

VICENTA A. CANLAS, COMPLAINANT, VS. HON. VALERIANO DEL VALLE, RESPONDENT.

Adm. Case No. 173-J. April 27, 1972

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

Respondent judge is charged administratively with serious misconduct in office for having sat and acted as vacation judge at the pre-trial and at the hearing of a motion for default in CAR Case No. 50 of the Court of Agrarian Relations entitled "Ruperto Jubasan and Fidela Loresto, plaintiffs vs. Leandro Canlas, Vicenta Aguila Canlas and Terio Benesisto, defendants," wherein his son, Atty. Edilberto del Valle was an attorney of record for therein plaintiffs.

Plaintiffs-spouses in the agrarian case filed by them on March 2, 1967 as a pauper's suit sought their reinstatement as tenants of the subject land and payment of their share from the time of their forcible ouster until their reinstatement. Complainant Vicenta A. Canlas, principal defendant with her spouse Leandro Canlas filed this administrative complaint on June 19, 1970 after the regular judge of the agrarian court, Judge Gregorio L. Venturanza, heard the case and rendered his decision of April 17, 1969 in favor of therein plaintiffs-spouses. She now charges respondent judge with violation of section 1, Rule 137 of the Rules of Court, for not having inhibited and disqualified himself instead of having granted the default motion against herein complainant, notwithstanding his son being an attorney of record for the adverse party.

Respondent judge filed his answer in due course, disclaiming awareness at the time of the incidents that his son was counsel for plaintiffs, not only because he was not apprised of it by the parties nor was there any objection raised against his qualification to act as judge in the case, but also because it was another counsel, Atty. Socrates Desales, who appeared as counsel for plaintiffs before him.

Due investigation and reception of evidence were held by the associate justice of the Court of Appeals designated by the Court, Honorable Manuel P. Barcelona, who filed on March 8, 1972 his report and recommendation.

The relevant facts are thus stated in Justice Barcelona's report:

"Respondent is a duly appointed Judge of the Court of Agrarian Relations, Ninth Regional District with official station at Legaspi City, but detailed on vacation duty in the Court of Agrarian Relations, Twelfth Regional District, Branch I, Catbalogan, Samar, from May 1 to June 1, 1968, during the absence of Judge Gregorio L. Venturanza, the regular Judge therein (Exit. 1). Respondent, however, instructed the Clerk of Court at Catbalogan to set the hearings of CAR cases in Catarman, Northern Samar, because indigent litigants from Catarman could not afford to go to Catbalogan.

"One of the cases scheduled for pre-trial on May 9, 1968, at Catarman was CAR Case No. 50 mentioned above, involving a petition for 'Reinstatement and Reliquidation with Damages', which was prepared and signed by Atty. Edilberto del Valle, son of respondent Judge, as counsel for the petitioners Ruperto Jubasan and Fidela Loresto, referred to herein as plaintiffs to avoid confusion, so that his name appears on the cover of

the expediente as the 'Counsel for the Petitioners' (Exhs. H and H-1).

"At the aforesated pre-trial of CAR Case No. 50, plaintiffs appeared, but without their counsel of record, Atty. Edilberto del Valle, whereas, respondents therein, Leandro Canlas, Vicenta Aguila Canlas and Terio Benesisto, referred to herein as defendants, appeared with their counsel, Atty. Guido A. Lavin, Jr., who manifested to respondent Judge that plaintiffs' counsel, Atty. Edilberto del Valle, was in Manila, so that, he 'would be constrained to ask for the dismissal of this case because Atty. del Valle is not here,' but respondent Judge, having been informed by plaintiff Jubasan that Atty. del Valle was his lawyer, reset the pre-trial for May 16, 1968 (Exh. 2), to which Atty. Lavin agreed. (Exhs. I, I-1, I-2, I-3, J and J-1).

"At the re-scheduled pre-trial on May 16, 1968, however, plaintiffs appeared with Atty. Socrates Desales, who then filed a written motion to declare defendants in default, for the reason that, after examining the records of CAR Case No. 50, he discovered that no answer has been filed therein by defendants, which fact respondent Judge, after scanning the records, found to be true (Exh. D, p. 6, record; p. 20, t.s.n.). Whereupon, defendants' counsel, Atty. Lavin, verbally moved, and was given by respondent Judge, until the following day, May 17, 1968, within which to oppose the motion, which he did by filing the corresponding opposition, Exh. D-1, wherein he averred, among other things:

'1. That an answer was already filed around August 24 to 30, 1967 with the Court at Catbalogan and a copy of the same was furnished the petitioners through their counsel, Atty. Edilberto del Valle, as shown by a certificate of the Clerk with the office of the Post-Office of Catarman regarding registration of a mail matter to Atty. del Valle on August 25, 1967 from the undersigned hereto attached as Annex "A" (Exh. D-1, par. 1, p. 8, record.)

But, on May 18, 1968, respondent Judge, stating that:

'An examination of the records does not show that the original of the Answer has been sent, received by this Court and/or filed, and there is no showing that copy of the supposed Answer has been served upon the petitioner or his counsel in accordance with the requirements of the Rules. There is no way of determining from the telegram dated August 30, 1967, of counsel for the respondents, when his Answer was filed. From the time said telegraphic postponement was sent wherein it is mentioned that petitioner filed its Answer, up to the present, the reglementary period within which to file his Answer as required by the Rules has long prescribed.' (Exh. E, pp. 2-3, p. 11-12, record.) granted said motion to declare defendants in default and allowed plaintiffs to present their evidence 'as early as possible.' (Exh. E.)

