

TALISAY-SILAY MILLING CO., INC., PETITIONER VS. HON. JOSE TEODORO, SR., ETC., ET AL., RESPONDENTS.*G.R. Nos. L-4579 and L-4674. March 31, 1952*

Ponente: PARAS, C.J.

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Under date of November 24, 1950, Simplicio Lizares and others filed in the Court of First Instance of Negros Occidental a complaint against the Talisay-Silay Milling Co., Inc. (Civil Case No. 1814), praying that the defendant corporation be ordered to distribute 21,988.5 shares of stock of the Central Azucarera del Danao among all the stockholders of the Talisay-Silay Milling Co., Inc.; that, pending final termination of the case, a writ of preliminary injunction be issued, enjoining the defendant corporation from selling or disposing in any way of the said 21,988.5 shares and from making use of the right to vote on said shares in any and all meetings of the Central Azucarera del Danao; and that the defendant corporation be ordered to pay the sum of P20,000 as attorney's fees, plus the costs of suit. On November 28, 1950, the Court of First Instance of Negros Occidental issued a writ of preliminary injunction, ordering the Talisay-Silay Milling Co., Inc. to refrain from selling or disposing in any way of the 21,988.5 shares of the Central Azucarera del Danao, and from voting said shares in any and all meetings of the latter corporation, particularly in the general annual meeting of the stockholders to be held in December, 1950.

In the order of March 1, 1951, the Court of First Instance of Negros Occidental, upon motion of the plaintiffs in Civil Case No. 1814, ordered the defendant corporation to produce and bring the books, documents, records, and papers listed in plaintiffs' amended motion at the office of the clerk of court on March 8, 1951, and on all business days thereafter between the hours of 8:30 a. m. to 4:30 p. m., until their inspection and examination shall have been completed by the plaintiffs or their duly authorized representatives. In the order of March 3, 1951, the court denied the motion for reconsideration filed by attorney for the defendant Talisay-Silay Milling Co., Inc.

The Talisay-Silay Milling Co., Inc. thereafter filed in this Court: (1) A petition for certiorari against Hon. Jose Teodoro, Judge of the Court of First Instance of Negros Occidental, Simplicio Lizares, and Antonio A. Lizares (G. R. No. L-4579), praying that the respondent Judge be disqualified from proceeding with Civil Case No. 1814; that the writ of preliminary injunction issued ex parte by the respondent Judge in said case be dissolved and that said case be transferred for hearing to another branch of the Court of First Instance of Negros Occidental; and that a writ of preliminary injunction be issued against the respondent Judge, enjoining him from further proceeding with Civil Case No. 1814. (2) A petition against the same respondents (G. R. No. 4674), praying that the order of the respondent Judge dated March 1, 1951, ordering the Talisay-Silay Milling Co., Inc. to produce in court the records therein mentioned, be set aside. These two petitions were heard and submitted after the respondents had filed their answers.

In the answer filed by the respondents in G. R. No. L-4674, it is alleged that the case had become academic in view of the fact that the order of March 1, 1951, was amended by the respondent Judge in his order of March 17, 1951, in the sense that the place of inspection of petitioner's books and documents would be its principal office at Talisay. It being alleged in the petition that the petitioner "would be glad to allow plaintiffs to inspect at their

Office in Talisay any documents and records in their possession which the court may consider to be material and relevant to the case," said petition has in fact become academic.

The first question raised in the petition for certiorari in G. R. No. L-4579 is whether or not the respondent Judge is disqualified from trying Civil Case No. 1814, because he was and is engaged and paid as professor of law in the Occidental Negros Institute which is owned and controlled by the Lizares family, plaintiffs in said case, particularly Antonio A. Lizares who owns the overwhelming majority of the capital stock and is the president of said corporation. The petition calls attention to the following Canons of Judicial Ethics, promulgated by the Secretary of Justice under the authority of section 79 (B) of the Revised Administrative Code:

"SEC. 3. Avoidance of appearance of impropriety.—A judge's official conduct should be free from the appearance of impropriety, and his personal behavior, not only upon the bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach."

"SEC. 25. Personal investments and relations.—A judge should abstain from making personal investments in enterprises which are apt to be involved in litigation in his court; and, after his accession to the bench, he should not retain such investments previously made, longer than a period sufficient to enable him to dispose of them without serious loss. It is desirable that he should so far as reasonably possible, refrain from all relations which would normally tend to arouse the suspicion that such relations warp or bias his judgment, or prevent his impartial attitude of mind in the administration of his judicial duties."

