

NIMFA ALBOS, COMPLAINANT, VS. JUDGE EUGENIO ALABA, RESPONDENT.*A.M. No. MTJ-91-517. March 11, 1994*

Ponente: VITUG, J.

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On 04 February 1991, complainant Nimfa Albos filed with the Office of the Court Administrator a sworn letter-complaint, charging respondent Judge Eugenio Alaba with misconduct, oppression and gross inefficiency.

The antecedents: On 27 August 1990, Nimfa Albos filed with the Municipal Trial Court ("MTC") of Tanauan, Leyte, a complaint for grave oral defamation against one Rebecca Songalia. Sometime in October 1990, the complainant, accompanied by her mother, went to the MTC to verify the status of the case. The two were told by the Clerk of Court that the complaint was "not yet signed" by the respondent judge. Forthwith, they went to see the respondent judge himself to inquire about it. The latter reportedly reacted by throwing the complaint on top of his table and by exclaiming, "(h)ere they are; I am returning them to you anyway, they are useless. You will lose in your case."

The complainant hired a lawyer. The latter filed the complaint against Songalia with, instead, the Office of the Provincial Prosecutor of Leyte. Acting thereon, Assistant Prosecutor Yolanda Paganda filed the corresponding information with the MTC of Tanauan (Criminal Case No. 4486).

On 14 January 1991, the complainant, through counsel, filed a motion asking respondent Judge Alaba to inhibit himself from trying the case. The respondent refused to act on the motion and even allegedly challenged the complainant's counsel to a fight. The judge subsequently dismissed the case.

In his comment, respondent Judge Alaba denied the allegations of the complainant and sought to justify his questioned conduct on the case.

This Court, in its resolution, dated 13 February 1992, resolved to refer the case to Executive Judge Fortunato B. Operario of the Regional Trial Court of Tacloban, Leyte, for investigation, report and recommendation. When Judge Operario retired, Acting Executive Judge Getulio M. Francisco took over the case. On 16 April 1993, the latter submitted his findings and observations, as well as his recommendation, thus:

"FINDINGS AND OBSERVATIONS

"A Criminal Case for Grave Oral Defamation was filed by herein complainant Nimfa M. Albos against Rebecca Songalia with the Municipal Trial Court of Tanauan, Leyte. The complaint was filed on August 27, 1990 through the investigator of the INP (now PNP) of Tanauan, Leyte. The complaint was not entered in the docket book of the Municipal Trial Court of Tanauan, Leyte because Judge Eugenio Alaba then was conducting lectures in different barangays of Tanauan, Leyte regarding the Barangay Justice Law. Subsequently, Nimfa M. Albos sought the assistance of the Office of the Provincial Prosecutor which conducted a preliminary investigation. The inquest prosecutor Yolanda Dagandan filed the corresponding

information with the Municipal Trial Court of Tanauan, Leyte for Grave Oral Defamation against Rebecca Songalia which was docketed as Criminal Case No. 4486. After the arraignment, pre-trial was conducted by the Court on January 17, 1991. Thereafter, the parties agreed that the trial on the merits be set for February 13 and 14, 1991. The prosecution then was represented by Sgt. Gonzaga of the PNP of Tanauan, Leyte. Before February 13, 1991, the private prosecutor, Atty. Custodio Cañete, filed a Motion to inhibit Judge Eugenio Alaba. The Judge, however, did not act on the motion on the ground that the Motion allegedly failed to comply with Sec. 16 in relation to Sec. 5, Rule 110 of the New Rules on Criminal Procedure. When the case was called for trial on February 13, 1991, the complainant Nimfa M. Albos did not appear but the officer of the PNP of Tanauan, Leyte who appeared for the prosecution was present. The private prosecutor Atty. Custodio Cañete did not appear. The accused and her counsel, Atty. Benedicto Ortega, were present. For failure on the part of the complainant and her counsel to appear despite notice the defense moved for the dismissal of the case invoking the constitutional right of the accused to a speedy trial. Judge Eugenio Alaba, however, reminded the defense counsel that the case was set for two (2) days, that is, on February 13 and 14, 1991. The Court then denied the verbal motion for dismissal but told the parties that the case would be called again on the following day, February 14, 1991. When the case was called again on the following day, February 14, 1991, the accused and her counsel were present and ready. Although the public prosecutor appeared, the complainant was not around. The public prosecutor moved that the case be called later as he was waiting for the complainant who told her mother that she would appear in Court, to which the Court granted the same. Later, when the case was called again the complainant failed to appear, for which the counsel for the defense, Atty. Benedicto Ortega, reiterated his motion made the day before for the dismissal of the case invoking again the constitutional right of the accused to a speedy trial. This time the Court granted the Motion and dismissed the case.

"For not favorably acting on the motion of the private prosecutor that Judge Eugenio Alaba inhibit himself in trying the case and, ultimately, dismissing the case, the complainant in said criminal case No. 4486 filed this administrative case against Judge Eugenio Alaba, for Grave Misconduct, Conduct Unbecoming of a Municipal Trial Court Judge, Oppression and Gross Inefficiency.

"The cause of all this trouble is the failure on the part of respondent Judge Eugenio Alaba to inhibit himself from acting on the case despite the motion for inhibition filed by the private prosecutor Atty. Custodio Cañete. Respondent Judge Eugenio Alaba contended that the motion should bear the approval of the public prosecutor arguing that the private prosecution shall always be under the supervision and control of the public prosecutor. Although it is conceded that the prosecution in criminal cases shall be under the supervision and control of the public prosecutor, and also that it is for the presiding Judge to determine if he inhibits himself when there is a motion for inhibition on the ground of an alleged partiality or bias, yet it would have been safer and convenient for him to inhibit himself in that case to avoid suspicion. As the time-honored maxim goes, 'A Judge, like Cesar's wife, must not only be above reproach but also above suspicion.'

