JOEL RANJO, PETITIONER, VS. HON. EDMAR P. CASTILLO, PRESIDING JUDGE OF RTC-BRANCH 11, TUAO, CAGAYAN, RESPONDENT.

Ponente: SORONGON, E.D., J.

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SORONGON, E.D., J.

This is a Petition for Certiorari with a prayer for Temporary Restraining Order and/or Writ of Preliminary Injunction under Rule 65 of the Rules of Court seeking to nullify and set aside the resolution and order issued by public respondent Edmar P. Castillo, (public respondent) Presiding Judge of the Regional Trial Court of Tuao, Cagayan, Branch 11, in Criminal Case No. 1388-T, specifically:

> 1) The Resolution[1] dated September 8, 2010 denying the Motion for Inhibition filed by petitioner Joel Ranjo (petitioner); and,
>
> 2) The Order[2] dated January 10, 2011 denying petitioner's motion for reconsideration.

Petitioner also prays that public respondent be temporarily enjoined from proceeding with the trial of Criminal Case No. T-1388.

The factual antecedents, as gathered from the parties' respective pleadings, are briefly summarized as follows:

Petitioner along with nine (9) others, alleged campaign volunteers of incumbent Mayor William N. Mamba (Mayor Mamba) of the Liberal Party, were charged[3] with murder for allegedly killing Alfredo Gannaban, a close-in-bodyguard of Vice Governor Leonides "Odi" Fausto (Vice Gov. Fausto). The case was docketed as Criminal Case No. T-1388 pending before the sala of the public respondent.

On May 17, 2010, petitioner filed a Motion for Inhibition[4] against public respondent arguing that: (1) all the accused in criminal case No. T-1388 were campaign volunteers and coordinators of gubernatorial candidate Manuel N. Mamba and Mayor Mamba; (2) the wife of Vice Gov. Fausto, a political adversary of the Mambas, is the sister of the wife of public respondent; and, (3) the Nissan van being used by public respondent in coming to and from the court is provided by the Provincial Government of Cagayan courtesy of the Office of Vice Governor Fausto.

In a Resolution[5] dated September 8, 2010, public respondent denied petitioner's motion for inhibition on the ground that the allegations are not supported by clear and convincing evidence.

The Motion for Reconsideration[6] filed by petitioner on November 3, 2010 was denied by the public respondent for lack of merit[7].

Hence, this petition.

The sole issue here is whether or not public respondent gravely erred in denying petitioner's plea for his

inhibition.

We find the petition bereft of merit.

Grave abuse of discretion means such capricious and whimsical exercise of judgment as would amount to lack of jurisdiction; it contemplates a situation where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, so patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform the duty enjoined by, or to act at all in contemplation of law. In a certiorari proceeding, as in the instant case, it is imperative for petitioner to show caprice and arbitrariness on the part of the court or agency whose exercise of discretion is being assailed[8]. Did the public respondent gravely err when he denied petitioner's motion for inhibition based on the grounds he presented? But before we answer this query we shall first have some discussion on the rule on inhibition and disqualification of judges. Section 1, Rule 137 of the Rules of Court, provides that:

> SECTION 1. Disqualification of judges. - No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.
>
> A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above.

The afore-quoted rule relates to two kinds of inhibition: first, compulsory as contemplated in the first paragraph; and second, voluntary as described in the second paragraph. Compulsory disqualification conclusively assumes that a judge cannot actively or impartially sit on a case for the reasons therein stated. On the other hand, voluntary inhibition leaves to the judge’s discretion whether he should desist from sitting in a case for other just and valid reasons with only his conscience to guide him.[9]

The present case obviously falls within the contemplation of voluntarily inhibition the concept of which has been elucidated by the Supreme Court in the case of Pimentel vs. Salanga,[10] viz:

> A judge may not be legally prohibited from sitting in a litigation. But when suggestion is made of record that he might be induced to act in favor of one party or with bias or prejudice against a litigant arising out of circumstances reasonably capable of inciting such a state of mind, he should conduct a careful self-examination. He should exercise his discretion in a way that the people's faith in the courts of justice is not impaired. A salutary norm is that he reflect on the probability that a losing party might nurture at the back of his mind the thought that the judge had unmeritoriously tilted the scales of justice against him. That passion on the part of a judge may be generated because of serious charges of misconduct against him by a suitor or his counsel, is not altogether remote. He is a man, subject to the frailties of other men. He should, therefore, exercise great care and caution before making up his mind to act in or withdraw from a suit where that party or counsel is involved. He could in good grace inhibit himself where that case could be heard by another judge and where no appreciable prejudice would be occasioned to others involved therein. On the result of his decision to sit or not to sit may depend to a great extent the all-important confidence in the impartiality of the judiciary. If after reflection he should resolve to voluntarily desist from sitting in a case where his motives or fairness might be seriously impugned, his action is to be interpreted as giving meaning and substances to the second paragraph of Section 1, Rule 137. He serves the cause of the law who forestalls miscarriage of justice.

However, voluntary inhibition does not give the judge the unfettered discretion to desist from hearing a case. The motion for inhibition must be based on just and valid causes and mere imputation of bias or partiality is not

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enough basis for them to inhibit, especially when the charge is groundless.[11] The movant must prove by clear and convincing evidence the grounds of bias and prejudice in order to disqualify the judge from participating in a particular trial.[12] Bare allegations of bias and partiality will not suffice and cannot be presumed, especially if weighed against the sacred obligation of judges whose oaths of office require them to administer justice without respect to person and to do equal right to the poor and the rich.[13]

Having set up the parameters we now proceed to discuss the propriety of the denial of inhibition by public respondent.

