

RESTITUTO VILLAPANDO, PETITIONER, VS. THE HONORABLE JUDGE ELVIRO Q. QUITAIN, RESPONDENT.*G.R. No. L-41333. January 20, 1977*

Ponente: FERNANDO, J.

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The reliance in all these five certiorari and prohibition proceedings is on the oft-reiterated ideal that every litigant, in the language of the leading case of *Gutierrez v. Santos*,^[1] "is entitled to nothing less than the cold neutrality of an impartial judge."^[2] As was pointed out in *Mateo Jr. v. Villaluz*:^[3] "It is now beyond dispute that due process cannot be satisfied in the absence of that degree of objectivity on the part of a judge sufficient to reassure litigants of his being fair and being just."^[4] Petitioner Restituto Villapando, as a result of an altercation on the evening of Good Friday, April 12, 1974 in a restaurant in San Antonio, Quezon, was on the very next day accused of theft of two packs of cigarettes. It was not until later, and only with the help of the Office of Civilian Relations of the Philippine Constabulary was he able to file charges against the other parties in the melee for maltreatment and less serious physical injuries allegedly inflicted on him on that occasion. All of these cases would be triable by respondent Elviro Q. Quitain, the municipal judge of San Antonio. Petitioner is quite apprehensive as to their outcome as the latter had shown partiality for his alleged tormentors and oppressors. Accordingly, in his pleading, polemical in tone, he would have this Court set aside and nullify respondent Judge's order, denying a petition for disqualification on the ground of bias, prejudice, and prejudgment.^[5] He set forth in his petition words and acts of respondent indicative of hostility to his person. Respondent Judge in his comment, disputing the veracity of the cited instances of partiality, asserted that he could be trusted to dispense justice with an even hand. His labored effort is not too convincing, but even if it were, it would seem that the desired goal of detached and impersonal justice could best be promoted by granting the petition. Respondent ought to realize that, considering the bitter and protracted wrangling with the recriminations coming from both sides and the invectives hurled by one against the other, his disqualification would be the better solution. It is expected of judges, as noted in *Palang v. Zosa*,^[6] that they "decide cases without bias and favoritism. It does not suffice that they in fact rid themselves of prepossessions. Their actuations must inspire that belief. This is an instance where appearance is just as important as the reality. Like Caesar's wife, a judge must not only be pure but beyond suspicion."^[7] So we rule again.

The first petition,^[8] with the allegations repeated in the subsequent ones, was rather verbose with 55 paragraphs in 19 pages, to which were added Annexes A to O. No effort was spared to show the bias and prejudice of respondent, but its impact could have been greater if there was a curb to the propensity to rely on exaggerated language. The comment of respondent Judge, treated as answer, did try hard to meet the factual issues raised, minimizing the alleged instances of partiality. It could have gained more credence if it were more forthright and less evasive. The memoranda submitted by petitioner and respondent followed the same approach with the difference that the former was detailed and factual in his presentation of his litany of grievances and the latter in his attempt at refutation was quite content with generalities, limiting himself to explaining only one of the many failings laid at his door. Nor was he quite successful at that.

Thus in petitioner's memorandum, it was pointed out that Buendegardo G. Patulayin, a brother of the Vice-Mayor of San Antonio, Leonardo Marasigan, a brother of the Municipal Councilor, and Miguel Pillerba, a policeman of said municipality, the three accused in the cases for less physical injuries and maltreatment filed by petitioner-complainant, characterized as "all men of consequence in the local government and political firmament of San Antonio," sent for respondent Judge to go to his office on a holiday, Saturday, April 13, 1974, to conduct the preliminary examination on the charge of theft against him as a result of which Criminal Case No. 239 for such offense was immediately filed with the bail for provisional liberty being fixed at P200.00.[9] In view of their difference in standing in the community, petitioner had to appeal for help to the Office of the Civilian Relations of the Philippine Constabulary at Canlubang, Laguna, so that his own complaints for maltreatment and physical injuries could be filed.[10] It was then set forth that respondent Judge accompanied the three accused to the CIS Detachment at Lucena City to inform the constabulary investigator that petitioner's complaint was only in the nature of a countercharge, he having been accused previously of theft before respondent's court.[11] Mention was then made of his "openly and brazenly" favoring Patulayin, Marasigan and Pillerba in the investigation conducted by Sgt. Ernesto Jose.[12] Nonetheless, as the complaints for less physical injuries and maltreatment were filed by such Sergeant, respondent had to conduct the preliminary examination with him exhibiting "his manifest bias and partiality in favor of the three accused * * *".[13] Thereafter, while his previous actuation where the criminal cases for less serious physical injuries and maltreatment were concerned was marred with delay, respondent Judge, so it is alleged, would conduct with haste the hearing of all the cases. Hence the motion for disqualification on the ground of bias and prejudice which, as noted, was denied.[14]

