

APOLONIA ANGELES GO (ONNIE GO), PETITIONER, VS. HON. ONOFRE A. VILLALUZ, JUDGE, CCC-7TH JUDICIAL DISTRICT, TEODORO B. SANTOS, ASST. CITY FISCAL OF PASAY CITY AND MILADAY JEWELS,...

G.R. No. L-37195. August 18, 1977

Ponente: FERNANDO, J.

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FERNANDO, J.:

It must have been on the basis of the due process requirements so emphatically stressed in *Gutierrez v. Santos*,^[1] of "every litigant [being] entitled to nothing less than the cold neutrality of an impartial judge,"^[2] that this petition, which on its face does not bear the earmarks of a thorough preparation, was conceived. For the grievance set forth was the belief that respondent Judge Onofre A. Villaluz^[3] had displayed excessive zeal in investigating a complaint for estafa against petitioner Apolonia Angeles Go and thereafter issuing a warrant of arrest against her, leading to her belief that there was pre-judgment and "that she cannot expect justice from the respondent Judge, to try and decide her case."^[4] What was sought in the final analysis was the disqualification of respondent Judge. Respondents were required to answer and a restraining order was issued by this Court in a resolution of September 17, 1973.

Thereafter, a comprehensive memorandum was filed on their behalf, the last paragraph of which reads: "On the issue that respondent Judge Onofre Villaluz should inhibit himself from trying and deciding the case for the reason that he has allegedly 'pre-judged' the case on the merits in the light of his findings during the preliminary investigation, we submit that this issue is premature because the petitioner never requested the respondent Judge to inhibit himself from trying the case. It is our submission that the respondent Judge should first be given the opportunity to inhibit himself. In the event that the respondent Judge, after being requested to inhibit himself, refuses and continues to try the case, only then may one come before this Court and raise the question of alleged 'pre-judgment' of the case."^[5]

No memorandum was filed on behalf of petitioner. Instead, a manifestation dated March 7, 1977 was submitted. It reads thus: "1. That this present case for Certiorari and Prohibition with Preliminary Mandatory Injunction is now pending for the final resolution of the Court. 2. That the respondent Judge, the Honorable Onofre A. Villaluz in his Order dated February 25, 1977 in CCC-VII 1372-Rizal, 'People of the Philippines v. Apolonia Angeles Go,' has inhibited himself from further trying and deciding this case (CCC-VII-1372-Rizal) and that in fact he has forwarded the entire records of this case (CCC-VII-1372-Rizal) for this Court's disposition. * * *. 3. That these favorable acts of the respondent judge have rendered the matters involved in this case which are purely legal technical questions, moot and academic."^[6] The attached order of respondent Judge is worded in this wise: "As prayed for in the motion, the Warrant of Arrest issued for the apprehension of the accused is hereby recalled. Pursuant to Section 1, par. 2, Rule 137 of the New Rules of Court, and in accordance with the case of "Umale v. Villaluz," considering that this court was the one who conducted the preliminary examination and investigation of this case in accordance with Section 13, Rule 112 of the New Rules of Court, the undersigned Presiding Judge

hereby inhibits himself from further trying and deciding this case, as far as the accused Annie Go is concerned." [7] It may be added that *Umale v. Villaluz* [8] cited by respondent Judge, reiterated the principle set forth in a case decided two months earlier against the same respondent Judge, *Mateo, Jr. v. Villaluz*. [9] It would seem, therefore, that there has been since then a fuller awareness on the part of respondent Judge of the implications of the standard of strict neutrality to be observed by occupants of the bench. That is as it should be.

WHEREFORE, as prayed for in the manifestation of petitioner, this petition for certiorari and prohibition is dismissed. The records of CCC-VII-1372, which respondent Judge transmitted to this Court, are remanded to the Court of First Instance of Rizal so that the Executive Judge could take the necessary steps to have this case raffled and thereafter proceeded with in accordance with the Rules of Court. No costs.

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

Barredo, J., reserves his opinion as to whether or not respondent judge may conduct a preliminary investigation and thereafter share the case to regular court of first instance, consistently with his opinion that Circuit Criminal Courts have no power to conduct preliminary investigations.

[1] 112 Phil. 184 (1961).

[2] *Ibid.* 189. Thirteen more decisions had been rendered since *Gutierrez*, the latest being *Villapando v. Quitain*, L-41333, January 20, 1977.

[3] The private respondents are Teodoro B. Santos, Assistant City Fiscal of Pasay City and Miladay Jewels, Inc.

[4] Petition, par. 15.

[5] Memorandum of Respondents, 11.

[6] Manifestation of Petitioner.

[7] Order of respondent Judge, dated February 25, 1977.

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

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

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