

JOSE D. FIGUEROA, COMPLAINANT, VS. NATALIO P. AMARGA, RESPONDENT.*Adm. Case No. 251-J. October 31, 1974*

Ponente: TEEHANKEE, J.

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The Court approves the findings and recommendation in the report submitted by the investigator, Associate Justice Ruperto G. Martin of the Court of Appeals, for exoneration of respondent judge from the charges filed against him and dismisses the complaint. Since there are indications that perjury and subornation of perjury may have been committed in the filing of the complaint and in the proceedings of the investigation the records are referred to the Secretary of Justice for proper investigation and prosecution, as may be warranted by the facts and evidence.

The five charges of alleged partiality, unjust practices and violation of Republic Act No. 3019 in the administrative case filed on August 16, 1972 by the complainant Jose D. Figueroa of Catarman, Northern Samar against respondent Judge Natalio P. Amarga of the Court of First Instance of Samar, Branch IV at Catarman, Northern Samar were referred as per the Court's resolution of October 5, 1972 to the Honorable Ruperto G. Martin, Associate Justice of the Court of Appeals for investigation, report and recommendation.

After proper proceedings, Justice Martin submitted his extensive twenty-page report dated September 10, 1974, wherein he made the following backgrounder findings of fact:

"Respondent Judge Natalio Amarga is a duly appointed Judge of Court of First Instance since 1938 (should be 1967).* On February 20, 1972, Ruperto Galit and his wife, Zosima Galit, went to see respondent Judge in his residence to complain about two salary checks for the months of January and February, 1972, which were allegedly taken by Mrs. Fortunata Figueroa, wife of complainant Jose D. Figueroa, in payment of a loan which the Galits owed the Figueras in 1968, which loan was supposed to be paid in monthly installment of P50.00. Since the loan has already been paid the Galits claim that complainant Jose D. Figueroa who is the administrative officer of Division in charge of issuing checks to public school teachers has no authority to get their checks. Upon hearing the complaint of Mrs. Galit and her husband, respondent judge advised them to see the Division Superintendent of Schools about their case but the Galits told the Judge that it was no use because the people in said office were allegedly in connivance with each other. The respondent Judge then advised them to see the Chief of Police but again the Galits told the respondent Judge that there was no use because the Chief of Police and the Figueras belong to the same faction. Upon the insistence of the Galits to do something about their case, the respondent Judge told them to file a letter-complaint addressed to him and have the same subscribed before the Clerk of Court. As there were no Fiscals at the time because they were all attending a seminar in Manila, the respondent Judge proceeded with the investigation of the case. A subpoena was issued to Mrs. Figueroa. Upon receipt thereof, Mrs. Figueroa went to the respondent Judge pleading for mercy. Respondent Judge told her to come back on February 26 to find out what would happen with the case. On February 26, Mrs. Figueroa asked for postponement which the respondent Judge granted. After the preliminary investigation, the respondent Judge referred the records of the two cases to the Office of the Provincial Fiscal for the filing of the necessary information (Exhs. 14 and 15). The accused Jose D. Figueroa and Fortunata L.

Figueroa, in the cases (C-196 for usury and C--202 for theft) filed a motion to quash but the respondent Judge denied the same. So with the motion for reconsideration of the order denying the motion to quash. Arraignment and trial of the two cases were then set on August 22 and 23, 1972. On August 18, 1972 complainant Jose Figueroa filed the present administrative case against the respondent Judge before the Supreme Court and on August 21, 1972 complainant used this administrative complaint to support their motion to disqualify the respondent Judge to try the two cases (C--196 and C-202, Exh. 16). Respondent Judge was restrained by this Court in trying the aforesaid two criminal cases."

On charges 1 and 2 that respondent judge used as a tool Ruperto Galit to file as complainant criminal cases in respondent's court for usury and qualified theft against herein complainant Figueroa and his wife Fortunata L. Figueroa which respondent judge allegedly fabricated to harass and persecute the Figueroa spouses: The investigating Justice found from the evidence that contrary to complainant's assertion, "it was Mrs. Galit and her husband, Ruperto Galit, who went to see the respondent Judge to seek his help regarding the salary checks of her husband for the months of January and February, 1972 which complainant Jose Figueroa allegedly took without their authority. At first the respondent Judge advised the Galits to see the Superintendent of Schools and later the Chief of Police about their complaints but after they have explained to the respondent Judge that there was no use going to these officials and insisted that the respondent Judge do something to help them recover their checks, the respondent Judge was constrained to ask the Galits to file their letter-complaint with him and have the same subscribed before the Clerk of Court. Normally, the respondent Judge should have told the Galits to file their complaint with the Office of the Provincial Fiscal. But it turned out that at that time all the fiscals in the province were attending the seminar at U.P. Law Center. This explains why the letter-complaint was filed with him. After the filing of the complaint, the Clerk of Court issued subpoenas to the District Supervisor, Mrs. Olmedo, the Principal, Mr. Mora and to the Galits and Mrs. Fortunata Figueroa. Upon receipt of the subpoena Mrs. Figueroa went to see the respondent Judge to ask him to spare her from prosecution. The respondent Judge, however, told Mrs. Figueroa that the complaint has already been filed and advised her to come on the day of the hearing. Hearings were conducted on March 9 and 25, 1972. After finding that there was a prima facie case against the Figueroas, the respondent Judge referred all the records to the Fiscal of the Province for the filing of the corresponding information in both cases against Fortunata L. Figueroa and her husband."

