

**JULIE C. PITNEY, COMPLAINANT, VS. JUDGE ZEUS C. ABROGAR,
REGIONAL TRIAL COURT, BRANCH 150, MAKATI CITY, RESPONDENT.**

A.M. No. RTJ-03-1748 (Formerly AM OCA IPI No. 02-1576-RTJ). November 11, 2003

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

The instant administrative case arose when Julie C. Pitney wrote a Letter- Complaint dated January 8, 2002, charging respondent Judge Zeus C. Abrogar, Regional Trial Court, Makati City, Branch 150, with bias and partiality relative to Civil Case No. 01-1415 entitled Arturo Rocha, Jr. vs. International School of Manila, Inc.

The complainant, as the Vice-President of the Board of Trustees of the International School of Manila (ISM), assailed the Order dated December 10, 2001 issued by the respondent judge granting the plaintiff's application for preliminary injunction. The complainant asserted that in so doing, the respondent judge violated the fundamental rules of evidence, and failed to act on their unopposed Motion to Dismiss filed on October 11, 2001.

In another Letter dated January 15, 2002, the complainant alleged that the respondent judge's bias in favor of the plaintiff was apparent, thus:

Our lawyers filed a Motion to Inhibit on 09 January 2002, a Motion to Resolve the Motion to Inhibit on 11 January 2002, and even a Second Motion to Inhibit on 15 January 2002. Please find copies of these three (3) Motions attached as Annexes "B," "C," and "D," respectively. However, the presiding Judge has not yet resolved these Motions, in the same way that he has not yet resolved our Motion to Dismiss, which we lodged on the grounds that Mr. Rocha did not allow the Board of Trustees to act on the matter, prior to his suing the School. The Handbook of Student Regulations is clear that the penalty of being dropped from the rolls can only be imposed by the Board of Trustees, but before that happened, and before Mr. Rocha had exhausted the avenue of a subsequent appeal to the Board, he had filed his complaint in court.

This inaction by the presiding judge gives us real cause for concern, since our experience so far is that he has shown an interest only in taking up and resolving those issues raised by Mr. Rocha. It appears that he is oblivious to the School's Motion to Dismiss and Inhibit. He has no concern for the School's compelling need to uphold the integrity and efficacy of its drug testing program. He takes no account of the fact that there is no provision in our Handbook for students to take private tests to weigh against those organized through the School. He chooses to ignore indisputable evidence that the two tests used by the school and arranged through separate, independent laboratories are far more sensitive and accurate than the drug test used by Mr. Rocha's chosen laboratory.

...

The presiding judge has made clear his intentions. What lies at the back of his mind is that the penalty of being dropped from the rolls for a second violation of the School's drug rules and policies is not commensurate with the offense. It is obvious that, even if the second drug offense is proved, the judge will nevertheless prohibit the School from sanctioning Mr. Rocha according to our rules.[1]

In both letters,[2] the complainant apologized to the court for taking the instant course of action, "instead of

trusting the normal judicial review process over a judge's actions." The complainant went on to explain that under the circumstances, however, unless the respondent judge inhibits himself, the ISM's endeavors to ensure that it is a drug-free community would be mocked, since it is most likely that the respondent judge would rule in favor of the plaintiff, Mr. Rocha.

In his Comment dated February 15, 2002, the respondent judge averred that the complainant's letter was "unfair, premature and highly improper, if not malicious, intended solely to harass the Court and clearly designed to trample on its judicial independence." [3] The respondent explained that in issuing the assailed Order dated December 10, 2001, he took into consideration the applicable laws and jurisprudence, and used his sound discretion. As to his failure to resolve the motion to dismiss filed on October 11, 2001, based on the court records, the plaintiff had until January 2, 2002 within which to file his comment/opposition. Since none was filed, the incident was deemed submitted for decision and the court had until April 3, 2002 within which to resolve the same. [4]

The respondent further explained, thus:

Another reason why said motion as well as the other pending incidents, including defendant's motion for inhibition and plaintiff's motion to show cause complaining about defendant's refusal to honor the writ of injunction and the order dated January 8, 2002 issued by the Court, have remained unacted up to the present was the parties' oral manifestation that they are on the point of amicably settling the case. In fact, hearings on these incidents have been postponed several times (January 16, 18, 23, 30, February 7, 12, 2002) upon agreement of the parties on the ground of alleged talks of amicable settlement. In this regard, let it be stated in passing that in the last hearing of the pending incidents on February 12, 2002, the parties and their respective counsel were again seen conferring with one another inside the Courtroom but left before their case was called, prompting the Court to issue the following order:

"When called, none of the parties is in Court. Although they were seen earlier inside the courtroom they left even before their case was called.

Wherefore, counsel for both parties are hereby directed to explain in writing five (5) days from receipt of this Order why they should not be cited in contempt for their disrespect towards the Court.

SO ORDERED." [5]

In a Report dated October 2, 2002, the Office of the Court Administrator found the complaint to be without sufficient basis and recommended its dismissal.

