

CONRADO MONTALBAN, COMPLAINANT, VS. HON. MATEO CANONoy, RESPONDENT.

Adm. Case No. 179-J. March 15, 1971

Ponente: BARREDO, J.

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BARREDO, J.:

An administrative complaint against then Judge Mateo Canonoy of the Court of First Instance of Cebu, Branch III, now Justice of the Court of Appeal, charging said respondent with (1) favoritism and partially, (2) ignorance of the law, (3) vindictiveness, and (4) incompetence and dereliction of duty.

Notwithstanding that even on its face the complaint failed to state a clear and strong basis for any disciplinary action, We opted to make the respondent answer, considering that complainant is alleged to be the offended party in a case of adultery against his wife whom respondent had acquitted and the Court felt that it was best to have more information about the allegation of complainant that such acquittal was part of a series of acts of respondent betraying bias, partiality, vindictiveness and ignorance of the law. When the respondent filed his answer denying the charges and disclosing more details surrounding his questioned actions, We resolved to give complainant an opportunity to file a reply, which he did. After going over the said pleadings, and evaluating the allegations thereof, We do not consider it necessary to conduct any hearing for the reception of evidence, since practically all the material facts are undisputed.

On the charge of favoritism and partiality, it is claimed by complainant that it is strange that all three cases wherein Mrs. Hiltruda Gacusan Montalban is a party opposite the complainant, her husband, came to be assigned by raffle to the respondent; that practically all of complainant's motions and petitions in said cases were either denied or totally ignored by respondent whereas those of his wife were all expeditiously and promptly granted; and that complainant's wife used to see respondent in his chamber before the hearings of their cases and in fact, she used to boast that she had all her cases in the sala of respondent "sewed up". In his answer, respondent denied having done anything to cause all the mentioned cases to be assigned to his sala. As regards complainant's allegation that his wife used to see the respondent in his chamber, respondent has made part of his denial of such allegation, the affidavits of the court stenographer and the court interpreter attesting to the fact that they work respectively inside the chamber of the judge and near the door thereof and during the considerably long periods they have so worked, the respondent never entertained litigants in his chambers "socially" and, with particular reference to Mrs. Montalban, they never saw her enter said chambers except on occasions when both parties went there together with their respective lawyers, for the purpose of discussing attempts to amicably settle their differences. Said answer also attaches an affidavit of the Clerk of Court stating that the raffling of the cases aforementioned was always regular.

Under these circumstances, We cannot find sufficient ground for Us to take action against respondent in relation to the first charge. Complainant's suspicion about the assignment of the three cases between him and his wife to the sala of respondent lacks basis, such coincidence not being really as unusual as complainant pretends, particularly when We consider the affidavit of the Clerk of Court, which is not contradicted, attesting to the

regularity of the raffling of the cases in question. Anent Mrs. Montalban's alleged visits with the respondent in chambers, We are more inclined to believe the sworn denials of respondent, supported by the affidavits, as already stated, of the court stenographer and the court interpreter, if only because from a consideration of the contents of the decision of respondent acquitting Mrs. Montalban as well as the decision of the Court of Appeals affirming the orders of respondent awarding to Mrs. Montalban support together with the custody of her children and the possession of the conjugal house, it is evident that there was absolutely no need for the respondent to be talked to in order for him to acquit her or to issue the order upheld by the Court of Appeals, all of them being clearly in accordance with law.

The charge of ignorance of the law is predicated on:

"(1) That in Civil Case No. R-9731 for Support and Custody of the Children, on motion of his said wife, without affording complainant and one Amadeo Castañeda, lessee of a conjugal residential house, their day in court respondent Judge, with total disre-gard of the rights of complainant and the said Amadeo Castañeda, ordered the delivery of the said conjugal dwelling to complainant's wife, the said Hiltruda Gacusan";

(2) That when complainant took the orders men-tioned in No. (1) above, to the Court of Appeals, the respondent lost no time in filing an answer as re-spondent, when he is not called upon to do so under the Rules of Court; and

(3) That in the judgment of acquittal of Mrs. Montalban, respondent included therein an express re-servation for her to be able to file a civil action for the recovery of attorney's fees.

