

ATTY. JULIUS NERI, COMPLAINANT, VS. JUDGE JESUS S. DE LA PEÑA, RESPONDENT.

A.M. No. RTJ-05-1896. April 29, 2005

Ponente: CORONA, J.

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CORONA, J.:

This is a case for grave misconduct, gross ignorance of the law and/or incompetence filed by Atty. Julius Z. Neri against Judge Jesus S. de la Peña. It originated from a civil case for damages filed by Emmanuel Aznar against Citibank (which was represented by complainant as counsel), docketed as Civil Case No. CEB-16474 and raffled to the Regional Trial Court of Cebu, Branch XX, presided over by Judge Ferdinand J. Marcos.[1]

Plaintiff Aznar had filed suit due to the alleged blacklisting of his Citibank Preferred Mastercard which, according to him, was dishonored in several establishments in Singapore and Malaysia while he was on holiday, causing him great inconvenience and embarrassment. He presented, as evidence, several receipts, plane tickets, a computer print-out allegedly showing that his card had been declined for being “over limit”, a statement of account and his lone testimony.[2] Defendant Citibank presented several documentary exhibits to the effect that Aznar’s card had not been placed on any “hot list” and could not possibly have been blacklisted.[3] After trial, Judge Marcos dismissed the case for lack of merit.[4]

Dissatisfied with the decision, Aznar filed through counsel a motion for reconsideration, with motion to re-affle the case. In an order dated September 11, 1998, Acting Presiding Judge Ramon Codilla (who succeeded Marcos), citing the fact that he was “occupied with two (2) salas” and the fact that “the Presiding Judge who originally penned the decision is a credit card holder of CITIBANK...whose membership could naturally influence the outcome of this case in favor of the defendant bank,” directed the re-raffling of the case to RTC Cebu Branch X, presided over by respondent Judge Jesus de la Peña.[5] Respondent then ordered Citibank to file its comment on Aznar’s motion for reconsideration.[6] Citibank filed its opposition instead. In an order dated November 25, 1998, respondent granted Aznar’s motion for reconsideration:

WHEREFORE, the Motion for Reconsideration is hereby GRANTED. The DECISION dated May 29, 1998 is hereby reconsidered, and consequently, the defendant is hereby condemned liable to pay the following sums of money:

- P10,000,000.00 as moral damages;
- P 5,000,000.00 as exemplary damages;
- P 1,000,000.00 as attorney’s fees; and
- P200,000.00 as litigation expenses.

SO ORDERED.[7]

As a result of the Order, complainant filed this administrative case on July 16, 1999, which was docketed as

Control No. 41-99-P. Charging respondent with dishonesty, he alleged that respondent, contrary to his pronouncement in his order, had rendered his decision without ever having read the transcripts of the case.[8] To support this contention, complainant presented certifications from the Clerk of Court of Branch XX[9] and the Clerk of Court of the RTC of Cebu City[10] that the transcripts of the case had remained in their custody and that the respondent never borrowed them all throughout.

Complainant also charged respondent with gross ignorance of the law and/or incompetence. He alleged that respondent had improperly considered as a business record Aznar's computer print-out which in reality did not meet the requisites to be rightly considered as such. Aznar never testified as to the date and time the subject print-out was encoded, or who encoded and printed the same, nor did he establish personal knowledge of who prepared the print-out, or whether it was prepared by one responsible for it in his professional capacity or in the performance of his official duty or in the regular course of his business. Finally, the person who prepared it did not testify in court or on deposition.

Complainant went on to say that respondent's incompetence and dishonesty showed in his failure to appreciate and evaluate Citibank's extensive documentary evidence which clearly established that it did not blacklist Aznar's Mastercard.

Finally, complainant pointed out that the damages respondent awarded to plaintiff Aznar were scandalously exorbitant. He prayed for respondent's dismissal from the service.

On September 3, 1999, respondent filed his comment.[11] He principally contended that, having appealed from his decision to the Court of Appeals, the complainant should not have filed this administrative case. Respondent decried complainant's case as forum-shopping. In his defense, respondent asserted that he had in fact read the transcripts, having received copies thereof attached to an ex parte manifestation filed by plaintiff Aznar.[12] He also defended the amount of damages he awarded by comparing them to those awarded in a 1973 case, with inflation taken into account.

