO NO. 326 amending EO No. 856, need not be a cause for concern. That supervision is confined to Committee work and will by no means extend to the performance of judicial functions per se.

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