

GREGORIO CONDE, PETITIONER, VS. CITY JUDGE NICOLAS SUPERABLE, JR., ATTYS. CAMILO SUPERABLE AND ANGEL SUPERABLE, RESPONDENTS.

Adm. Case No. 812. September 30, 1969

Ponente: FERNANDO, J.

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FERNANDO, J.:

It has been aptly remarked that a judge is not fortune's child. His lot is far from easy. It is his duty to decide, a task that in-variably is a test of one's character. The lower he is in the judicial hierarchy, the more times he is called upon to do so. What-ever be his decision, necessarily one party is disappointed. Un-fortunately, it is a rare litigant who does not feel somehow offended when he loses; it is human nature to vent his dissatisfaction partly on the hapless arbiter, whom he may even suspect of partiality.

That brings up a related matter. Like every human being, a judge is subject to the influence of prepossessions and preferences, at times deeply and intensely felt. Nonetheless, the moment one wears the judicial robe, his personal likes and dislikes should be brought under the strictest control. His guiding principle should be one of the utmost objectivity. That is the ideal; it must, as much as possible, be lived up to. Otherwise he fails in his grave responsibility; he is recreant to his trust.

These observations gain pertinence in the disposition of the complaint for disbarment principally against City Judge Nicolas Superable, Jr. of Tacloban City, included in which however are his two brothers, Camilo Superable and Angel Superable, both members of the bar filed by one Gregorio A. Conde with the Court on February 20, 1968. The charge against Judge Superable was one for gross misconduct in office, impugning alleged acts of harassment, persecution and oppression, resulting in the filing of an unwarranted complaint against petitioner and his being cited unjustifiably for contempt for which he was found guilty without his being accorded due process, resulting in an order of April 1, 1965 adjudging complainant guilty. The two other respondents in the petition before us, Attorneys Camilo and Angel Superable, were accused of collusion with their brother, respondent Judge, in insti-gating "persons under their influence and persons whom they knew to be harboring hatred, envy and jealousy against [petitioner Conde] to fabricate incriminatory acts against [petitioner]" as well as acting as "prosecutors" for their brother, respondent City Judge, in an investigation conducted by an Assistant City Fiscal.[1]

On March 15, 1968, we issued a resolution requiring the re-spondents to answer. Such answers were duly filed, all three respondents denying the charges and seeking the dismissal of the charges against them. On May 8, 1968, in another resolution, we referred the charges for investigation to the Executive Judge of the Court of First Instance of Leyte, Tacloban City, for investigation, report and recommendation. Such report with its recommendation was submitted to us on September 18, 1969 by Executive Judge Elias B. Asuncion.

The report appears to be characterized by an approach informed by sympathy and understanding for the actuations of respondent Judge, not surprising, considering that the Investigator likewise belongs to the judicial branch.

Nonetheless, it is not for that reason alone to be altogether received with skepticism. For, undoubtedly, there was an effort to be fair and just in the appraisal of the evidence. Moreover, its being quite thorough and detailed would dissipate any suspicion that the charges against respondent Judge were not seriously scrutinized and inquired into.

It does not follow, though, that we should accept it in its entirety. Its recommendation of complete exoneration of respondent Judge is much too generous under the circumstances. We cannot say, especially with reference to the contempt incident, that respondent Judge's behavior complained of did not lay any basis for the charge against him. At the most, the evidence would not suffice for a finding of grave misconduct. Thus it would seem that an admonition at the very least is called for. This would be evident from the appraisal of what transpired as meticulously set forth in the report.

Insofar, however, as his two brothers, Attys. Camilo Superable and Angel Superable are concerned, the recommendation for exoneration by the Investigator is well taken. In this opinion, the case against Judge Superable would be taken up first.