In the instant case, complainant questions Judge Abrogar's appreciation of the evidence presented. Such issue is purely judicial that arose from the exercise by respondent judge of his judicial functions hence, it is beyond the scope of our administrative jurisdiction. Unless the issues are resolved with finality and the findings indicate an illicit or improper motive in the actuations of the Judge, going after him in an administrative proceeding is premature. If a party is prejudiced by the orders of a judge, his remedy lies with the proper court for the proper judicial actions and not with the Office of the Court Administrator by means of an administrative complaint (*Equatorial Realty Dev. Inc. vs. Anunciacion*, Jr. 280 SCRA 571). [6]

Pursuant to the Court's Resolution dated December 16, 2002, the respondent manifested his willingness to submit the case for resolution on the basis of the pleadings filed. The complainant, on the other hand, was required to show cause why she should not be disciplinarily dealt with or held in contempt, in view of her failure to comply with the said resolution.

In behalf of the complainant, Atty. Juan Jose Rodom T. Fetiza apologized to the Court in a Letter dated August 27, 2003. He explained that it was the complainant's lack of understanding of the procedures in administrative complaints, which led to the latter's failure to comply with the Court's resolution, "rather than an intent to be

disrespectful, contumacious or nonchalant.”[7] Atty. Fetiza also manifested that his study of the records of the case revealed that all the pertinent documents had already been submitted in the complainant's letters to the Court. The complainant herself apologized to the Court in another Letter dated September 4, 2003, where she also manifested her willingness to submit the case for resolution.

We agree with the recommendations of the Office of the Court Administrator.

As a matter of policy, the acts of a judge in his judicial capacity are not subject to disciplinary action. He cannot be subjected to liability - civil, criminal or administrative - for any of his official acts, no matter how erroneous, as long as he acts in good faith.[8] Only judicial errors tainted with fraud, dishonesty, gross ignorance, bad faith or deliberate intent to do an injustice will be administratively sanctioned.[9] To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment.[10]

Thus, the remedy of the aggrieved party is not to file an administrative complaint against the judge, but to elevate the assailed decision or order to the higher court for review and correction.[11] An administrative complaint is not an appropriate remedy where judicial recourse is still available, such as a motion for reconsideration, an appeal, or a petition for certiorari, unless the assailed order or decision is tainted with fraud, malice, or dishonesty.[12]

A perusal of the records failed to indicate any improper motive on the part of the respondent when he rendered the assailed decision. A judge's failure to interpret the law or to properly appreciate the evidence presented does not necessarily render him administratively liable.[13]

As the Court held recently in *Linda M. Sacmar v. Judge Agnes Reyes- Carpio*:[14]

An administrative complaint against a judge cannot be pursued simultaneously with the judicial remedies accorded to parties aggrieved by his erroneous order or judgment. Administrative remedies are neither alternative nor cumulative to judicial review where such review is available to the aggrieved parties and the same has not yet been resolved with finality. For until there is a final declaration by the appellate court that the challenged order or judgment is manifestly erroneous, there will be no basis to conclude whether respondent judge is administratively liable.[15]

The Court will not shirk from its responsibility of imposing discipline upon its employees and judges alike; but neither will it hesitate to shield them from unfounded suits that serve to disrupt rather than promote the orderly administration of justice.[16]

WHEREFORE, the instant administrative complaint against respondent Judge Zeus C. Abrogar is DISMISSED for lack of merit.

SO ORDERED.

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

[1] Letter-Complaint, pp. 1-2.

[2] *Id.* at 3.

[3] Comment, p. 5.

[4] *Ibid.*

[5] *Id.*

- [6] Report, p. 3.
- [7] Letter, p. 2.
- [8] *Castanos v. Escano*, 251 SCRA 174 (1995).
- [9] *Dr. Isagani A. Cruz v. Judge Philbert I. Iturralde*, A.M. No. RTJ No. 03-1775, April 30, 2003.
- [10] *Linda M. Sacmar v. Judge Agnes Reyes-Carpio*, A.M. No. RTJ-03-1766, March 28, 2003.
- [11] *Edgardo D. Balsamo v. Judge Pedro L. Suan*, A.M. No. RTJ-01-1656, September 17, 2003.
- [12] *Spouses De Guzman v. Judge Vil Pamintuan*, A.M. No. RTJ-02-1736, June 26, 2003.
- [13] *Mina v. Judge Gatdula*, A.M. No. MTJ-00-1264, February 4, 2002.
- [14] *Supra*, citing *Nelson Rodriguez and Ricardo Camacho v. Judge Rodolfo Gatdula*, A.M. No. MTJ-00-1252, December 17, 2002, and *Joaquin T. Borromeo* 311 Phil. 441 (1995).
- [15] *Id.* at 5. (Emphasis ours)
- [16] *Dr. Isagani A. Cruz v. Judge Philbert I. Iturralde*, *supra*.

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