The investigating Justice further noted that "(T)he Galits do not deny that they went to see the respondent Judge about their case but according to them they just want to see the Judge to ask him to intercede for them. If they just went to ask the respondent Judge to intercede for them the latter could have just asked his clerk to call for the Figueroas. The fact that the respondent Judge told them to see the Superintendent of Schools and later, the Chief of Police, clearly indicates that the Galits must have come to see the respondent Judge to complain against the Figueroas," adding that "(I)t cannot be disputed that Ruperto Galit signed the very letter-complaint prepared by him. He alone knew what is to be placed in the complaint. How would the respondent Judge know about the indebtedness of Ruperto Galit in the amount of P500.00 payable at P50.00 a month and that the Figueroas kept on getting his salary checks in payment of the alleged installments, had not the Galits told him?"

As to the charge of alleged harassment and that respondent allegedly intimidated Ruperto Galit to file the usury and theft cases against the Figueroas, Justice Martin brought out certain salient facts and convincingly disproved the charge thus:

"x x x It is difficult to see how the respondent Judge could have fabricated all the facts which Ruperto Galit himself tried to establish during the preliminary investigation of the two cases against the Figueroas, such as the fact that he was indebted to Jose Figueroa in the amount of P500.00 payable at P50.00 a month and the Figueroas have been taking his monthly salary checks in payment of his indebtedness; that his salary checks for January and February, 1972 were recovered from Mrs. Figueroa; that the alleged taking of the two salary

checks by Mrs. Fortunata Figueroa was shown by the corresponding payroll warrant register of school supervisor Lucia Olmedo and school principal Mauro Mora; that the name Ruperto Galit written on the 'payee column' was denied by Mr. Galit as his signature; that after the checks were recovered from Mrs. Figueroa, the name Ruperto Galit written on the payroll Warrant Register with the initial 'F' and 'Fig' respectively, were subsequently erased (Exhs. 9, pp. 13, 17, 18, 24). Certainly the foregoing facts established during the preliminary investigation of the two cases against Jose Figueroa could not just be imagined by the respondent Judge. Besides in the preliminary investigation conducted by the respondent Judge, Ruperto Galit was subjected to cross-examination by the lawyer of Mr. Figueroa, Atty. Bohol. Could it be possible that even in the cross-examination Ruperto Galit has been coached by the respondent Judge?"

As to the affidavit of Ruperto Galit supporting that of his wife (Annex A of the Complaint) corroborating the complainant's charges that Galit's criminal cases against the Figueras were instigated by respondent, the investigating Justice found that said affidavit prepared on February 5, 1973 or more than six months after the filing of the herein complaint on (August 16, 1972) "was made to fit the allegations of the complaint and is not the basis of the complaint."

Justice Martin further correctly termed as "incredible" Ruperto Galit's claim "that he himself prepared the affidavit even before he knew that the respondent Judge would have an administrative complaint against him and that he came to learn about the complaint against the respondent Judge after he executed Exhibit B (pp. 163-166, t.s.n.), observing that "(W)hy should he prepare an affidavit concerning something that he had no knowledge about? If for this fact alone, the undersigned finds it difficult to rely on the testimony of Ruperto Galit and his wife."

The investigating Justice indicated grave misgivings that perjury and subornation of perjury may have been committed in the proceedings, in this wise.