Complainant then filed his reply to the comment,[13] assailing the ex parte manifestation which respondent had supposedly relied upon in deciding the case. He pointed out that respondent should not have even considered the said manifestation because Citibank had not been served a copy and it was filed after office hours. He likewise refuted respondent's allegations of forum-shopping and impropriety in filing an administrative case while an appeal was pending.

In his rejoinder, respondent defended his appreciation of the ex parte manifestation. He likewise reiterated his claim that the administrative complaint should not have been filed with the appeal.[14]

On February 28, 2001, the Second Division of this Court resolved to hold the administrative case in abeyance until the final resolution of the Court of Appeals of CA-GR CV No. 62554, Aznar v. Citibank. By this time, the case had been re-docketed as AM No. 01-1131-RTJ.[15]

On January 8, 2004, the Court of Appeals decided in favor of Citibank, vacating respondent's decision and reinstating the dismissal of the case by Judge Marcos.[16] On June 8, 2004, complainant filed a manifestation, with the Court of Appeals' decision attached, pointing out that this administrative complaint was now ready for resolution.

In a manifestation dated June 14, 2004, respondent prayed for the resolution of the case and once more asked for its dismissal. He cited the fact that the Court of Appeals decision made no mention of his administrative lapses and that his decision was an exercise of purely judicial discretion. He also listed the various posts he had held as a Regional Trial Court judge as well as the commendations he had received from the Honorable Chief Justice. He

also pointed out that this administrative complaint was the only one ever filed against him in all his years of service.[17]

In a memorandum dated August 27, 2004, the Office of the Court Administrator reported its findings.

Because respondent based his assailed order mostly on the ex parte manifestation submitted by the counsel for plaintiff Aznar, the OCA found him liable for violating Section 4, Rule 13, in relation to Section 5, Rule 15 of the Revised Rules of Civil Procedure:

(Rule 13)

SEC. 4. Papers required to be filed and served. — Every judgment, resolution, order, pleading subsequent to the complaint, written motion, notice, appearance, demand, offer of judgment or similar papers shall be filed with the court, and served upon the parties affected.

(Rule 15)

SEC. 4. Hearing of motion. — Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

According to the OCA, the fact that plaintiff Aznar had failed to serve a copy of his ex parte manifestation upon Citibank should have been reason enough for respondent to disregard the same.

Likewise noting the fact that the ex parte manifestation was filed beyond office hours, the OCA found that this “created an idea that there was a covert attempt to favor Aznar.” However, citing the absence of substantial evidence, it pointed out that “it should not be presumed that the procedural lapse committed by respondent (was) attended by corrupt motive of flagrant disregard of the rules.” The OCA also considered in respondent’s favor his defense that he was merely trying to help decongest the dockets. Finally, the OCA found the charges of gross ignorance of law and incompetence to be without basis, and found him liable instead for simple misconduct. The OCA recommended a fine of P10,000.

We adopt part of the findings of the Court Administrator.

But we disagree with its finding that the respondent violated both Rules 13 and 15 of the 1997 Revised Rules of Civil Procedure.

Section 4, Rule 13 requires that adverse parties be served copies of all pleadings and similar papers. Section 4, Rule 15 requires a movant to set his motion for hearing, unless it is one of those which a court can act upon without prejudicing the rights of the other party. The prevailing doctrine in our jurisdiction is that a motion without a notice of hearing addressed to the parties is a mere scrap of paper.[18] In *Cui v. Judge Madayag*,[19] we held that “any motion that does not contain proof of service of notice to the other party is not entitled to judicial cognizance. (Such) motion is nothing but a (mere) scrap of paper.” It is important, however, to note that these doctrines refer exclusively to motions.

The logic for such a requirement is simple: a motion invariably contains a prayer which the movant makes to the court, which is usually in the interest of the adverse party to oppose. The notice of hearing to the adverse party is therefore a form of due process; it gives the other party the opportunity to properly vent his opposition to the prayer of the movant. In keeping with the principles of due process, therefore, a motion which does not afford the adverse party the chance to oppose it should simply be disregarded. The same principle applies to objections to interrogatories which also require a notice of hearing like motions under Section 3, Rule 25 of the Rules.[20]

However, the same cannot be said for manifestations which, unless otherwise indicated, are usually made merely

for the information of the court. There is generally nothing to contest or argue; the manifesting party is just making a statement for the knowledge of the court, such as in this case. There is nothing in either the Rules or in jurisprudence that requires judges to disregard a manifestation that does not have proof of service.

