

**PEDRO G. PERALTA, COMPLAINANT, VS. JUDGE ROMEO N. FIRME,
COURT OF FIRST INSTANCE OF LA UNION, BAUANG BRANCH IV,
RESPONDENT.**

Adm. Matter No. 2044-CFI. November 21, 1980

Ponente: AQUINO, J.

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AQUINO, J.:

Deputy Court Administrator Romeo D. Mendoza submitted the following report wherein he recommended that the charges against respondent Judge be dismissed because the acts complained of are involved in Civil Case No. 2925 of the Court of First Instance of La Union, an action for damages filed by the complainant against respondent Judge, and because said respondent is now a Member of the Commission on Elections:

"In a sworn complaint dated November 6, 1978, complainant Pedro G. Peralta, a practising lawyer, charged respondent, Hon. Romeo N. Firme, then District Judge of the CFI La Union, Branch IV at Bauang, with serious and malicious misconduct, gross inefficiency and incompetence, incalculable ignorance of the law and grave abuse of power committed in connection with Criminal Cases Nos. 224-Bg and 116-Bg.

"Complainant alleged that in Criminal Case No. 224-Bg for Rape, the victim therein requested respondent judge to inhibit himself from hearing the case for she felt that she could not get justice from respondent because of his closeness and intimacy with the new and additional defense counsel. The respondent then issued an Order dated December 5, 1977 inhibiting himself from hearing the case and directing that it be sent to the Supreme Court for assignment to another branch of the CFI.

"The accused subsequently filed a motion for reconsideration of the aforesaid order of inhibition and respondent in an Order dated January 5, 1978 granted the motion for reconsideration and set aside his previous order of inhibition.

"The private prosecutor filed first, second and third motions for reconsideration of respondent's order setting aside his previous order of inhibition, citing several leading cases such as Bautista vs. Rebuena, L-46117, Feb. 22, 1978; Pi-mentel vs. Salanga, 21 SCRA 160; Umale vs. Villaluz, 51 SCRA 84; Palang vs. Zosa, 58 SCRA 776; and Martinez vs. Geronilla, 65 SCRA 245, wherein it was held that a judge may voluntarily inhibit himself from conducting the trial of the case when his impartiality is challenged.

"The respondent however denied all the said motions for reconsideration. The said unreasonable refusal of respondent to reconsider his order setting aside his previous order of inhibition, is, according to herein complainant, a perfect evidence of respondent's ignorance of the law and/or his lack of competence due to want of diligence and conscientiousness in informing himself of the current and applicable doctrines enunciated in the aforesaid decisions of the Supreme Court.

"The complainant then filed a motion dated May 8, 1978 praying that respondent be disqualified from hearing the rape case on the ground that he has shown bias and partiality in favor of the accused. The respondent, in his Order dated May 11, 1978 directed the Clerk of Court to forward the records of the rape case together with the records of all the other pending cases wherein complainant appeared as counsel, for raffling to the other

branches of the CFI. Complainant contended that by issuing said order, respondent has delayed his other cases without regard or notice to the adverse parties and opposing counsels and has effectively disbarred complainant indefinitely from respondent's court without due process of law.

"Complainant further alleged that in Criminal Case No. 116-Bg, (People vs. Sabado) for Murder, respondent hastily granted the fiscal's motion to revive the case which was provisionally dismissed without the expressed or implied consent of the accused three years ago. Complainant claimed that respondent should have first required the fiscal to file a new information before reviving the case and ordering the arrest of the accused, hence his said acts accentuated respondent's ignorance of the law and his incompetence as a judge.

"Complainant added that when he filed a motion for reconsideration of the aforesaid order of the respondent reviving the case, the latter, instead of resolving the motion for reconsideration, issued an Order dated October 4, 1978 stating that the said motion for reconsideration will be decided by the Presiding Judge to whom it may be assigned by the Supreme Court, thereby passing the buck again to the Supreme Court like the other cases wherein complainant appeared as counsel.

"Complainant further alleged in the complaint that respondent did not hold sessions on Monday mornings and Friday afternoons, which periods of time he spent for his personal use and leisure, in wanton violation of law regarding court days and sessions.

