

JUDGE ANTONIO J. FINEZA, COMPLAINANT, VS. JUDGE BAYANI S. RIVERA, REGIONAL TRIAL COURT, BRANCH 129, CALOOCAN CITY, RESPONDENT.

A.M. No. RTJ-00-1545 (Formerly OCA IPI No. 98-530-RTJ). August 06, 2003

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Before us is a Complaint for Grave Misconduct and Grave Abuse of Authority filed by the Hon. Antonio J. Fineza, Presiding Judge, Regional Trial Court (RTC) of Caloocan City, Branch 131, against Hon. Bayani S. Rivera, Executive Judge, RTC of Caloocan City for allegedly manipulating and disregarding the requirements and practices in the distribution and assignment of cases for the period July 19, 1996 to September 26, 1997.

Complainant alleged that Executive Judge Rivera had disregarded the requirements and practices in the distribution and assignment of cases from July 19, 1996 to September 26, 1997, thus:

...on the raffle of January 10, 1997, page 2, the previous case (#1) was raffled to Branch 123. The sequence should be that the next case (#C-3808) should be raffled to Branch 124. That was not so as shown by the attached xerox copy, marked as Annex "A". This was picked/chosen for Branch 129.

On the raffle of January 24, 1997, the first case was raffled to Branch 120 but the next case (#C-3813) was not assigned to Branch 121, in sequence. Instead, it was assigned to Branch 129 as shown by the attached Annex "B".

On the raffle of February 14, 1997, the first case (#C-3822) was raffled to Branch 125. The second case (#C-3823) was not raffled to Branch 126 because [said] Court was vacant at that time. Neither was it assigned to Branches 127, 128, 129 because these were Special Criminal Courts. It was assigned to branch 130, in sequence. The third case (#C-3824) should have been raffled to Branch 131. Instead, the third case was assigned to Branch 129 as shown by attached Annex "C". Then the fourth case was assigned to Branch 131...

The April 4, 1997 raffle clearly shows manipulation of the raffle. The attached xerox marked Annex "D" shows that on the column of Special Proceedings that the last case was raffled to Branch 122 and, therefore, the next Branch to receive a case should be Branch 124 (Branch 123 was vacant). However, the first case (#C-3835) on LRC/Petition After Decree was taken by Branch 129. The second and third cases were assigned to branches 124 and 125. The fourth case (#C-3838) was again taken by Branch 129...

On the May 2, 1997 raffle, again Branch 129 was given the Writ of Possession case (#C-3848) without proper raffle as shown by Annex "E".

On the June 6, 1997 raffle, the case should have been raffled to Branch 126, in sequence, because the previous case was raffled to Branch 125. Branch 129 again took the case (#C-3861) as shown by Annex "F".

On the June 13, 1997 raffle, again there was a jump or gap as the previous case was raffled to Branch 124 but the writ of possession case (#C-3865) was taken by Branch 129 as shown by Annex "G".

...both cases (C-3866 and C-3867) were again grabbed by Branch 129 during the raffle of June 20, 1997 as shown by Annex "H".

... again both cases (C-3874 and C-3875) were grabbed by Branch 129 during the immediately succeeding raffle held on June 27, 1997 as shown by Annex "I".

On the raffle of July 4, 1997, the last case was assigned to Branch 131 and, therefore, the next Branch should be 120. Instead, the case (#C-3876) was given to Branch 129, as shown by Annex "J".

... Branch 129 again grabbed the only two (2) cases (#C-3893 and #C-3894) of writ of possession during the August 22, 1997 raffle while [the] same should have been raffled to Branches 125 and 126, as shown by Annex "K".

The sole case (#C-3902) was again grabbed by Branch 129 during the raffle of September 12, 1997 as shown by Annex "L".

Lastly, the sole writ of possession case (#C-3903) was taken by Branch 129, jumping over Branches 122, 123, 124 125, 126, 127 and 128 as shown by Annex "M", during the September 26, 1997 raffle.[1]