This is not to say, however, that respondent is off the hook. While it is true that he was under no obligation to disregard Aznar's ex parte manifestation, he should have at least called attention to its irregularity, both by admonishing Aznar and by informing the adverse party of its filing. That he acted on it — indeed, based his decision on it — while Citibank was totally unaware of its existence ran seriously afoul of the precepts of fair play, specially since respondent only mentioned the document after this administrative case was filed against him. Indeed, there seems to be something gravely amiss in respondent's sense of fairness and righteousness, the primary requisites of a good judge.

Furthermore, we cannot help but find extreme bias and bad intent in respondent's award to Aznar of a whopping P16.2 million in damages considering that, not having tried the case himself, the only records he actually read came from no one else but Aznar himself. By itself, the unconscionable amount of the award evinces indubitable malice on respondent's part and the shady circumstances in which he granted it show that he knowingly rendered a manifestly unjust decision.

As a member of the judiciary, respondent's every action is supposed to be beyond reproach and above suspicion. The 2004 Code of Judicial Conduct clearly states that "Judges shall avoid impropriety and the appearance of impropriety in all of their activities." [21] By acting on a document which was sorely defective (for two reasons: failure to serve a copy on the adverse party and failure to file it during office hours), and by making an egregiously large award of damages in favor of plaintiff Aznar, he inevitably opened himself up to suspicion of having entered into a dirty, secret deal with Aznar and thereby severely tarnished the impartiality with which he was at all times supposed to conduct himself.

Given respondent's actions, we disagree with the OCA's findings of simple misconduct. Because of the highly anomalous manner in which respondent rendered his decision, as well as the questionable content of the decision itself, which was eventually overturned by the Court of Appeals, we find him guilty of knowingly rendering an unjust judgment or order as determined by a competent court in an appropriate proceeding. [22]

The penalty for this offense ranges from a fine of P20,000, to suspension from three to six months, to dismissal from the service. [23] In this case, the penalty of suspension for six months is appropriate, with a warning that another such infraction of this nature will warrant a more severe penalty.

WHEREFORE, Judge JESUS S. DE LA PEÑA is hereby found GUILTY of knowingly rendering an unjust judgment or order as determined by a competent court in an appropriate proceeding and is hereby SUSPENDED from office for six months. Considering the gravity of this offense, he is hereby warned that another infraction of this kind will merit a penalty beyond mere suspension from public office.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Carpio-Morales, and Garcia, JJ., concur.

[1] Rollo, pp. 37-42.

[2] Id., pp. 55-115.

[3] Id., pp. 161-171.

[4] Id., pp. 125-134.

[5] Id., p. 135.

[6] Id., p. 136.

[7] Id., p. 158.

[8] Id., pp. 4-35.

[9] Id., p. 159.

[10] Id., p. 192.

[11] Id., pp. 177-188.

[12] Id., pp. 190-191.

[13] Id., pp. 196-204.

[14] Id., pp. 250-254.

[15] Id., p. 255.

[16] Id., pp. 274-301.

[17] Id., pp. 346-348.

[18] Basco v. CA, 383 Phil. 671 (2000); Marcos v. Ruiz, G.R. No. 70746-47, 1 September 1992, 213 SCRA 177; NAPOCOR v. Jocson, et al., G.R. Nos. 94193-99, 25 February 1992, 206 SCRA 520 Prado, et al., v. Veridiano II, et al., G.R. No. 98118, 6 December 1991, 204 SCRA 654; Bank of the Philippine Islands v. Far East Molasses, Corp., G.R. No. 89125, 2 July 1991, 198 SCRA 689.

[19] 314 Phil. 846 (1995).

[20] RULE 25, SEC. 3. Objections to interrogatories. — Objections to any interrogatories may be presented to the court within ten (10) days after service thereof, with notice as in case of a motion; and answers shall be deferred until the objections are resolved, which shall be at as early a time as is practicable.

[21] Section 1, Canon 4, 2004 Code of Judicial Conduct.

[22] Rule 140, Section 8(3).

[23] Id., Section 11.

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