"It is admitted that the misunderstanding between Ruperto Galit and complainant Jose Figueroa was due to the P500.00 indebtedness incurred in 1968 which up to and until February 21, 1972 appeared to be still unpaid. According to Ruperto Galit, he has overpaid the amount and that is why when complainant Jose Figueroa got his two salary checks for January and February 1972 in the total amount of P62.44, they (the Galits) had to seek the help of the respondent Judge because according to them, they were badly in need of money. But soon after the complaint has been filed by the Galits against complainant Jose Figueroa and after the preliminary investigation of the two cases against the latter, the Galits all of a sudden did not appear to be in a great need of money any longer. In fact Ruperto Galit was able to go on an alleged study leave for one whole year in Manila without pay. From the very words of Ruperto Galit, he was supposed to pay the monthly amortization of his many loans, loan to the GSIS and Insurance policies, which he obtained after he left Catarman by way of salary deductions. He also admitted he did not report for duty for the whole year. How he was able to support himself and his wife in Manila while studying and his ten (10) children who were left behind in Catarman without any visible means of income for the whole year, certainly is a cause for wonder. On August 22 and 23 Ruperto Galit was no longer in Catarman, when he was supposed to testify against the Figueras in the trial of the two cases on said dates. He claims that he voluntarily prepared and executed his affidavit (Exh. B) without allegedly being asked by Mr. Jose Figueroa and without even knowing that there was going to be an administrative complaint against the respondent Judge. So with his wife, Mrs. Zosima Galit, who executed an affidavit allegedly even without any request from Mr. Figueroa. What made the Galits turn against the respondent Judge and in favor of the Figueras, the undersigned cannot understand. If as the Galits claim they have owed the Figueras and they have already paid their indebtedness to them why should they still testify for the Figueras in this administrative investigation against the respondent Judge from whom they first asked for help? The claim of respondent Judge that the Figueras were trying hard to stop the trial of the cases against them pending before him cannot just be ignored."

On the related charge No. 4 that respondent judge offered money, services of a lawyer and protection to the Galits

to prosecute their cases of usury and theft against complainant and his wife, the investigating Justice correctly found the same to be unsubstantiated in view of the above contrary findings that the Galits did have legitimate cause to charge the Figueroas criminally for usury and theft but that the Figueroas had somehow managed to convince them to desist from testifying and pressing the charges and instead to turn against respondent judge so that he would be stopped and disqualified from hearing the said criminal cases which were pending in his court.

On charge No. 3 for alleged partiality in a case involving complainant Figueroa in his litigation with a certain Carmen Vda. de Salaverria over the possession and ownership over a parcel of land, the investigating Justice found no basis to sustain the charge. He found that the forcible entry and detainer case filed by Salaverria against complainant (wherein respondent allegedly favored the former) had been dismissed by respondent judge upon joint motion of the litigants because the case involved a question of ownership and not mere possession (by virtue whereof complainant filed an action for recovery of ownership of the property in litigation), and correctly concluded that "In a case where there is a joint motion to dismiss, the (judge) cannot be accused of partiality for dismissing the case."

The last charge No. 5 for alleged improper issuance of preliminary injunction and restraining orders ex parte was likewise found to be without merit by the investigating Justice. In one case, the investigating Justice found that respondent judge had properly issued a temporary restraining order ex parte to preserve the status quo and then held a hearing where witnesses were presented by the contending parties before issuing the preliminary injunction. As to another case involving a similar complaint, no proof was presented to show that a restraining order had been issued at all. And as to a third case where respondent had allegedly forced open the ballot boxes questioned in the 1967 elections, counted the votes for governor and proclaimed plaintiff Irene Balite as governor-elect, the claim of complainant who had nothing to do with the case was amply disproved by the testimony of a disinterested witness, the Comelec representative, who actually supervised the opening of the ballot boxes and testified that the ballot boxes were opened in the usual way without the use of force.

Justice Martin concludes his report with the observation that ". . . (T)he most that can be said is that complainant in his desire to stop the prosecution of the cases of Usury and Theft cases against him and his wife had to exert such efforts as have been mentioned earlier in order to escape prosecution from the cases of Usury and Theft cases against him."

These "efforts. . . to escape the cases of theft and usury" on complainant's part as shown above, refer to complainant's sworn complaint in the case at bar, Mrs. Ruperto Galit's affidavit attached to the complaint as Annex A, Galit's own affidavit executed more than six months later and the testimonies of complainant and Galit at the investigation which sought to stamp the stigma of guilt of the grave charges at bar on respondent judge and which upon investigation were found to be incredible, unworthy of belief and full of inconsistencies apparently concocted with the condemnable purpose of disqualifying respondent judge from trying said criminal cases and assailing his integrity and honor. The Court deems it necessary, therefore, to refer the record to the Secretary of Justice for the corresponding investigation and prosecution, if warranted by the facts and evidence, of the parties responsible for perjury and subornation of perjury should the grave misgivings indicated by the investigating Justice that such crimes may have been committed in the proceedings in the case at bar be borne out in such investigation.

ACCORDINGLY, the Court approves the findings and recommendation in the report of the investigating Justice for the exoneration of respondent from the charges and dismisses the complaint. The Clerk of Court is directed to furnish a copy hereof and of the pertinent records to the Secretary of Justice for the corresponding investigation whether perjury and subornation of perjury were committed in the proceedings and for the prosecution of the parties responsible therefor, as may be warranted by the facts and evidence.

Castro, (Chairman), Makasiar, Esguerra, and Munoz Palma, JJ., concur.

* As per records on file of respondent.

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