Moreover, according to complainant, the respondent manipulated the raffling of cases so that Branch 129 would get the Land Registration Cases[2] and Writ of Possession[3] cases, notwithstanding that said Branch is a Special Criminal Court. Complainant averred that from January 10, 1997 to September 26, 1997 there were eighteen (18) writs of possession cases in the raffles, seven (7) of which included Metrobank as the petitioner. Complainant says it is highly irregular that sixteen (16) cases, inclusive of all the Metrobank cases, were assigned to Branch 129.[4] He also stated that respondent judge "manipulated" case assignments in the following instances: (1) the "raffle" of Naturalization Case No. C-41 on March 31, 1997, which respondent allegedly got assigned to Branch 128 (another Special Criminal Court) instead of Branch 120 as the previous case was assigned to Branch 131; (2) the direct assignment of cases to Branch 121 (Judge Adoracion Angeles) of 109 appealed ejectment cases; and (3) the designation of 107 estafa cases without the benefit of a raffle to Branch 123.[5] Allegedly, respondent also allowed his Branch Clerk of Court to conduct a special "raffle" for Marfori v. Hon. RTC Judges Bayani Rivera, Antonio Fineza and Pablo Inventor, et al., in his absence, which resulted in the assignment of said case to the complainant. Complainant prayed that respondent's actuations in Marfori should be treated not merely as an administrative case but as a criminal case because it involved the disappearance of a vital document,[6] a felony under Art. 226[7] of the Revised Penal Code.

The respondent answered that the instant administrative case is a belated act of retaliation for his having overruled an Opinion[8] of complainant regarding the raffle of eight (8) inherited cases. Apparently, complainant opined that these cases should not have been re-raffled but remanded to the courts concerned.[9] Respondent avers that he was incapable of tarnishing his long and impressive government service of no less than forty-four (44) years, by alleged irregularities in raffling of cases as imputed by complainant.[10] The designation of the Writ of Possession cases to Branch 129 was done upon his suggestion to Raffle Committee,[11] said respondent. He claimed good faith in his actions as his efforts were meant to help the other branches, since during the period in question, he had the lightest case load in the RTC of Caloocan City. A Consolidated Report[12] on the average monthly case loads of the twelve (12) Branches for January to September 1997 showed that, according to respondent, Branch 129 had only 135.77[13] pending cases, as opposed to the other branches whose totals ranged from 177.66 - 383.44 cases.[14] True, said respondent, Branch 121 had only 126.33 cases; but since its presiding judge was also acting judge of Branch 125, the presiding judge of Branch 121 was actually looking at an aggregate case load of 395.33 cases.[15] In effect, respondent said, all that he was trying to do was to equalize the distribution of cases among the various branches of the Caloocan City RTC. This is not only his prerogative, he added, but his duty as Executive Judge.[16]

As to his participation in the raffle of non-heinous crime cases, notwithstanding that Branch 129 is a special criminal court, respondent stated that his participation is allowed under existing rules.[17]

Anent the 109 appealed ejectment cases to Branch 121, the respondent maintained that these were regularly raffled, but since the judge of Branch 121 complained that he was swamped with ejectment cases, he sent a Memorandum[18] to all Judges for the re-raffle of the ejectment cases among the eight (8) regular courts. By contrast, he said, the 107 estafa cases stayed in Branch 123, to which they had been raffled as the judge of said Branch did not question the same.

On March 6, 2000, we resolved to refer this matter to Associate Justice Cancio Garcia of the Court of Appeals. On respondent's motion and due to the unavailability of Justice Garcia, we resolved on May 10, 2000, to refer the matter to Associate Justice Roberto A. Barrios of the Court of Appeals for investigation, report and recommendation.

Justice Barrios found that:

First, Raffle of January 10, 1997 (Annex A) where the first listed case docketed as C-3808 was raffled to Branch 123 but the second listed case docketed as C-3809 was assigned to Branch 129 instead of Branch 124.

Second, Raffle of January 24, 1997 (Annex B) where the first listed case docketed as C-3812 was raffled to Branch 120 but the second listed case docketed as C-3813 was assigned to Branch 129 instead of Branch 121.

Third, Raffle of February 14, 1997 (Annex C) where the second listed case docketed as C-3823 was assigned to Branch 130 but the third listed case docketed as C-1-3824 was assigned to Branch 129 instead of Branch 131 and the fourth listed case docketed as C-3825 was assigned to Branch 131 instead of Branch 120.

Fourth, Raffle of April 4, 1997 (Annex D) where the first listed case docketed as C-3835 was assigned to Branch 129 but the second listed case docketed as C-3836 was assigned to Branch 124 instead of Branch 130, while the third listed case docketed as C-3837 was assigned to Branch 125 instead of Branch 131, and the fourth listed case docketed as C-3838 was assigned again to Branch 129 instead of Branch 120.

Fifth, Raffle of May 2, 1997 (Annex E) where the first listed case docketed as C-3847 was raffled to Branch 125 but the second listed case docketed as C-3848 was assigned to Branch 129 while the third listed case docketed as C-3849 was assigned to Branch 131 instead of Branch 127.

