

CONCERNED BOHOLANOS FOR LAW AND ORDER, COMPLAINANTS, VS. JUDGE DIONISIO R. CALIBO, JR., RTC, BRANCH 50, LOAY, BOHOL, RESPONDENT.

A.M. No. RTJ-01-1621 (FORMERLY OCA IPI NO. 01-1121-RTJ). September 27, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

In an anonymous complaint dated August 28, 2000 filed by “Concerned Boholanos for Law and Order,” Judge Dionisio R. Calibo, Jr., of the Regional Trial Court (RTC), Branch 50, Loay, Bohol, is charged with conduct unbecoming a judge and highly unethical act for “publicly speaking on radio and in public fora regarding his bias and parochial views on certain controversial issues against public personalities and public officials.”

Required to comment, respondent claimed that the complaint was initiated by the “alter ego” of the provincial governor because of his objection to the sale of the performing assets of the provincial government of Bohol disadvantageous to the latter.

Then Court Administrator Alfredo L. Benipayo designated retired Justice Pedro A. Ramirez of the Court of Appeals, former Consultant in the Office of the Court Administrator, as Hearing Officer to investigate the complaint. On August 5, 2005, he submitted his Report and Recommendation.

After a review of Justice Ramirez’s Report and Recommendation, the Court RESOLVES to ADOPT and APPROVE his findings of facts and conclusions of law reproduced as follows:

Respondent Judge relates the antecedents of the controversy. He states that a very questionable and controversial project was being pursued by the Provincial Governor which was to sell the two major performing assets of the Province of Bohol, the Provincial Electrical System (PES) and the Provincial Waterworks System (PWS) of the Provincial Utilities Division (PPUD), without consulting its customers in Tagbilaran and Dauis, Bohol, which are the places served by these two utilities. It was shocking to the people because it was of public knowledge that these were the only major profitable ventures of the province. It was no surprise, therefore, that the residents of these two towns went on the air over the three radio stations vigorously protesting this move of the Governor.

Respondent Judge narrates that although he is one of the consumers affected by the projected sale, he kept silent. He claims that since his appointment, he had distanced himself from the media even if he was previously the head of the Department of Public Information. However, when it became apparent that the Governor was ignoring the legitimate issues presented by the people, he decided to take part in the debate. He studied the documents and concluded that indeed it was a contract that would be very disadvantageous to the province. He joined the oppositors and admits having gone on the air. Although the Governor did not do anything to stop him, other provincial officials tried to suppress respondent’s revelations on the air reasoning that being a Judge, respondent should not involve himself in controversy. The concerned consumers filed a petition to stop the projected sale at auction and respondent admits having taken the stand for the petitioners. As regards the statement of Judge Melicor in his order quoted above, the respondent Judge made no mention of

it in his Comment.

It was probably because of this Order of Judge Melicor describing the acts of respondent Judge attempting to influence another Judge who was presiding the injunction petition that prompted DCA Bernardo T. Ponferrada to recommend, despite the fact that the complaint is not under oath, that an investigation be conducted to determine the extent of Judge Calibo's liability.

x x x

x x x As it can be seen, the letter complaint is anonymous. For this reason, the undersigned is submitting this Report based on the pleadings extant on the record.

As regards going on the air to express one's opinion over a matter of public concern, the undersigned believes that respondent Judge cannot be held to answer administratively simply because he was only exercising his constitutional right to be heard in a petition for the redress of grievances. As a consumer and as a member of the body politic, it was his right, nay his duty to air what he honestly believed to be an incipient irregularity.

However, his two telephone calls to Judge Achilles L. Melicor who was presiding the court where the petition to stop the governor was pending, definitely violates the Code of Judicial Conduct, particularly Section 3 of Canon I, which states that "Judges shall refrain from influencing in any manner the outcome of litigation or dispute pending before another court or administrative agency."

Rule 140, Section 7, classifies gross misconduct constituting violations of the Code of Judicial Conduct as a serious offense and penalizes the same with "dismissal from the service, with forfeiture of benefits and with prejudice to reemployment; suspension from office without salary for more than three (3) but not exceeding six (6) months; or a fine of more than P20,000.00 but not exceeding P40,000.00."

Considering the inappropriateness of the calls made by respondent Judge to another Judge who was presiding the Court where the case was being heard, it is respectfully recommended that said respondent Judge Dionisio R. Calibo, Jr., be made to pay a fine of P25,000.00.

We observed, however, that this is the first time respondent Judge has been charged administratively. This is a mitigating circumstance. Hence, the recommended penalty of fine of P25,000.00 is reduced to only P20,000.00.

ACCORDINGLY, and as recommended by Justice Pedro A. Ramirez, Judge Dionisio R. Calibo, Jr. of the RTC, Branch 50, Loay, Bohol, is declared guilty of serious misconduct and is ordered to pay a FINE of P20,000.00, payable to this Court within ten (10) days from notice.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

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