1. The charge for grave misconduct against Judge Superable, arising from the filing of a criminal complaint against petitioner, was disposed of thus in the report of the Investigator: "In this Criminal Case No. 11095, the aggrieved parties were Attys. Camilo Superable and Angel Superable, as shown in the information quoted in the decision, except for the fact that the name of City Judge Nicolas Superable, Jr., has incidentally been mentioned in the supposed libelous statement contained in the letter of petitioner Gregorio Conde to the President of the Philippines, which was the subject of the libel charge in said Criminal Case No. 11095. It does not even appear that respondent Judge Nicolas Superable, Jr., was ever a witness in said case. Indeed, the subject of the libel charge in Criminal Case No. 11095 was the alleged libelous statement that has reference to Attys. Camilo Superable and Angel Superable. Definitely, there is no concrete and positive showing from the evidence adduced by the herein petitioner to establish any collusion between the respondent City Judge Nicolas Superable, Jr., and his brothers, the respondents Attys. Camilo Superable and Angel Superable, in the filing of the complaint for libel against the herein petitioner in the Municipal Court of Babatñgon, Province of Leyte, which generated the filing by the Provincial Fiscal of Criminal Case No. 11095. It is true that in the decision of the Court in said case, there is a statement, now marked Exhibit 'B-1', to the effect that 'this case is a second attempt on the part of City Judge Superable to hold the accused to answer the crime of libel arising from the same letter-complaint which the accused had written to the President', but it must be noted from the context of the decision, and especially the explanatory discussion on this point, that the afore-quoted statement of the Court was predicated merely upon what the Court termed as a very 'reasonable suspicion, unless it is by mere coincidence, that the Avestruz brothers were a willing tool to a systematic and persistent effort towards the successful filing of a libel case against the accused for the same letter which was the subject of that libel charge filed with the City Fiscal's Office.' And let it be said that suspicion alone, without more, could not supply an infallible premise upon which an incontrovertible conclusion could be made. It would be highly unfair for respondent City Judge Nicolas Superable, Jr., to suffer conviction of a charge based merely upon conjectures that are vague and sometimes misleading, if not treacherous. It is to be stated in this regard, however, that when the Court in its decision in Criminal Case No. 11095 made reference to that case being a second attempt on the part of City Judge Superable to hold the accused for the crime of libel arising from the same letter-complaint which the accused had written to the President, that was the seventh of other six converging and contributory points or factors which the Court had considered in arriving at the conclusion that the guilt of the accused, Gregorio Conde, was not proved beyond reasonable doubt. This Investigator, therefore, concludes that Exhibits 'B' and 'B-1', for that matter, cannot, by themselves, establish the charge of collusion between the respondent Judge Nicolas Superable, Jr., on one hand, and his brother respondents, on the other, in persecuting or harassing or oppressing the petitioner. It is to be further stated here that the filing of Criminal Case No. 949 for libel against Gregorio Conde, which was docketed in the Court of

First Instance as Criminal Case No. 11095, had also been the specification of a charge of abuse of authority filed by the petitioner, Gregorio Conde, against Judge Nicolas Superable, Jr., in Administrative Case No. 27, for which respondent Judge Superable had been exonerated by the Department of Justice upon a recommendation of the District Judge who investi-gated him."[2]

The Investigator dealt with the charge of persecution and oppression based on Judge Superable's order citing complainant for contempt thus: "The Complainant claims in his offer of evidence that that order is an act of persecution and oppression on the part of the said respondent upon the herein petitioner. This Investigator does not see how this order, standing by itself alone, could indicate or show any persecution or oppression on the part of respondent City Judge Nicolas Superable, Jr. It is to be noted from the order referred to that said order was made in connection with a contempt proceedings against Gregorio Conde arising from a letter sent by Gregorio Conde to the Secretary of Justice branding the respondent as partial in the adjudication of a case instituted against him, entitled 'People of the Philippines versus Gregorio Conde' for grave threats, docketed in the Court of the respondent as Criminal Case No. R-7056. [At most], if the said order was not proper, it could only amount to an abuse of authority. Let it, however, be said that the order (Exhibit 'C') referred to had been issued by respondent Judge Nicolas Superable, Jr., in the exercise of his judicial authority or in the discharge of his official function which has nothing to do, strictly speaking with his actuation as a member of the bar."[3]

It was moreover noted by the Investigator: "It may be stated at this juncture that for Gregorio Conde's having been punished for contempt of Court by respondent City Judge Nicolas Superable, Jr., this had been included as one of the charges (in fact, denominated as Charge 1) in Administrative Case No. 25 * * * which was generated by an administrative complaint filed by Gregorio Conde against respondent City Judge Nicolas A. Superable, Jr. In that Administrative Case No. 25, the investigator, who happens now to be investigator in this case, made the following recommendation in so far as this charge is concerned: 'It is, therefore, recommended that the respondent Judge Superable be reprimanded and that he should be admonished to be more tolerant in allowing a party aggrieved or who believes himself to be aggrieved, by his conduct and actuations as a Judge, and to be more discreet in the exercise of the coercive power of contempt, the exercise of which right may unnecessarily, and when without legal basis, bring about the unjust curtailment of individual freedoms and human rights.' * * * This recommendation of the Investigating Judge in Administrative Case No. 25 was approved by the Department of Justice in a 5th Indorsement, dated September 2, 1966 * * * when it said: 'Wherefore, this Department hereby approves the recommendation of the District Judge to reprimand the respondent and to warn him to be more discreet in the exercise of the drastic power to cite for contempt, otherwise, repetition of the same or other improper acts will be more severely dealt with.'"[4]