As to complainant's first contention, respond-ent has brought to Our attention the decision of the Court of Appeals in CA-G. R. No. 44404-R, the very case which arose from the questioned orders of the respondent, in which the appellate court refused to disturb said orders and held:

"On his part, petitioner Castañeda contends that the respondent court acquired no jurisdiction over him for the reason that he is not a party to Civil Case No. R-9731, and that the respondent court in issuing the order re-quiring him to deliver the Montalbans' conjugal house to re-spondent Gacusan-Montalban de-nied him his day in court and impaired his contractual rights under the lease agreement enter-ed into by him and petitioner Montalban.

"Petitioner Castañeda's con-tention is patently without me-rit. Courts are not left with-out power to compel obedience to their orders, writs and processes. The power to punish persons for contempt is inher-ent in all courts and essential to the preservation of order in judicial proceedings and to the enforcement of their lawful or-ders and decisions (In re Sotto, 82 Phil. 595). Without the pow-er to punish for contempt courts would be impotent to maintain orderly administration of just-ice and compel observance to their lawful mandates. Where the attendant circumstances of a case warrant, all persons who interfere with the proper exer-cise of a court's judicial func-tions, whether parties or stran-gers, may be punished for con-tempt of court (17 C.J.S. 47), especially so when they are in conspiracy (Ferrer vs. Rodriguez, 5 SCRA 854). The charge against petitioners is willful refusal to surrender custody of the children and possession of the conjugal house to respondent Gacusan-Mon-talban. Willful refusal to de-liver custody of minor children (Villacorta vs. Palma, 1 C.A.R. (2s) p. 815) and possession of real property (Sec. 2-a, Rule 71, Rules of Court) when there is a standing order to do so consti-tute indirect contempt. The procedural requirements in pro-ceedings for indirect contempt are: first, a complaint in writ-ing which may either be a motion for contempt filed by a party or an order issued by the court re-quiring a person to appear and explain; and second, an opportu-nity for the person charged to appear and explain his conduct (People vs. Viray, CA-G.R. No. 21107-R, February 7, 1963; Tor-res vs. Teodoro, 101 Phil. 422; People vs. Venturanza, 98 Phil. 211; Lopez vs. Agrava, CA-G. R. No. 34536-R, May 27, 1965). In the proceedings below, respond-ent Gacusan-Montalban filed on October 2, 1969, a motion for the issuance of an order direct-ing the Sheriff to obtain pos-session of the child, Desiree, from petitioner Castañeda and requiring the latter to appear in court and show cause why he should not deliver the

conjugal house to said respondent. On November 22, 1969, the respondent court issued an order requiring petitioner Castañeda to appear in court on November 26, 1969, and explain why he has custody of Desiree and why he occupies the conjugal house. This order was received by petitioner Castañeda. It is clear, therefore that the first procedural requisite has been complied with. By the order of November 22, 1969, which specifically required petitioner Castañeda to appear in court on November 26, 1969, and explain, the respondent court fully accorded petitioner Castañeda an opportunity to be heard. As a matter of fact, Castañeda appeared in court on November 26, 1969, and testified explaining why he has custody of Desiree and possession of the conjugal house. Again clearly, the second procedural requisite has been complied with. Upon service of the order of November 22, 1969, on petitioner Castañeda, the respondent court acquired jurisdiction over the person of said petitioner. And when the respondent court accorded said respondent the opportunity to be heard, he evidently was given his day in court and he cannot be heard to complain before us now that he was denied thereof. We find, therefore, that the respondent judge has jurisdiction to issue the order of November 26, 1969."

We believe the above findings of the Court of Appeals sufficiently dispose of the accusation of complainant in paragraph (1) above.

Regarding the filing by respondent in the Court of Appeals of his own answer in the above-mentioned case, We consider satisfactory the explanation of respondent that while he agrees that ordinarily, under Sec. 5 of Rule 65 of the Rules of Court, a judge whose order is challenged in an appellate court does not have to file any answer or take active part in the proceeding, in this particular case, he had to file an answer in order to belie personal attacks of ignorance of the law and of bias, prejudice, favoritism, vindictiveness and other base motives. Indeed, when the actions of a judge are assailed on grounds other than legal ones, and imputing to the judge personal motives, the judge cannot be blamed if he takes personal interest in trying to disprove the imputations. Neither can We find fault in his promptness in filing said answer, since that is precisely to be encouraged in all litigations in order to speed up the administration of justice.