"Shortly thereafter, or on May 20 or May 21, 1968, respondent Judge returned to his permanent station in Legaspi City, and, as a consequence, further proceedings in CAR Case No. 50 were continued before Judge Gregorio L. Venturanza, who had in the meantime returned to his official station from vacation. At the presentation of plaintiffs' evidence ex parte, Atty. Ramon Lubos – -who, by the way, collaborated with Atty. Edilberto del Valle in a subsequent litigation, Civil Case No. C-470, as counsel for the plaintiffs in said case – appeared for said plaintiffs. And, thereafter, Judge Venturanza rendered the decision therein under date of April 17, 1969, the dispositive portion of which reads:

'WHEREFORE, judgment is hereby rendered:

'(1) Ordering defendants Leandro Canlas and Vicenta Canlas to reinstate Ruperto Jubasan and Fidela Loresto as tenants of the parcel of land described in the complaint, located at Sitio Pagsanjan sa Hilagunuyan, Bo. McKinley, Catarman, Samar; consequently, ordering defendant Terio Benesisto to vacate the same and deliver possession thereof to plaintiff; and

'(2) Ordering defendants, the Canlases to pay plaintiffs, by way of damages, the amount of P540.00 beginning with the first quarter of 1967 and every quarter thereafter until plaintiffs are effectively reinstated to the landholding in question, and the further amount of P200.00 by way of attorney's fees.

'All other claims are hereby denied.'" (Exh. F, p. 17, record.)

The Court is satisfied from the record that respondent judge was aware and had been informed of the fact that his son, Atty. Edilberto del Valle, was an attorney of record for therein plaintiffs, notwithstanding his disclaimers to the contrary. He should have therefore inhibited himself from sitting and acting in the case, by virtue of the injunction to that effect ordained in Rule 137, section 1 of the Rules of Court,[1] having in mind the salutary object thereof of dispelling any possible doubt from litigants and the public in general as to the courts being free from bias or any other extraneous influence in the disposition of cases submitted to them for adjudication in accordance with law and justice.

While it was another lawyer, Atty. Socrates Desales, and not his son who appeared as counsel for plaintiffs before him, his son nevertheless continued as counsel of record for plaintiffs, and therefore respondent judge's disqualification remained in effect. It would have been otherwise had his son properly filed his withdrawal as counsel for plaintiffs with their required consent or that of the court, as required by the Rules of Court.[2]

Mitigating respondent judge's fault, however, are the following circumstances:

Atty. del Valle no longer appeared in all the subsequent proceedings of the case which were handled by another counsel, Atty. Ramon Lubos, giving some support to this claim that he would cease to be the plaintiffs' lawyer after preparing and filing the complaint for them and the motion to allow them to litigate as paupers, as they had no agreement for payment of attorney's fees.

As stated in the report, under the circumstances obtaining in the case, respondent judge's resolution declaring defendants (herein complainant) in default "was fully warranted by the records, and (that) any other judge would have most likely granted the motion for default anyway." Actually, complainant makes no claim of having ever challenged the questioned default order or the adverse decision against her before the appellate courts.

Finally, herein complainant may be said to have contributed to respondent judge's having committed the very act of which he is now charged, through her failure to avail of the very remedy provided by the Rules,[3] of timely objecting to respondent judge's sitting in the case and filing a motion for his inhibition and disqualification owing to his proscribed relationship to plaintiffs' counsel of record in the case. The record indicated that neither before nor after resolution of the default incident, did complainant ever raise the question of respondent judge's disqualification before respondent judge himself who sat in the case for less than a month as vacation judge in Samar[4] in order to give him an opportunity to rule directly upon his disqualification, or before the regular judge, Judge Venturanza, who actually received the evidence and decided the case under date of April 17, 1969. This very administrative complaint was in fact filed more than a year thereafter, on June 19, 1970.

Withal, respondent judge should have exercised more care and paid heed to the prohibitory provisions of section 1 of Rule 137 which disqualified him from acting in the case due to his son being an attorney of record for therein plaintiffs. Before proceeding further in the case, albeit motivated as he states in his answer by the policy to bring the court closer to the people and to administer justice with dispatch and hence setting hearings also at Catarman for about a week for the benefit of indigent litigants there who could not go to Catbalogan, he should have caused to be made of record his son's alleged withdrawal as counsel for plaintiffs or the parties' lack of objection to his sitting and acting in the case, as required by the Rules.[5]

ACCORDINGLY, respondent judge is admonished to exercise more care in the future in complying with the provisions of Rule 137, section 1 on disqualification of judges.

Reyes, J.B.L., Acting C.J., Makalintal, Zaldivar, Castro, Fernando, Barredo, and Antonio, JJ., concur.

Makasiar, J., did not take part.

Concepcion, C.J., on official leave.

[1] The cited rule provides:

"SECTION 1. Disqualification of judges.— No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

"A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above." (Rule 137)

[2] Vide Rule 138, sec. 26, Rules of Court.

[3] Sec. 2, Rule 137 provides: "SEC. 2. Objection that judge disqualified, how made and effect.— If it be claimed that an official is disqualified from sitting as above provided, the party objecting to his competency may, in writing, file with the official his objection, stating the grounds therefor, and the official shall thereupon proceed with the trial, or withdraw therefrom, in accordance with his determination of the question of his disqualification. His decision shall be forthwith made in writing and filed with the other papers in the case, but no appeal or stay shall be allowed from, or by reason of, his decision in favor of his own competency, until after final judgment in the case."

[4] Respondent judge was detailed on vacation duty at Samar for one month from May 1, 1968 to June 1, 1968, but returned to his permanent station in Legaspi City on May 20 or May 21, 1968, upon the regular judge's return to his official station at Catbalogan. (p. 6, report)

[5] Supra, Rule 138, section 26.

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