Furthermore concerning this contempt incident resulting in an order of respondent Judge of May 6, 1965 ordering arrest of petitioner after having been sentenced to twenty days imprisonment, the report of the Investigator likewise had the following to say: "This order by re-spondent City Judge Nicolas Superable, Jr., was issued in connection with the contempt proceedings against Gregorio Conde. Now, as the respondent in that contempt proceedings refused to appear before the Court and had chosen to send his wife and his counsel only, the re-spondent Judge [believed he] could compel the presence of respondent Gregorio Conde by the issuance of the coercive process of arrest, and as the respondent had believed that it was an appropriate case for indirect contempt, he necessarily had to compel the attendance of the respondent with the issuance of the warrant of arrest. In proper proceedings of contempt, Section 3 of Rule 71 authorizes the Court, in contempt proceedings, to issue any process to bring the accused party into Court. This is what respondent City Judge Superable had done in that case. Of course, the act, constituting what Judge Superable had believed to be an indirect contempt, had been found in Administrative Case No. 25, entitled Gregorio Conde, petitioner, versus City Judge Nicolas Superable, Jr., respondent, to have been improper. * * *. At any rate, * * *, the respondent City Judge Nicolas Superable set

aside his first decision declaring Gregorio Conde guilty of contempt of Court and also set aside the order for his arrest in order to give the respondent Conde another chance to show cause why he should not be punished for contempt of Court. This contempt proceedings ultimately resulted [in] a decision rendered by respondent Judge Nicolas Superable, Jr., on May 25, 1965, finding Gregorio Conde guilty of contempt of court and sentencing him to pay a fine of P25. It must be stated that this decision holding Gregorio Conde in contempt of court was never appealed by him but Conde voluntarily paid the P25 fine. At any rate, it has already been said that for the indiscreet act of the respondent in finding Conde guilty of indirect contempt of court and in sentencing him to pay a fine of P25, respondent City Judge Nicolas Superable, Jr., was penalized in Administrative Case No. 25, where Conde, as previously stated, had made this incident as one of the specifications of a charge of abuse of authority on the part of respondent City Judge Superable."[5]

While Judge Superable's conduct could stand improvement, to put it at its mildest, the additional penalty of disbarment sought is not justified. At the other extreme, exoneration is not warranted either. It does appear that the charge of grave misconduct allegedly consisting of harassment, oppression and persecution was not made out, even with the introduction of other documentary evidence purportedly indicative of the animosity of respondent Judge towards petitioner. Still, he should have taken greater pains to avoid the impression that his personal feelings were not kept under control, as is rightfully expected of a judge. That is an added responsibility of the most serious character assumed by a member of the bar honored with an appointment to the bench. He should on that account be admonished. He must take pains to assure that thereafter his conduct would not be thus tainted.

It should not be forgotten either that for the infraction committed by respondent Judge, he had been administratively made to suffer as noted above.

2. The imputation of wrongdoing directed at his brothers, Attorneys Camilo Superable and Angel Superable suffers, from inherent frailty. It is no wonder then that the Investigator recommended their exoneration. To quote from the report: "As regards the respondents, Attys. Camilo Superable and Angel Superable, as the evidence extent on the record tending to prove the charges against them consists primarily and [exclusively of] mere allusions and conclusions made by the counsel of the petitioner in his offer of evidence, the Investigator humbly concludes that the charges against these particular respondents have not been established."[6]

3. A reminder as to the standard of judicial conduct that must be met is never amiss. It has been aptly remarked, and quite truly, that adjudication should not only be fair and just. It must appear to be so. A judge is human, but he is expected to rise above human frailties. At the very least, there must be an earnest and sincere effort on his part to do so. When a litigant is therefore an individual for whom he does not cherish kindly thoughts, he is called upon to show greater care lest inadvertently he finds himself unable to resist the prompting of his emotions. Perhaps of no government official is the truism that a public office is a public trust more applicable. He dispenses justice for the community. He is its instrument to assure that every one be given his due. He speaks and acts for the state, not for himself. His personal feelings must not get the better of him. So he must not for a moment forget.

WHEREFORE, Judge Nicolas Superable, Jr., is hereby admonished, with the warning that repetition of such conduct as did mar his actuation as a member of the judiciary would be more severely dealt with. Attorneys Camilo Superable and Angel Superable are exonerated.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Capistrano, Teehankee, and Barredo, JJ., concur.

Reyes, JBL, J., on official leave.

[1] Petitioner's Manifestations, pp. 1-2.

[2] Investigation Report and Recommendation, pp. 18-21.

[3] Ibid, p. 22.

[4] Ibid, pp. 23-24.

[5] Ibid, pp. 27-29.

[6] Ibid, p. 40.

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