"SEC. 30. Social relations.—It is not necessary to the proper performance of judicial duty that judges should live in retirement or seclusion; it is desirable that, so far as the reasonable attention to the completion of their work will permit, they continue to mingle in social intercourse, and that they should not discontinue their interest in or appearance at meetings of members of the bar. A judge should, however, in pending or prospective litigation before him be scrupulously careful to avoid such action as may reasonably tend to awaken the suspicion that his social or business relations or friendships constitute an element in determining his judicial course" (Canons of Judicial Ethics, 42 O. G. pp. 1803, 1804, 1805, 1806).

We are of the opinion that the respondent Judge is not disqualified from trying Civil Case No. 1814. While the Canons of Judicial Ethics are desirable and salutary, they do not constitute legal grounds for disqualification. They are addressed to the personal tastes of judges, with a view to formulating certain standards of judicial decorum. But they cannot be intended to provide grounds for disqualification of judicial officers, in addition to those enumerated in section 1 of Rule 126 of the Rules of Court which reads as follows:

"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, computed according to the rules of 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."

Commenting on this rule, Chief Justice Moran said: "This provision expressly enumerates without ambiguity the cases in which any judge or judicial officer is disqualified from acting as such and the grounds thus expressly enumerated therein must be deemed to exclude others under the well known canon of statutory construction, *inclusio unius est exclusio alterius*." (Moran, Comments on the Rules of Court, 3rd Ed., Vol. II, p. 873.) It is not pretended that the respondent Judge is disqualified on any of the grounds specified in section 1 of Rule 126. In the present case, especially, it appears that while the respondent Judge is a professor of law in the Occidental Negros Institute, owned by the Lizares family including respondent Antonio A. Lizares who is the president of said corporation, the latter entity (which has a personality distinct from the stockholders) is not a party to Civil Case No. 1814.

It cannot be alleged that the respondent Judge, if allowed to continue trying Civil Case No. 1814, might dispose of said case in a biased manner prejudicial to the petitioner, since it is obvious that the records are public and open to the parties who are free to have any action of the respondent Judge reviewed by the appellate court. It is intimated, however, that a biased trial Judge may exercise his discretion in a way indicative of partiality not amounting to a reversible error. In reply, we may observe that if a judge, having no scruples, should want only disregard the dictates of good conscience and all rules of fairness and propriety to an extent sufficient to constitute serious misconduct or inefficiency, administrative remedies may be effectively resorted to.

The petitioner in G. R. No. L-4579 next assails the writ of preliminary injunction issued ex parte by the respondent Judge in Civil Case No. 1814, prohibiting the petitioner from selling or disposing in any way of the 21,988.5 shares of the Central Azucarera del Danao and from voting the same in all meetings of the latter entity, particularly in the general annual meeting of the stockholders to be held in December, 1950. In our resolution of February 23, 1951, we dissolved said writ of preliminary injunction in so far as it restrained the Talisay-Silay Milling Co., Inc. from making use of the right to vote on the aforesaid shares in any and all meetings of the Central Azucarera del Danao, upon the filing by the petitioner of a counter-bond for P50, it appearing that the petitioner's 21,988.5 shares in Central Azucarera del Danao constitute more than 80 per cent of the total outstanding shares of the latter corporation, and that the writ of preliminary injunction issued by the respondent Judge would keep that corporation from holding meetings and transacting business if said writ were maintained in its entirety. In our resolution of April 13, 1951, issued after hearing the parties, we denied the petition of counsel of respondents, for the reconsideration of our resolution of February 23, 1951.

The question whether or not the 21,988.5 shares of the Central Azucarera del Danao should be distributed among the stockholders of the Talisay-Silay Milling Co., Inc., is to be determined in Civil Case No. 1814. Assuming, however, that the plaintiffs in said case would succeed in obtaining a favorable judgment, 6,464.64 shares would at most correspond to said plaintiffs, and it is but fair to rule that, pending final decision, the petitioner should be allowed to vote said shares, which constitute a majority of the total outstanding shares of the Central Azucarera del Danao, in order to keep said corporation as a going concern. Upon the other hand, it is also logical that the petitioner be enjoined from selling or disposing in any way of said shares. In other words, we reaffirm our resolution of February 23, 1951.

Wherefore, the petitions are hereby dismissed, it being understood that the writ of preliminary injunction issued by the respondent Judge in Civil Case No. 1814 stands dissolved in so far as it restrains the Talisay-Silay Milling Co., Inc. from making use of the right to vote on the 21,988.5 shares of the Central Azucarera del Danao in any and all meetings of the latter corporation. So ordered, without costs.

Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, Jugo, and Bautista Angelo, JJ., concur.

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