There was a memorandum submitted by respondent Judge. Instead of meeting the facts squarely, he limited himself to two points, the general assertion that there was lack of evidence presented to support the charge of bias and prejudice, for him being "merely the product of generalization, conjecture, imagination and suspicion of petitioner and his counsel." [15] There was equally lack of persuasiveness in his attempt to refute the rather patent and obvious fact that notwithstanding that it was petitioner who suffered injury in the altercation with the three accused, the preliminary examination for the charge of theft against him was hurriedly conducted on a day after Good Friday, April 13, 1974, a legal holiday, resulting in the order of arrest against the accused. Thus: "With respect to the second point that the respondent Judge conducted the preliminary examination on a Saturday and a holiday. This simply was a case of forgetfulness and an instance where the frailty of the human memory has asserted itself. The respondent Judge has been used to work on Saturdays in his office to accommodate lawyers who are busy with their other cases in other courts. On April 13, 1974, unmindful that said Saturday was a holiday, since Good Friday had already passed, the respondent Judge went to his office as usual. It was on his arrival at his office that the Chief of Police filed the criminal case for theft against the petitioner who was then presently detained at the Municipal Jail already. In fact, what actually happened benefited the accused (petitioner herein) because had he desired so he could have filed a bail bond (since after the preliminary examination the bail bond has been fixed) that Saturday and spared himself the agony of languishing in jail that Saturday and on Sunday." [16] That is to indulge in irony considering that petitioner belongs to a family of modest means. There was no explanation either as to why he had to invoke the aid of the military authorities in connection with his own charges against the three accused for maltreatment and less serious physical injuries. Also, respondent Judge's tone of levity in his memorandum was, to say the least, in bad taste. Instead of clarifying why he was not as prompt in the case of petitioner's grievance, he waxed sarcastic: "But criminal cases and any case for that matter are not decided on who filed a case first. It matters not who is first to file a case. This is not track and field." [17] There was, of course, a previous attempt in his answer to explain the delay, but at most it has surface or deceptive plausibility. The memorandum afforded him another opportunity to refute, but he failed to take advantage of it. What it amounts to is that there is not enough to dissipate the well-founded doubts as to his lack of objectivity and neutrality.

The petition for disqualification, as noted at the outset, must be granted.

1. The commitment of this Court to a strict application of the procedural due process mandate of every litigant being entitled, to follow the language of Gutierrez, to "nothing less than the cold neutrality of an impartial judge" is firm and deep-seated. The aforementioned Villaluz decision could refer to at least five cases starting from *Del Castillo v. Javelona*[18] up to and including *Paredes v. Gopengco*.[19] Since then, seven more cases may be cited from *Umale v. Villaluz*[20] to *Balieza v. Astorga*,[21] promulgated last April. It would be an unwarranted departure then from a norm so consistently adhered to if on the situation presented by these petitions, respondent Judge would be allowed to continue with the trial of these cases. Even he should realize, even if his good faith in the premises may be assumed, that his deportment left much to be desired. Anyone in the position of petitioner cannot view what had transpired in any other light. Hence the merit in the petitions.

2. What is even less commendable is that respondent Judge's actuation clearly leaves the impression that he was not immune to the disparity in the economic, social, and political standing of the litigants. Favoritism is not to be tolerated, but it is much more odious if directed against one coming from the poor and the dispossessed. More consideration should be shown to one having less in life. That certainly would inspire a deeper sense of loyalty to the government from the greater segment of our people, who are economically underprivileged. The judiciary should try to redress the imbalance, not magnify it. More to the point, the professed ideals of the New Society would be reduced to a barren form of words if it were otherwise.

WHEREFORE, the writs of certiorari prayed for are granted. Respondent Judge is ordered disqualified and restrained from taking any further action in the respective cases involved in the petitions before this Court, whether petitioner Villapando is the accused or the complainant. The Executive Judge of the Quezon Courts of First Instance is ordered to designate a Municipal Judge of such province to try such cases. This decision is immediately executory. Respondent Judge is given a period of thirty days from receipt of this decision to explain why no administrative action should be taken against him. No costs.

Barredo, Antonio, Aquino, and Concepcion, Jr., JJ., concur.

[1] 112 Phil. 184 (1961).

[2] *Ibid*, 189.

[3] L-34756-59, March 31, 1973, 50 SCRA 18.

[4] *Ibid*, 23.

[5] Petition, Annexes G & H.

[6] L-38229, Aug. 30, 1974, 58 SCRA 776.

[7] *Ibid*, 778.

[8] L-41333.

[9] Memorandum of Petitioner in L-41333, pars. 14-16.

[10] *Ibid*, pars. 17-19.

[11] *Ibid*, par. 20.

[12] *Ibid*, pars. 21-24.

[13] Ibid, par. 25.

[14] Ibid, par. 26.

[15] Memorandum of Respondent Judge in L-41333, 7.

[16] Ibid, 8.

[17] Ibid, 8-9.

[18] L-16742, September 29, 1962, 6 SCRA 146.

[19] L-23710, September 30, 1969, 29 SCRA 688. The three other cases are *People v. Gomez*, L-22345, May 29, 1967, 20 SCRA 293; *Pimentel v. Salanga*, L-27934, September 18, 1967, 21 SCRA 160; *Luque v. Kayanan*, L-26826, August 29, 1969, 29 SCRA 165.

[20] L-33508, May 25, 1973, 51 SCRA 84.

[21] Adm. Case 202-MJ, April 30, 1976, 70 SCRA 444. The other cases are: *Paredes v. Abad*, L-36927-28, April 15, 1974, 56 SCRA 522; *Palang v. Zosa*, L-38229, August 30, 1974, 58 SCRA 776; *People v. Ancheta*, L-39993, May 19, 1975, 64 SCRA 90; *Marcos v. Domingo*, Adm. Case No. 203-CJ, May 29, 1975, 64 SCRA 206; *Martinez v. Gironella*, L-37635, July 22, 1975, 65 SCRA 245.

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