"Respondent, in his answer dated November 20, 1978, explained that his Order of May 11, 1978 issued in Criminal Case No. 224-Bg for his voluntary disqualification from hearing all the cases wherein complainant appeared as counsel, was not self-implementing as the same was forwarded to the Supreme Court for appropriate action; that the said order was issued in the lawful exercise of his judicial prerogatives pursuant to Rule 137 of the Rules of Court; that complainant was in estoppel for not having elevated the said order on appeal; and that no hearing is provided for by law on the motion filed by complainant for his disqualification.

"Anent the charge of ignorance of the law based on his actuations in Crim. Case No. 116-Bg, respondent explained that complainant willfully misrepresented that the provisional dismissal of the case on January 13, 1976 was without the express consent of the accused.

"The truth of the matter was that the dismissal was not on a finding that the accused was not guilty of the offense charged, but was on a determination that others not included as co-accused, should be so included, hence, no new information was necessary because the prosecution in its motion to revive the case did not include additional defendants.

"With respect to his supposed absences, respondent stated that he filed the corresponding requests for his vacation and/or sick leaves which were reflected in his certificates of service and his official and business leaves were supported by his certificates of appearance from proper offices.

"It appears from the records of the case that complainant herein also filed against respondent a civil complaint for damages (Civil Case No. 2925) before the CFI of La Union, Branch I at San Fernando, alleging therein that respondent judge, in the discharge of his duties as a Judge of the CFI of La Union, Branch IV, acted with malice, hate and ill-will calculated to harass and embarrass complainant.

"The complainant subsequently filed with the Supreme Court a Petition for Certiorari (G. R. No. L-50934) to review the Order dated March 27, 1979 issued by the Presiding Judge of Branch I, denying the motion of the complainant to enjoin the Solicitor General from appearing as counsel for the respondent in the aforesaid civil case.

"The Second Division of this Court, in its resolution dated December 5, 1979 dismissed the Petition for Certiorari for lack a merit. The aforesaid resolution of December 5, 1979 is hereby quoted as follows:

'G. R. No. L-50934 (Pedro G. Peralta vs. Hon. Angel A. Daquigan, et al.). - Considering that Judge Romeo N. Firme was sued for damages by reason of acts allegedly committed by him 'in the discharge of his duties as a

Judge of the Court of First Instance' (Petition for Review, p. 1); that the acts complained of consisted in the voluntary inhibition of Judge Romeo N. Firme to hear and decide several civil and criminal cases pending before his sala, wherein petitioner was participating as counsel; that the voluntary inhibition of the aforesaid respondent judge was sustained by this Court in two resolutions ordering the transfer of said cases to another sala; that voluntary inhibition from certain cases for sound reasons is a judicial prerogative; and furthermore, that the actuations of Judge Firme, aside from having been sustained by this Court, bear the stamp of legality, under the presumption that official duty has been regularly performed, it is apparent that petitioner's allegation that Judge Firme is not entitled to be represented by the Office of the Solicitor General as counsel is without merit. Section 1(a) of Presidential Decree No. 478 specifically provides that the Office of the Solicitor General shall represent, among others, any officer of the Government who is a party in all civil actions and special proceedings 'in his official capacity'.

'In view of the foregoing, the petition for review is hereby DENIED for lack of merit.'

"On the basis of the above resolution of this Court, respondent reiterated that the instant administrative complaint against him be dropped for lack of merit.

"In view of the foregoing, considering that the acts constituting the charges in this administrative complaint are the same acts complained of in the action for damages which had been upheld by this Court in its resolution dated December 5, 1979 denying the petition for review filed in G. R. No. L-50924 and considering further that respondent judge had already been appointed Commissioner of the Commission on Elections on May 17, 1980, it is respectfully recommended that the instant complaint against former Judge Romeo N. Firme be dismissed for lack of merit and for being moot and academic." (Footnotes are omitted.)

Justice Lorenzo Relova, the Court Administrator concurred in the foregoing recommendation.

We hold that inasmuch as Commissioner Romeo N. Firme of the Comelec is now beyond the pale of this Court's disciplinary jurisdiction, the instant case has become moot and academic.

Therefore, this case is dismissed and considered closed.

SO ORDERED.

Barredo, (Chairman), Concepcion, Jr., Abad Santos, and De Castro, JJ., concur.

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