

FISCAL JUAN A. ABING, COMPLAINANT, VS. JUDGE CLOTILDE J. SALAZAR, RESPONDENT.

A.M. No. 97-MJ. August 31, 1976

Ponente: ANTONIO, J.

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ANTONIO, J.:

In his attempt to disqualify respondent Municipal Judge Clotilde J. Salazar, of Balangiga, Eastern Samar, from hearing and deciding Criminal Case No. 1294 for Qualified Theft, the then Acting Assistant Provincial Fiscal of Eastern Samar, Juan A. Abing, by letter dated February 2, 1972, informed the Secretary of Justice of the serious doubts he entertained on the latter's sense of fairness in view of the following irregularities allegedly committed by respondent:

- (1) In administering Oaths of Office on different dates as Municipal Judge of Balangiga, to two elective officials without requiring said affiants to affix their signatures to their Oaths of Office;
- (2) In issuing Summons in a Forcible Entry case as Acting Municipal Judge of Lawa-an, Eastern Samar, after the lapse of one (1) year, five (5) months and twelve (12) days from the date of the filing of the complaint on September 20, 1968;
- (3) In conducting hearing and deciding on the merits the case of People vs. Honorato Bayle, Criminal Case No. 34, for Acts of Lasciviousness, although because of the pen-alty, said case was beyond the jurisdiction of her court; and
- (4) In refusing, as Municipal Judge, to accept a criminal complaint for Slander by Deed against Rev. Fr. Jose Lentejas, a parish priest, which complaint was being filed by Mrs. Maxima Valdenor, on the basis of a flimsy pretext that the brother of respondent Municipal Judge is also a parish priest in Lawa-an, Eastern Samar, thus compelling Mrs. Valdenor to travel all the way from Balangiga to Borongan, causing her inconvenience and unnecessary expenses.

On April 24, 1972, respondent submitted her comment on the aforesaid charges and on November 18, 1972, complainant submitted his refutation of the assertions of respondent in her comment.

On January 2, 1973, the Department of Justice informed the complainant that if his letter dated February 2, 1972 was intended as an administrative complaint, he should have it verified. Consequently, on February 1, 1973, complainant submitted a verified verbatim copy of his afore-mentioned February 2nd letter. Pursuant to Section 7, Article X of the new Constitution, this case was referred to this Court by the Undersecretary of Justice on February 22, 1973.

This Court, in its Resolution of December 10, 1973, referred the case to the District Judge of the Court of First Instance of Eastern Samar for investigation, report and recommendation. On September 23, 1975, District Judge Andres P. Arche submitted his report and recommendation, as follows:

CHARGE NO. 1

(A) FINDINGS:

"It was established during the investigation that Floriano Canillas, Vice-Mayor of the municipality of Balangiga, Eastern Samar, on September 7, 1971, took his Oath of Office before Judge Clotilde Salazar the respondent herein, as Municipal Mayor of the said Municipality of Balangiga, Eastern Samar, when Mayor Narciso Camenforte filed his Certificate of Candidacy for the elective position of Board Member for the Province of Eastern Samar. But due to ex-citement of the occasion and everybody seemed to be in a hurry the affiant failed to sign the Oath of Office, but later on when the discrepancy was noted, the said Oath of Office was corrected as shown by Exhibit 4, Count 1. But in the case of the Oath of Office of Mr. Jacinto Carilla when he was designated as Actg. Mayor for the duration of the election campaign, the same error was committed, and when his attention was called, the said Mr. Jacinto Carilla for reasons of his own, refused to sign and so the Oath of Office remained uncorrected. However, the said oath-taking was not necessary, for it was only in an acting capacity, and hence, the oath-taking was only a surplusage, unlike the case of Vice-Mayor Floriano Canillas, when he assumed office as Mayor of Balangiga, after the elected Mayor filed his Certificate of Candidacy for the position of Board Member. Under these circumstances, Judge Clotilde Salazar, for this comedy of errors, could not be wholly blamed although she ought to be a little bit careful in an occasion like this, where the administering official is supposed to affix his or her signature after the affiants have already sworn to and subscribed their names thereon."

(B) OBSERVATIONS:

"This charge as embodied in Count 1 is quite excusable and the undersigned investigator agrees with the observation of the Department of Justice finding the explanation of Judge Clotilde J. Salazar quite satisfactory."

CHARGE NO. 2

(A) FINDINGS:

"Asst. Fiscal Juan Abing charges respondent Municipal Judge Clotilde J. Salazar of Balangiga, Eastern Samar, with failure to immediately issue the corresponding summons in Civil Case No. 8, filed in the Municipal Court of Lawa-an, Eastern Samar, in accordance with the applicable provisions of the Rules of Court. It must be noted, in this connection, that the respondent herein was detailed in the municipality of Lawa-an, Eastern Samar, for there was no Judge yet appointed, and to hold office thereat twice a month, and it must be noted further that these two municipalities are not connected with roads and the municipality of Lawa--an is only accessible via rough seas. Closely related to the aforecited Civil Case No. 8, was a criminal case for Arson between the same parties, that is, the plaintiffs in the civil case are the offended parties in the criminal case, and that of the defendants in the civil case is the accused in the criminal case. It was explained by the respondent in her answer (2nd Indorsement dated April 24, 1974) and reiterated during the investigation, that the reason, among others, in the delay of the issuance of the summons was due to a request by the plaintiffs themselves to hold in the meanwhile the usual legal processes because it was their intention to talk things over and settle the controversy among themselves with the help of the Court in order to avoid further deterioration of strained relations and to save them from unnecessary litigation expenses, the litigants being then close relatives. Everytime the criminal case was called for hearing, the civil case was likewise voluntarily submitted for any possible amicable settlement. (See Exh. 2-12, Count 2). The evidence showed that the criminal case was called eleven (11) times (See notices, Exhs. 2-12, Count 2) and that despite this length of time Civil Case No. 8 was not ultimately settled despite the appearance of the parties. So that after a lapse of one (1) year and five (5) months, sensing that no amicable settlement that could be arrived at, despite the efforts of the respondent to settle the case, the respondent Judge Clotilde J. Salazar, decided to continue the case and

forthwith issued the summons to the defendant so that the latter could formally answer the complaint. Then subsequently thereafter a new Municipal Judge was appointed, Judge Romulo Salazar, and after conducting an ocular inspection and preliminary investigation second stage, in connection with the criminal case for Arson, both cases were dismissed. It must be noted in both cases both parties were represented by lawyers."