"RECOMMENDATION

"From the above facts there is no grave Misconduct or Conduct Unbecoming of a Municipal Trial Judge nor is there Oppression or Gross Inefficiency on the part of respondent Judge Eugenio Alaba. For his failure to inhibit himself, despite the Motion for Inhibition filed by the private prosecutor only on the basis that the motion did not bear the conformity of the public prosecutor, respondent Judge Eugenio Alaba should be admonished to be more cautious and extra careful in his official actuations as presiding Judge of the Municipal Trial Court of Tanauan, Leyte, with a warning that a repetition of the same in the future would be dealt with more severely."

In this Court's resolution of 22 July 1993, the matter was further referred to the Office of the Court Administrator for evaluation, report and recommendation. Deputy Court Administrator Bernardo P. Abesamis, with the concurrence of Court Administrator Ernani Cruz-Paño, submitted a memorandum, dated 14 January 1994, to the following effect:

"Re: Adm. Matter No. MTJ-91-517 (Nimfa Albos

vs. Judge Eugenio Alaba, MTC, Tanauan,

Leyte)

"This refers to the complaint of Nimfa Albos, charging Judge Eugenio Alaba with grave misconduct, conduct unbecoming of a judge, oppression and inefficiency.

"Complainant claims that on August 27, 1990, she filed a signed complaint for grave oral defamation prepared by the PNP investigator, accompanied by the affidavit of his witness, Alberto Babao. On October 20, 1990; when no action was taken thereon, she and her mother went to court to verify its status. Informed that the same was not yet signed by respondent, they approached him but he threw the papers on top of the table declaring that they were anyway useless.

"The incident forced her to hire a lawyer. Another complaint was presented before the Provincial Prosecutor of Leyte and this time an information was filed in respondent's court docketed as Crim. Case No. 4486. Subsequently, on January 17, 1991, her lawyer filed a motion to inhibit, but it was never acted upon by respondent. They were scolded by him, instead.

"In his comment (pp. 26-28, rollo) respondent contended that he came to know of the complaint for grave oral defamation only when he received a copy of this instant complaint. He was informed by his clerk of court that the complaint was withdrawn by complainant herself, thus, it was not signed.

"The first time he saw complainant was on January 21, 1991, when she inquired about the status of the motion for inhibition. She advised her to see the clerk of court and then proceeded to the courtroom. Thereafter, his clerk of court showed him a notice of appearance filed by Atty. Custodio Cañete and a motion for inhibition, without the conformity of the public prosecutor. Nonetheless, he waited for Atty. Custodio on the date stated in the pleading but he never appeared.

"On February, 12, 1991, when complainant went to the court, she was informed that the trial will proceed as scheduled on February 13 and 14. She never appeared on both dates. Hence, the case was dismissed.

"By a resolution En Banc, dated 13 February 1992 (p. 53, id.) this matter was referred to Executive Judge Fortunato S. Operario, for investigation, report and recommendation.

"In his report (pp. 247-249, id.), Judge Getulio M. Francisco, who was designated to act on the case due to the retirement of Judge Operario found that: 1) the complaint was not docketed because respondent Judge Alaba was then conducting lectures in the different barangays of Tanauan, Leyte regarding the Barangay Justice Law; 2) for not favorably acting on the motion to inhibit and ultimately dismissing the case, this administrative complaint was filed against respondent.

"For respondent's 'failure to inhibit himself, despite the Motion for Inhibition filed by the private prosecutor only on the basis that the motion did not bear the conformity of the public prosecutor x x x,' Judge Francisco recommended that respondent 'be admonished to be more cautious and extra careful in his official acts.'

"The report and recommendation of Investigating Judge Francisco, did not discuss respondent's failure to sign the complaint for grave oral defamation, except his finding that the reason thereof was because respondent has been conducting lectures.

"In this regard, respondent's lectures regarding the Barangay Law, may not be a valid reason for not attending to his judicial functions. Assuming that he cannot sign the subject complaint because it was not subscribed before him, complainant should have been notified of such defect.

"All the foregoing considered, it is recommended that respondent Judge Eugenio Alaba be reprimanded and

admonished to exercise more diligence in the performance of his official duties with a warning that the commission of similar offense will be dealt with more severely."

We find the foregoing memorandum of the Office of the Court Administrator, which confirms, by and large, the findings and recommendations of Executive Judge Getulio M. Francisco, to be satisfactory and well taken.

A judge is bound never to consider lightly a motion for his inhibition that questions or puts to doubt, however insignificant, his supposed predilection to a case pending before him. While he must exercise great prudence and utmost caution in considering and evaluating a challenge to his impartiality, he is expected, nevertheless, to act with good dispatch. Any delay, let alone an inaction, on his part can only fuel, whether justified or not, an intensified distrust on his capability to render dispassionate judgment on the case.

True, the respondent judge cannot be said to have been completely out of line in conducting lectures to various barangay units on the rudiments of the Barangay Law. After all, judges are, and they should be, encouraged to engage in any lawful enterprise that may help bring about an improved administration of justice. But, be that as it may, judges must not allow themselves to be thereby distracted from the performance of their judicial tasks which must remain at all times to be their foremost and overriding concern.

WHEREFORE, respondent judge is hereby REPRIMANDED, and he is ADMONISHED to observe greater assiduity in giving priority to his official duties than he has heretofore evidently shown.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Quiason, Puno, and Kapunan, JJ., concur.

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