

RODOLFO E. PARAYNO, CLEMARTIN B. ARBOLEDA, EDUARDO R. PEREZ, CASIMIRO C. CARANCHO, DIOSDADO T. SAMSON, MAXIMO G. SUMERA AND MARCELINO M. DELA CRUZ, PETITIONERS, VS. HON. ILUMINA...

G.R. No. 112684. April 26, 1994

Ponente: VITUG, J.

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VITUG, J.:

Petitioner Rodolfo Parayno is the incumbent municipal mayor of Urdaneta, Pangasinan. The other petitioners, namely, Clemartin Arboleda, Eduardo Perez, Casimiro Carancho, Diosdado Samson, Maximo Sumera and Marcelino Dela Cruz, are members of the Sangguniang Bayan of the municipality who, along with Parayno, are the protestees in separate election protests now still pending with the court a quo.

This petition for certiorari seeks to set aside the orders, dated 22 October 1993[1] and 16 November 1993,[2] of respondent Judge Iluminado Meneses of Branch 49, Regional Trial Court, of Urdaneta, Pangasinan, voluntarily inhibiting himself from hearing the election cases and denying petitioners' motion for the reconsideration thereof.

The mayoralty protest (docketed Case No. U-5346), involving Parayno, was originally raffled and assigned to Branch 45 of the Regional Trial Court, Urdaneta, Pangasinan, presided over by Judge Manuel Villanueva. The councilors' protest (docketed Case No. U-5347), involving the other petitioners, was assigned to Branch 49 of the Regional Trial Court, also sitting in Urdaneta, Pangasinan, with respondent Judge Iluminado Meneses presiding.

On 22 October 1992, a motion for the inhibition of Judge Villanueva was filed by petitioner Parayno, which the court promptly granted. After the records of Case No. U-5346 were thus forwarded to Executive Judge Romulo Abasolo, the latter, in an order, dated 26 October 1992, directed the assignment of the case to Branch 46 of the court but only after its presiding Judge, Hon. Roger Domagas, agreed to hear and try the case. Claiming impropriety in the assignment of the case, petitioner Parayno assailed before this Court the order of the Executive Judge. The Court issued a temporary restraining order and promptly remanded the case to the Court of Appeals for proper disposition. The appellate court set aside the questioned order of 26 October 1992, and it directed the Executive Judge to instead include the case in the regular raffle for re-assignment.

The case was thereupon re-raffled to Branch 49, where the councilors' protests were then pending. The Committee on Revision in Case No. U-5346, (the mayoralty protest) terminated its work on 07 October 1993 but prior to the submission of its report, a "Motion to Use Revision Committee Report Blank Form" was filed by protestant Lorenzo Mateo (herein private respondent). In the afternoon of 21 October 1993, while the revision of ballots in Case No. U-5347 (councilors' protest) was in progress, private respondent Mateo, the Revisor for the protestants-councilors in the Revision Committee, manifested:[3]

"x x x I would like also to make of record that the Trial Presiding Judge of Branch 49 is the same Trial Judge of this Electoral Protest Case U-5346, Parayno versus Mateo (sic) and therefore the Protestant look at it that there seems to be a certain degree of greater sympathy of the Trial Presiding Judge to the Protestee. x x x

(Verceles Transcript of Stenographic Notes, Civil Case No. U-5347, revision of Ballots on October 21, 1993, 1:45 p.m., pp. 6-7)

The following day, respondent judge issued the assailed order inhibiting himself from further hearing the two cases. The motion for a reconsideration of the order was denied by the judge.

Hence, this petition for certiorari.

We see merit in the petition.

Section 1, Rule 137, of the Rules of Court reads:

"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, or 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 the 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 underlying reason for the above rule is obviously to ensure that a judge, sitting in a case, will at all times be free from inclinations or prejudices and be well capable to render a just and independent judgment. A litigant, we often hear, is entitled to nothing less than the cold neutrality of a judge.[4] Due process requires it. Indeed, he not only must be able to so act without bias but should even appear to so be.[5] Impartiality is a state of mind; hence, the need for some kind of manifestation of its reality.[6]

Verily, a judge may, in the exercise of his sound discretion, inhibit himself voluntarily from sitting in a case, but it should be based on good, sound or ethical grounds,[7] or for just and valid reasons.[8] It is not enough that a party throws some tenuous allegations of partiality at the judge. No less than imperative is that it is the judge's sacred duty to administer justice without fear or favor.[9]

We take note that the electoral protests here involved have remained unresolved for quite some time now. Any further delay in the disposition of the cases, particularly election protests where public interest is heavily involved,[10] cannot be countenanced.

All told and given the circumstances, we view the call for judge's inhibition, and his acceding thereto, in this particular instance to be bereft of legal basis and improper.

WHEREFORE, the petition is GRANTED. The assailed Orders of the respondent Judge are SET ASIDE and he is directed to proceed with dispatch in resolving the election protests at bar. No costs.

SO ORDERED.

Feliciano, (Chairman), Bidin, Romero, and Melo, JJ., concur.

[1] Annex "M", Petition, Rollo, 53-54.

[2] Annex "K", Petition, Rollo, 47-49.

[3] Rollo, 44.

[4] Castillo vs. Juan, 62 SCRA 124, 126 /1975/.

[5] Conde vs. Superable, Jr., 29 SCRA 727, 735 /1969/.

[6] Fernandez vs. Presbitero, 79 SCRA 61, 64 /1977/.

[7] Del Castillo v. Javelona, 6 SCRA 146, 150 /1962/.

[8] Geotina v. Gonzalez, 41 SCRA 66, 74 /1971/.

[9] Concurring opinion of Mr. Justice Claudio Teehankee in Beltran v. Garcia, *supra.*, 177.

[10] Tatlonghari vs. Commission on Elections, 199 SCRA 849/1991/; Duremdes vs. Commission on Elections, 178 SCRA 746/1989/.

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