Petitioner failed to demonstrate such acts or conduct clearly indicative of arbitrariness or prejudice as to thaw the attributes of the cold neutrality of an impartial judge. What is apparent, though, is petitioner's ascription of grave abuse of discretion was simply based on the unfavorable judgment issued by public respondent against him.

The public respondent was correct in ruling that the allegation of bias and partiality put forth by petitioner was not proven nor supported by clear and convincing evidence. Aside from petitioner's bare allegations, no evidence was presented to establish the political affiliation of public respondent with Vice Gov. Fausto. Neither was it proved that it was through the efforts of the vice-governor that public respondent was appointed presiding judge of the RTC of Tuao, Cagayan, Branch 11. Even if there is truth that public respondent is politically affiliated to Vice Gov. Fausto, such tie is immaterial because the vice-governor is not even a party to the case. Petitioner also failed to submit proofs that public respondent's service vehicle was provided by the Office of the Vice Governor. Similarly, the allegation that public respondent's paramour is the sister of the wife of Vice Gov. Fausto deserves scant consideration. While public respondent admitted in his Reply submitted to the Court Administrator on the administrative case filed against him that he is living with a woman other than his lawful wife, the same is insufficient to support petitioner's claim. As pointed out by the Office of the Solicitor General in its resolution, petitioner did not append to the petition the said reply so as to verify the veracity of the allegation and the identity of the alleged "other woman". More importantly, even if the allegation that public respondent made such admission in the administrative case against him was true, a court should not take judicial notice of evidence presented in other proceedings, even if these have been brought before it or have been heard by and are actually pending before it[14].

Moreover, gleaned from the records that aside from the alleged personal and political ties between public respondent and Vice Gov. Fausto, petitioner failed to point out any act or conduct of public respondent which would manifest prejudice and arbitrariness. Petitioner's allegation that public respondent issued a defective warrant has no leg to stand on in the absence of any showing that the warrant was issued without any legal or factual basis. Just because petitioner’s opinion is not in accord with public respondent on the issuance of the search warrant, the former cannot merely used it as a ground to impute bias on the latter without substantiating his claim. Moreso, the issue on the illegality of the search warrant is not without judicial redress as the same is best threshed out as a defense for his acquittal and not in a motion for inhibition.

Taking into account all the grounds raised by petitioner, we see no reason for public respondent to desist from hearing the case. To repeat, the allegations of bias and partiality on the part of the public respondent were baseless and unfounded accusations which cannot overcome the presumption that the judge will undertake his noble role of dispensing justice in accordance with law and evidence, and without fear or favor.[15]

Lastly, as to petitioner’s prayer for a temporary restraining order or a writ of preliminary injunction to restrain public respondent from proceeding with the trial of the case, we found the same to be not legally permissible.

It is a doctrine of long standing that injunction will not lie to enjoin a criminal prosecution because public interest requires that criminal acts be immediately investigated and prosecuted for the protection of society.[16] However,

like most rules, it carries certain exceptions, such as the following:

1)

To afford adequate protection to the constitutional rights of the accused;

2)

When necessary for the orderly administration of justice or to avoid oppression or multiplicity of actions;

3)

When there is a pre-judicial question which is sub-judice ;

4)

When the acts of the officer are without or in excess of authority;

5)

Where the prosecution is under an invalid law, ordinance or regulation;

6)

When double jeopardy is clearly apparent;

7)

Where the court has no jurisdiction over the offense;

8)

Where there is a case of persecution rather than prosecution;

9)

Where the charges are manifestly false and motivated by the lust for vengeance;

10)

When there is clearly no prima facie case against the accused and a motion to quash on that ground has been denied; and

11)

Preliminary injunction has been issued by the Supreme Court to prevent the threatened unlawful arrest of petitioners.[17]

Here, petitioner failed to show that his case falls within any of the recognized exceptions. Perforce, the injunctive relief sought must be denied.

WHEREFORE, the petition is DENIED. The Resolution dated September 8, 2010 and Order dated January 10, 2011 of the Regional Trial Court of Tuao, Cagayan, Branch 11 in Criminal Case No. 1388-T is hereby AFFIRMED.

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SO ORDERED.

Carandang (Chairperson) and Gonzales-Sison, JJ., concur.

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[1] Rollo, pp. 16-18.

[2] Rollo, p. 19.

[3] Information and Amended Information, pp. 61-64.

[4] Rollo, pp. 51-53.

[5] Supra at note no. 1.

[6] Rollo, pp. 57-59.

[7] Supra at note no. 2

[8] Rollo, p. 151

[9] Chin vs. CA, G.R. No. 144618, August 15, 2003.

[10] G.R. No. L-27934, September 18, 1967.

[11] Pagoda Philippines, Inc. vs. Universal Canning, Inc., G.R. No. 160966, October 11, 2005.

[12] Cruz vs. Judge Mijares, G.R. No. 154464, September 11, 2008.

[13] Soriano v. Angeles, G.R. No. 109920, August 31, 2000.

[14] Rollo, pp. 153-154

[15] Heirs of Juaban vs. Bancale, G.R. No. 156011, July 3, 2008.

[16] Leviste vs. Hon. Alameda, et al., G.R. No. 182677, August 3, 2010.

[17]People vs. Grey, G.R. No. 180109, July 26, 2010.

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