(B) OBSERVATIONS:

"It is surprising to note that the herein complainant Asst. Fiscal Abing failed to present rebuttal witnesses tending to belie the statement contained in respondent's explanation which was embodied in the 2nd Indorsement, dated April 24, 1972, and reiterated in her explanation during the investigation that the cause of the delay was the request of the complainant to the respondent Judge Clotilde Salazar to hold in abeyance the usual legal process because it was their intention to talk things over and settle the controversy among themselves, and if possible, with the help of the Court, in order to avoid strained relations and the concomitant litigation expenses. The foregoing state-ment not having been denied by plaintiffs Francisco Gacho, et al., in Civil Case No. 8, for Forcible Entry, and consi-dering further that the said plaintiffs were duly represented by a lawyer, and the latter has not exerted efforts by calling the attention of the respondent of such apparent delay, then this investigator is therefore constrained to believe that there really existed such request to hold in abeyance the usual legal process, for reasons stated therein, so that under these circumstances, the blame for the delay of the issuance of the summons should not wholly be laid at the door of the herein respondent Judge Clotilde J. Salazar."

CHARGE NO. 3

(A) FINDINGS:

"In connection with this charge, it has been admitted by the herein respondent, both in her written explanation and in the investigation, that by honest mistake of judgment, she took cognizance of a case of Acts of Lasciviousness, Crim. Case No. 1242, tried the same and convicted the accused thereby imposing a penalty of six (6) months and one (1) day of imprisonment, honestly believing that it was within the zone of concurrence with the Court of First Instance. While it is true that it was really erroneous to take cognizance of a case of Acts of Lasciviousness, considering that the penalty as provided for by law in such cases is prision correccional which is not within the concurrent jurisdiction of municipal courts with the Courts of First Instance, yet there was no showing that the respondent herein was motivated by some ulterior motives, nor by any intentional desire to do any injustice to any of the parties concerned."

(B) OBSERVATIONS:

"This is purely a matter of honest mistake of judgment which could happen to anybody on the principle that no one is perfect in this world in the performance of his or her official duties. While it is admitted that the official actuation of the herein respondent in taking cognizance of this particular case is erroneous, yet in the absence of any definite showing that it was intentionally done for a purpose in order to render a miscarriage of justice, then it is humbly submitted that a situation like this if not frequently committed does not affect adversely the general fitness of the herein respondent as a Municipal Judge of Balangiga, Eastern Samar."

CHARGE NO. 4

(A) FINDINGS:

"In connection with the charge that the herein respondent did not allow the filing of a case of Slander by Deed against Parish Priest, Fr. Jose Lentejas, the only evidence gathered during the investigation was the explanation of the respondent herself. The complainant did not present any witness to support his charge. The facts

gathered during the investigation showed that the offended woman in the case of Slander by Deed, a certain Mrs. Maxima Valdenor, went to the residence of the respondent Judge Clotilde J. Salazar sometime in April 1968, and she was advised by the latter to have her complaint prepared by either the Chief of Police of Balangiga, Eastern Samar, or by the office of the Provincial Fiscal. Then she came back in the month of June, 1968, with the complaint already prepared and it was at this occasion when respondent's desire or intention to inhibit from hearing the case and when asked of the papers for filing purposes, Mrs. Maxima Valdenor refused to give the complaint and its supporting affidavits alleging that she will just file the papers as soon as the new judge who will try the case will arrive. But ultimately on July 9, 1968, Mrs. Maxima Valdenor came back and filed the complaint. However, on September 4, 1968, on motion of her own private prosecutor Atty. Almarion Montes, the complaint was withdrawn. (See Exh. '1', Count 4)."

(B) OBSERVATIONS:

"Under the above circumstances, there seems to be nothing unusual which may affect adversely the fitness of the herein respondent as a Municipal Judge of Balangiga, Eastern Samar."

Considering that Charges Nos. 1, 2, and 4 appear to be unsubstantiated, and in connection with Charge No. 3, where error is admitted by respondent, it appears that the same was not prompted by any improper motive nor a desire to commit an injustice but was simply the result of an honest mistake of judgment, the Court finds no basis to impose upon respondent administrative sanctions. This notwithstanding, respondent's error in assuming cognizance of a case which was beyond her jurisdictional authority could have been avoided had she exhibited more circumspection in the discharge of her judicial duties. It was her duty not only to be industrious but to exercise prudence and wise discretion. Indeed, the very strength and stability of our judicial institutions depend precisely on the people's faith and confidence in the ability and impartiality of our judges. Hence, judges are enjoined and required to comport themselves in such a manner that the parties before them will have no occasion to question their ability, impartiality and fairness.

WHEREFORE, in view of the foregoing, the charges against respondent Municipal Judge Clotilde J. Salazar are hereby dismissed, with the admonition that the afore-mentioned respondent should exercise more caution in the discharge of her judicial duties.

Fernando, Acting C.J., Barredo, (Acting Chairman), Aquino, and Concepcion, Jr., JJ., concur.

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