Sixth, Raffle of June 6, 1997 (Annex F) where the first case on the list docketed as C-3861 was raffled to Branch 129 but the second case listed docketed as C-3862 was assigned to Branch 126 instead of Branch 130 while the third case listed docketed as C-3863 was assigned to Branch 130 instead of 131.

Seventh, Raffle of June 20, 1997 (Annex H) where the first case and second cases on the list docketed as C-3866 and C-3867 respectively were both assigned to Branch 129 instead of the first to 129 and the second to 130, also, the third case on the list was assigned to Branch 130 instead of 131.

Eighth, Raffle of June 27, 1997 (Annex I) where the fourth case on the list docketed as C-3872 was assigned to Branch 126 but the fifth case on the list docketed as C-3873 was assigned to Branch 130 instead of Branch 127 while the sixth and seventh cases on the list docketed as C-3874 and C-3875 respectively were both assigned to Branch 129 instead of Branch 128 and 129.

Ninth, Raffle of September 26, 1997 (Annex M) where the first listed case docketed as C-3903 was assigned to Branch 129 but the second case listed docketed as C-3904 was assigned to Branch 122 instead of Branch 130 and the third case listed docketed as C-3905 was assigned to Branch 124 instead of Branch 131. [19]

Justice Barrios recommended that respondent be found culpable of non-compliance with SC Circular No. 7-74[20] and SC Adm. Order No. 6-75.[21] Considering the nature of the offense, the absence of malice and material prejudice, as well as the service record of the respondent judge, the investigating magistrate recommended that the penalty should be admonition with warning.[22]

Supreme Court Circular No. 7-74 clearly mandates that "... all cases filed with the court in stations or groupings where there are two or more branches shall be assigned or distributed to the different branches by raffle. In no case may a case be assigned to any branch without being raffled...." The same rule was reiterated in Rule 20, Section 2[23] of the 1997 Rules of Civil Procedure and in the Manual for Clerks of Court.[24] Required is the strict observance of the raffle as the method of distribution of cases to the branches of courts because it is designed precisely to assure the parties that the judge who presides and decides over a proceeding possesses the cold neutrality of an impartial judge.[25]

The raffle of cases is vital to the administration of justice because it is intended to ensure impartial adjudication of cases and obviates public suspicion regarding assignment of cases to predetermined judges.[26] We have set rules in raffling, precisely to provide a uniform method of assignment of cases for more equitable distribution of cases.[27] Thus, a raffle must be conducted so that all branches of the court in that station or grouping shall receive more or less the same number of civil, criminal and other kinds of cases.[28] In the event that there are inequalities, which inevitably occur due to vacancies or absences, "once the vacancy is filled or the absent judge has returned, the sala shall be assigned such number of cases as will equalize its caseload equitably with the rest of the other branches in the same station".[29] Hence, the assignment to the branch with the least number of cases will still have to be through a raffle and not on the basis of the preference of any judge.

Thus, it was contrary to both the letter and spirit of the Rules and the Circulars of this Court for the respondent to assign or take over cases without the requisite raffle. The purpose for which the raffle of cases was prescribed is paramount and cannot be replaced for reason of practicality. When the respondent judge decided to forego raffling, he infringed upon the right of every litigant to be heard by impartial judge; violated the rule[30] declaring the indispensability of the raffle system; and removed the very device that shields judges from any suspicion or impropriety.[31] The questioned acts of respondent Judge Rivera constitute a clear breach of his duty as a judge. The Code of Judicial Conduct mandates that "a judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary".[32] A judge's official conduct and his behavior in the performance of judicial duties should be free from the appearance of impropriety and must be beyond reproach.[33]

We agree with Justice Barrios' findings. However, with regard to the penalty, the recommendation is too light, and appears incommensurate to the nature and import of the offense. The questioned acts constituted a breach of duty[34] of a judge to behave at all times so as to promote public confidence in the integrity and impartiality of the judiciary[35] and ran contrary to our earlier ruling[36] involving automatic assigning of cases without the benefit of a raffle, which would have merited suspension. Considering all factors, including respondent's long years of service in the government, however, a fine in the amount of Five Thousand Pesos is deemed proper, under the circumstances.

WHEREFORE, Executive Judge Bayani S. Rivera of the Regional Trial Court of Caloocan City, is found liable for violation of Circular No. 7-74 and Adm. Order No. 6-75. He is hereby FINED FIVE THOUSAND PESOS (P5,000.00) with a WARNING that a repetition of the same or similar acts in the future will be dealt with more severely.

SO ORDERED.

Bellosillo, (Chairman), Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.

[1] Rollo, pp. 1-3.

[2] Id. at 1.

[3] Ibid.

[4] Reply, August 21, 2000, p. 2.

[5] Id. at 4.