Respondent justifies the reservation in favor of Mrs. Montalban in the judgment acquitting her thus:

"As for the reservation granted the accused to recover reasonable attorney's fees in a proper action, it is respectfully submitted that it is not against any law or jurisprudence. Certainly, the Respondent Court could not condemn Mr. Montalban to pay the same in the criminal case because, the parties there are the People of the Philippines versus Mrs. Montalban. She should file a civil action to recover said attorney's fees; and said civil action is open to defenses which Mr. Montalban may set up. Again, it is respectfully submitted that lawyers can honestly differ from each other over the issue; and it is unkind to cast the label of ignorance upon a non-conformist. The Respondent Judge answered the criticism of Mr. Montalban and his lawyer in his Rejoinder to Memorandum of Petitioner's Counsel. (Par. 2 b) of Annex K) Reference is hereby made to said paragraph to avoid prolixity and repetition." (pp. 8-9, Answer)

"b) As for the reservation given to accused Gacusan of her right to recover reasonable attorney's fees (while the issue of its correctness or legality should not be raised and decided here), the undersigned Judge begs leave to cite the new Civil Code in its Arts. 290--293 (regarding mutual support owing by the spouses one to another) and Art. 2208, pars. (3) and (11) as authority for the respondent Court to reserve the right to attorney's fees in favor of the wife to defend herself in proper cases as in Criminal Case No. V-12772 in which she was acquitted from the charge of adultery filed by her husband. The respondent Judge did not find how much attorney's fees the innocent spouse is entitled to recover and did not order the complaining husband to pay the same in the criminal case, but left the matter for her to file the corresponding claim in the proper forum." (pp. 2 - 3, Annex K)

While it is true that such a reservation is not ordinarily made in judgments of acquittal, particularly in the absence of any counterclaim for attorney's fees of the accused, assuming such a counterclaim could be made, We are not

prepared to make here a finding that respondent is guilty of ignorance of the law merely because he made the reservation in question. On the other hand, if said reservation may indicate, as complainant contends, concern on the part of respondent that Mrs. Montalban should be able to recover damages, still We cannot consider it as culpable there being no convincing showing of partiality in the basic judgment of acquittal. It could be that respondent felt that Mrs. Montalban's prosecution was so baseless that her accuser should be made to indemnify her somehow. In any event, from the legal standpoint the reservation complained of has no legal effect or significance, it being clear that with or without it, the possibility of Mrs. Montalban being able to claim damages of any kind has not been in anyway affected; if she has a right thereto, the absence of such reservation would not be a bar to it; if she is not entitled to it, a thousand reservations would not help her.

Complainant charges as vindictiveness the sudden setting for hearing by respondent of the case of adultery, against Mrs. Montalban and his subsequent acquittal of her soon after the Court of Appeals issued a preliminary injunction against respondent's orders in the case mentioned in the first and second charges. Respondent categorically denies the imputation and pleads that he only accorded Mrs. Montalban her right to speedy trial, considering that by that time, the prosecution had already rested. We have read, as already stated, respondent's decision of acquittal as well as the decision of the Court of Appeals upholding respondent's orders, and We cannot glean therefrom any indication that could serve as basis for the conclusion of vindictiveness which complainant charges. In other words, there would have been some reason for complainant to complain, if there were a showing that Mrs. Montalban's acquittal was more or less unjustified and that the questioned orders which favored her have no basis in fact and in law; it appearing, however, from the judgment of acquittal that the prosecution had miserably failed to make out even a prima facie case, and, incidentally, complainant has made it clear that he is not interested in the correctness or incorrectness of said decision, and, furthermore, that the Court of Appeals has found that the attack against the orders of respondent brought to said appellate court in the above-mentioned CA-G. R. No. 44404-R "is patently without merit", and this decision has not even been appealed to Us by complainant, We cannot see Our way clear to agreeing with the complainant that respondent acted with vindictiveness in the premises.

Inasmuch as the charges of incompetence and dereliction constitute only a summation of the other charges discussed above, it follows that they cannot stand.

IN VIEW OF ALL THE FOREGOING, We do not find sufficient cause to take any disciplinary action against respondent, much less recommend his dismissal by the President. It is resolved that the complaint in this case be as it is hereby DISMISSED.

Concepcion, C.J., Reyes, Dizon, Makalintal, Zaldivar, Ruiz Castro, Fernando, Teehankee, Villamor, and Makasiar, JJ., concur.

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