

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS,
HON. PEDRO S. ESPINA, CRISTETA REYES, JOHNY SANTOS, ANTONIO
ALEGRO, ROGELIO MENGUIN, PETE ALVERIO, ROGEN DOCTORA
AND...**

G.R. No. 118882. September 26, 1996

Ponente: MELO, J.

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MELO, J.:

Before us is a petition for review with an urgent prayer for a writ of preliminary injunction and/or restraining order which seeks to: (a) annul and set aside the decision of the Court of Appeals in CA-G.R. SP No. 31733 entitled "People of the Philippines vs. Hon. Pedro S. Espina et al.", insofar as it denied the People's prayer to inhibit respondent Judge Pedro S. Espina of the Regional Trial Court of Tacloban City from hearing Criminal Cases No. 93-01-38 & 9301-39, respectively, entitled "People of the Philippines vs. Cristeta Reyes, et al." and "People of the Philippines vs. Jane C. Go"; and b) enjoin respondent judge from conducting further proceedings in the aforesaid criminal cases.

Acting on the said petition, the Court on April 3, 1995 resolved to require respondents all of whom are the accused in the aforesaid criminal cases, to comment thereon within 10 days from notice, to issue the temporary restraining order prayed for, and to enjoin respondent judge from taking further action in Criminal Cases No. 93-01-38 & 93-01-39 until further orders from the Court.

It appearing that private respondents Cristeta Reyes & Rogen Doctora, Johnny Santos & Antonio Alegro & Jane C. Go failed to file their respective comments within the period which expired on April 17, 1995 and April 18, 1995, respectively, the Court on June 26, 1995 resolved to require said private respondents to show cause why they should not be disciplinary dealt with for such failure, and to file the required comments, both within ten (10) days from notice.

As to respondents Johnny Santos & Antonio Alegro (prisoners at the Tacloban City Jail), copies of the resolution requiring them to file comment were returned unserved with the postmaster's notation "unknown in said address". The Court, on October 11, 1995 directed the Solicitor General to serve the same on said respondents and to inform the Court of such service, both within ten (10) days from notice.

The Office of the Solicitor General filed a Compliance stating that the required copies were sent to private respondents Santos & Alegro through ordinary mail on December 26, 1995.

To date, all the respondents have not yet filed their comments, for verily, delay in the submission of the same would appear to benefit respondents, and sanction against them may not really amount to much, considering that most of them are under detention. Thus, so as not to unduly delay the disposition of Criminal Cases No. 93-01-38 and 93-01-39, we now resolve to dispense with respondent's comments and to proceed with the disposition of the petition.

One of the essential requirements of procedural due process in a judicial proceeding is that there must be an impartial court or tribunal clothed with judicial power to hear and determine the matter before it. Thus, every litigant, including the State, is entitled to the cold neutrality of an impartial judge which was explained in *Javier vs. Commission of Elections* (144 SCRA 194 [1986]), in the following words:

This Court has repeatedly and consistently demanded "the cold neutrality of an impartial judge" as the indispensable imperative of due process. To bolster that requirement, we have held that the judge must not only be impartial but must also appear to be impartial as an added assurance to the parties that his decision will be just. The litigants are entitled to no less than that. They should be sure that when their rights are violated they can go to a judge who shall give them justice. They must trust the judge, otherwise they will not go to him at all. They must believe in his sense of fairness, otherwise they will not seek his judgment. Without such confidence, there would be no point in invoking his action for the justice they expect.

Due process is intended to insure that confidence by requiring compliance with what Justice Frankfurter calls the rudiments of fair play. Fair play calls for equal justice. There cannot be equal justice where a suitor approaches a court already committed to the other party and with a judgment already made and waiting only to be formalized after the litigants shall have undergone the charade of a formal hearing. Judicial (and also extrajudicial) proceedings are not orchestrated plays in which the parties are supposed to make the motions and reach the denouement according to a prepared script. There is no writer to foreordain the ending. The Judge will reach his conclusions only after all the evidence is in and all the arguments are filed, on the basis of the established facts and the pertinent law.

In the case at bar, Judge Pedro Espina, as correctly pointed out by the Solicitor General, can not be considered to adequately possess such cold neutrality of an impartial judge as to fairly assess both the evidence to be adduced by the prosecution and the defense in view of his previous decision in Special Civil Action No. 92-11-219 wherein he enjoined the preliminary investigation at the Regional State Prosecutor's Office level against herein respondent Jane Go, the principal accused in the killing of her husband Dominador Go.

Judge Espina's decision in favor of respondent Jane Go serves as sufficient and reasonable basis for the prosecution to seriously doubt his impartiality in handling the criminal cases. Verily, it would have been more prudent for Judge Espina to have voluntarily inhibited himself from hearing the criminal cases.

WHEREFORE, the petition is hereby GRANTED. The decision of the Court of Appeals in CA-G.R. No. 31733 is hereby SET ASIDE and The Honorable Pedro Espina, Presiding Judge of Branch 7 of the Regional Trial Court of the 8th Judicial Region stationed in Tacloban is hereby declared disqualified from taking cognizance of Criminal Cases No. 93-01-38 and 93-01-39. It is further ordered that these criminal cases be re-raffled to another branch of the Regional Trial Court of Tacloban City.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Francisco, and Panganiban, JJ, concur.

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