

FRANCISCO S. DIZON, COMPLAINANT, VS. HON. JUAN DE BORJA, RESPONDENT.

Adm. Case No. 163-J. January 28, 1971

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Honorable Juan de Borja, Presiding Judge of Branch III of the Court of First Instance of Bulacan, is charged by complainant Atty. Francisco S. Dizon with serious mis-conduct and inefficiency on five counts, namely: (1) grave abuse and/or misuse of his power as Judge; (2) neglect of duty; (3) rendering a manifestly unjust and patently erroneous judgment; (4) gross ignorance of the law; (5) partiality. Pursuant to this court's resolution of December 17, 1969 respondent filed his answer to the com-plaint, denying the specific charges and explaining the facts on which they are predicated.

1. The charge of grave abuse and/or misuse of power arose out of an incident in the course of the trial of Civil Case No. 295-V, "Alfredo Villanueva vs. Simeon Claridades." Complainant Francisco S. Dizon is a son-in-law of the defendant and was acting as his counsel. For certain remarks uttered by him, which respondent then considered and now alleges as "belligerent, pro-vocative and arrogant," said complainant was declared in contempt of court and ordered to pay a fine of P50.00, raised to P100.00 a short while later. It appears from the transcript of record reproduced in the complaint that when an objection was interposed by opposing counsel to a question propounded by Atty. Dizon to the witness who was on the stand, the Judge sustained the objection, whereupon Atty. Dizon made his remark: "I observed here that almost all of the objections are sustained, your Honor." The following colloquy then ensued:

"COURT: Put that on record. For making insinuations about the impartiality of the court you are fined P50.00 for con-tempt of court.

"ATTY. DIZON: I move for a reconsideration. Your Honor. I am trying to safeguard...I just want to make my manifestation complete, Your Honor, and the Court has prevented me from making my manifestation complete, Your Honor.

"COURT: Do you blame the Court if the Court believes that your questions are objectionable?

"ATTY. DIZON: I am asking the Court to study carefully the line of my questioning.

"COURT: You are insinuating again that the Court does not study the case? You are declared in contempt of Court. You are ordered to pay the fine of One Hundred (P100.00) pesos for contempt of court."

On the bare face of the record the court's ruling would indeed seem rather harsh. But the incident must be viewed in its entire setting. Another portion of the transcript, reproduced in respondent's answer, shows that complainant was intolerant to the point of being pugnacious in his remarks directed at opposing counsel - remarks which should not have been made at all since a lawyer should always address himself to the Court and ask for the proper ruling or instruction. The point is that there was an element of subjectivity which could not be ignored under the

circumstances, taking into account not only the words uttered but also the manner of their utterance as well as the general demeanor of counsel in the conduct of the trial. So when he said that "he observed that almost all the objections (of his opponent) are sustained;" that the Court "has prevented me (him) from making his manifestation complete," although he had made no manifestation at all; and when he asked the court "to study carefully the line of my (his) questioning," respondent was not entirely without justification in viewing his statements as contumacious.

In any case, respondent's actuation does not constitute serious misconduct, which is the charge alleged in the complaint and the ground (the other being inefficiency) mentioned in Rule 140 as a basis for administrative complaint against Judges of First Instance.

2. The second charge is neglect of duty, in that respondent failed, for more than the ninety-day period fixed in Section 5 of Republic Act No. 296, to decide or resolve two incidents in Special Proceeding No. 1362 (Intestate Estate of Concepcion Claridades Villanueva) pending before him, wherein the parties litigating were the same parties in Civil Case No. 295-V. Those incidents refer to: (a) the project of partition and (b) motion for reconsideration of order denying petition for removal of administrator.

The deceased Concepcion Claridades Villanueva, whose estate was the subject of the said special proceeding, was the wife of Alfredo Villanueva and the sister of Simeon Claridades (plaintiff and defendant, respectively, in Civil Case No. 295-V). Respondent's answer contains a chronological statement of the relevant incidents in the intestacy; and they show that since some of the properties included in the project of partition submitted by the administrator of the estate (Alfredo Villanueva) were involved in Civil Case No. 295-V, the outcome of which would affect the efficacy of the project insofar as said properties are concerned, the deferment of action thereon appears to be justified.

With respect to the motion for reconsideration of the order denying the petition for removal of the administrator, respondent held action thereon in abeyance, according to his order of July 24, 1968, "pending the substitution of parties since oppositor Simeon Claridades had died;" and it is not denied that no such substitution had yet been made in Special Proceeding No. 1362.

In any event, it is clear that respondent acted in the exercise of his judgment and discretion, and any error committed by him is correctible by other remedies than administrative disciplinary action.

3. The third charge is that respondent rendered a manifestly unjust and erroneous decision in Criminal Case No. 321-V, "People vs. Petra Villanueva." The defendant there, a sister of Alfredo Villanueva, was charged with the offense of simulation of birth under Article 347 of the Revised Penal Code, in that she caused to be entered in the civil registry of Obando, Bulacan, the birth of the twins Maria Teresa Villanueva and Maria Luisa Villanueva as the children of the spouses Alfredo Villanueva and Concepcion Claridades Villanueva notwithstanding the fact that the said spouses were not the real parents.

The decision rendered by respondent was one of acquittal. It contains a detailed discussion of the evidence, and on the basis of the facts found to have been established - which of course are not here under review - the verdict is far from erroneous.

What complainant refers to as objectionable is the statement in the decision that "even if Petra Villanueva (the accused) is held responsible for said birth certificates, it remains that the fraud was erased, or papered over, as it were, when the children were adopted by the spouses, so that what was false under the birth certificates became a fact in law." The logic of the statement, taken out of context, may be somewhat strained, but it was only obiter in nature and does not detract from the correctness of the judgment. Besides, respondent evidently had in mind the

legal effect of the adoption on whatever hereditary claims to the estate of the deceased Concepcion Claridades Villanueva her collaterals - such as her brother Simeon Claridades - might have had if the false registration of the birth of the two children had not been cured by such adoption.

(4) The fourth charge, namely, gross ignorance of the law, cites several rulings of respondent sustaining the objections of opposing counsel to questions propounded by complainant on cross-examination of a witness who was testifying during the trial of Civil Case No. 295-V. It should be stated as a basic proposition that the conduct of a trial is under the control of the judge who is pre-siding. There are rules to guide him, of course; but how to apply them depends to some extent upon his own interpretation and understanding of such rules. Judges inevitably differ in this respect: some are strict where others are liberal in limiting the scope of counsel's cross-examination. Respondent may belong to one or the other category, but we find nothing in the record reproduced in the complaint to show that he was guilty of the charge of ignorance. If complainant disagreed with respondent's rulings, his remedy was to point out the errors on appeal from the decision. To hold a judge administratively accountable for every erroneous ruling or decision he renders, assuming that he has erred, would be nothing short of harassment and would make his position unbearable.

5. The last charge, that of partiality, is based on the preceding ones, and need not be considered separately.

In view of the foregoing, the complaint is hereby dismissed without further investigation.

Concepcion, C.J., Reyes, J.B.L., Zaldivar, Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

Dizon, J., did not take part.

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