[6] Comment of the RTC Judges Hon. Bayani Rivera, Antonio Fineza and Pablo Inventor, et. al. in the case Jose Marfori, et. al v. Public Respondent Judges, Labeled as Annex "N" in Reply of Judge Fineza in A.M No. RTJ-00-1545 (formerly OCA IPI No. 98-530-RTJ: For Grave Misconduct and Grave Abuse of Authority), Rollo, pp. 18-26; See also Reply, p. 6.

[7] ART. 226. Removal, concealment or destruction of documents. - Any public officer who shall remove, destroy or conceal documents or papers officially entrusted to him, shall suffer:

- The penalty of prision mayor and a fine not exceeding 1,000 pesos, whenever serious damage shall have been caused thereby to a third party or to the public interest.

- The penalty of prision correccional in its minimum and medium period and a fine not exceeding 1,000 pesos, whenever the damage caused to a third party or to the public interest shall not have been serious.

In either case, the additional penalty of temporary special disqualification in its maximum period to perpetual special disqualification shall be imposed.

[8] Rollo, p. 48.

[9] Ibid.

[10] Id. at 34-35.

[11] Rejoinder dated August 28, 2000 filed by Judge Rivera to complainant's Reply dated August 21, 2000, p. 1.

[12] Rejoinder dated August 28, 2000 filed by Judge Rivera to complainant's Reply dated August 21, 2000, Annexes "1" and "1-A".

[13] Supra, note 11.

[14] Supra, note 12 at Annex "1-A".

[15] The figure was derived through adding the monthly caseload of Branch 121 and 125 which were 126.33 and 269 respectively for the periods January to September 1997.

[16] Supra, note 11.

[17] Supreme Court Administrative Order No. 104-96:

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The Executive Judges of the Regional Trial Courts concerned shall exclude these designated Special Courts from

the raffle of other cases, criminal and civil, whenever in their judgment the caseload of these courts shall prevent them from conducting daily trials of the special cases herein specified. [Emphasis supplied]

[18] Rollo, p. 28. Judge Rivera referred to the attachment in the complaint of Judge Fineza - Annex `P."

[19] Report Recommendation, pp. 6-7.

[20] Providing for the Assignment/Raffling of Cases/Pairing System.

[21] Providing for the Powers and Duties of An Executive Judge.

[22] Report and Recommendation, pp. 9-10.

[23] 1997 Rules of Civil Procedure, Rule 20:

SEC. 2. Assignment of Cases. - The assignment of cases to the different branches of a court shall be done exclusively by raffle. The assignment shall be done in open session of which adequate notice shall be given so as to afford interested parties the opportunity to be present.

[24] 1 The 2001 Ad Hoc Committee for the Revision of the Manual for Clerks of Court, The 2002 Revised Manual for Clerks of Court, p. 113, Chapter VI Section E.

[25] See *Cojuangco v. PCGG*, G.R. Nos. 92319-20, 2 October 1990, 190 SCRA 226, 243; See also *Agpalo, Ruben*, Legal Ethics 446 (1997).

[26] *Santos v. Buenaventura*, A.M. No. RTJ-99-1485, 11 October 2001, 367 SCRA 83, 87 citing *Ang Kek Chen v. Bello*, G.R. No. L-76344-46, 30 June 1988, 163 SCRA 358, 361-362.

[27] Supreme Court Administrative Order 36-96 (1996).

[28] Supreme Court Circular No. 20, October 4, 1979.

[29] Circular No. 20-79, October 4, 1979; See also 1 The 2001 Ad Hoc Committee for the Revision of the Manual for Clerks of Court, The 2002 Revised Manual for Clerks of Court, p. 215, Regular Raffle.

[30] Supreme Court Circular No. 7-74, September 23, 1974.

[31] *Medina v. De Guia*, A.M. No. RTJ-88-216, 1 March 1993, 219 SCRA 153, 174.

[32] Rule 2.01, Code of Judicial Conduct.

[33] *Association of Court Employees of Panabo, Davao v. Tupas*, A.M. No. RTJ-87-141, 12 July 1989, 175 SCRA 292, 296; *National Intelligence Security Authority v. Tablang*, A.C. No. R-94-RTJ, 31 July 1991, 199 SCRA 766, 776.

[34] See *Re: Procedure Adopted By Judge Daniel Liangco, Executive Judge, MTC, San Fernando, Pampanga, Re Raffle of Cases Under P.D. No. 1602*, A.M. No. 99-11-158-MTC, 1 August 2000, 337 SCRA 8, 19.

[35] *Supra*, note 32.

[36] *Supra*, note 34 at 19.

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