

**ANTONIA J. GUTANG, ELIZABETH J. GUTANG, AND DAVID GUTANG,
PETITIONERS, VS. COURT OF APPEALS, HON. RAMON P. MAKASIAR,
PRESIDING JUDGE, BRANCH 35, REGIONAL TRIAL COURT, NCJR,
MANI...**

G.R. No. 124760. July 08, 1998

Ponente: MARTINEZ, J.

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MARTINEZ, J.:

This Petition for review on certiorari assails the decision of public respondent Court of Appeals in CA-G.R. SP No. 39067[1] which dismissed the petition for certiorari, mandamus and prohibition with a prayer for a temporary restraining order filed before it. The petition before public respondent sought:

- 1) the annulment of the orders dated July 26, 1995 and September 5, 1995, issued by respondent Judge Marino M. dela Cruz, Jr. of the Regional Trial Court of Manila, Branch 22, wherein said judge voluntarily inhibited himself from Civil Case No. R-82-5792 and subsequently denied the motion for reconsideration of the order of inhibition;
- 2) the issuance of an order enjoining respondent Judge Ramon P. Makasiar of Branch 35 of the same court from further acting in Civil Case No. R-82-5792; and,
- 3) the issuance of an order for respondent Judge Marino M. dela Cruz, Jr. to reassume jurisdiction over Civil Case No. R-82-5792[2].

The undisputed facts are as follows:

In an Order dated August 30, 1994, respondent Judge Marino M. de la Cruz, Jr. granted the two (2) motions filed by private respondents Alberto Looyuko and Juan Uy in Civil Case No. R-82-5792, namely: (1) a motion for issuance of the final deed of sale and for an order to cancel TCT 242 and to issue a new title for plaintiffs to vest title; and (2) a motion for issuance of a writ of possession, the dispositive portion of which reads:

“WHEREFORE, both motions are granted and accordingly let a writ of possession over the subject property issue in favor of the herein plaintiffs, Alberto Looyuko and Juan Uy and, further, T.C.T. No. 242 in the name of the Spouses Gutang is ordered cancelled and the Register of Deeds of Pasig, Metro Manila is ordered to issue another Transfer Certificate of Title over the said property in the name of plaintiffs Juan Uy and Alberto Looyuko, with all existing encumbrances in T.C.T. No. 242 to be carried over thereto.

“This is without prejudice to the right of oppositors under Section 17 of Rule 39 of the Rules of Court as decreed in the September 24, 1991 decision of the Court of Appeals in CA-G.R. SP No. 24505 as aforesated.

“SO ORDERED.”

Petitioner Antonia J. Gutang questioned the order before the respondent Court via a Petition for Certiorari and Prohibition with Temporary Restraining Order docketed as CA-G.R. SP No. 35213.

However, the petition was denied due course and dismissed for lack of merit.

Upon motion of private respondents, a writ of possession was issued by the court a quo in an Order dated August 30, 1994.

On May 17, 1995, private respondents filed a motion for alias writ of possession since the sheriff who previously served the writ of possession died.

On June 7, 1995, private respondents filed a Motion to Inhibit Judge Marino M. de la Cruz, Jr., alleging that for almost two (2) weeks from April 12, 1995, respondent Judge de la Cruz, Jr. did not act on their motion for the issuance of an alias writ of possession and appointment of a special sheriff which led them to seek the aid of the Office of the Court Administrator to direct the respondent judge to act on said motion. An opposition thereto was filed by the petitioners.

On July 26, 1995, respondent Judge de la Cruz, Jr. issued the assailed order denying the motion for inhibition but voluntarily inhibited himself, thus:

“WHEREFORE, the urgent motion for inhibition is hereby denied.

“However, as aforestated, the Presiding Judge voluntarily inhibits himself from further sitting in this case.

“Let the entire records of the case be immediately forwarded to the Office of the Executive Judge for immediate re-raffle in view of the other pending incidents to be passed upon by the judge to whom this case will be assigned.

“SO ORDERED.”[3]

A motion for reconsideration of the aforesaid order was denied.[4]

Pursuant to the Order dated July 26, 1995, the case was re-raffled to Branch 35 of the same court, presided by respondent Judge Ramon P. Makasiar.

Petitioners then filed a petition for certiorari, prohibition and mandamus with a prayer for the issuance of a temporary restraining order before the Court of Appeals. Public respondent dismissed the petition in its decision dated April 22, 1996.[5]

Hence, this Petition before this Court. Petitioners set forth the following grounds for the allowance of the petition:

I. THE COURT OF APPEALS HAS COMMITTED A REVERSIBLE ERROR OF LAW IN NOT GRANTING THE PETITION FOR CERTIORARI TO ANNUL THE ORDERS DATED JULY 25, 1995 AND SEPTEMBER 5, 1995 OF JUDGE MARINO M. DELA CRUZ, JR. INHIBITING HIMSELF, EVEN AS HE FOUND THAT THERE IS NO LEGAL AND FACTUAL BASIS FOR SAID INHIBITION.

II. THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR OF LAW IN NOT GRANTING THE PETITION FOR MANDAMUS TO COMPEL JUDGE MARINO DELA CRUZ, JR. TO PROCEED IN THE CASE.

III. THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR OF LAW IN NOT GRANTING THE PETITION FOR PROHIBITION AGAINST JUDGE RAMON MAKASIAR AND IN ANNULING HIS ORDER DATED MARCH 18, 1996 GRANTING THE ALIAS WRIT OF POSSESSION AND THE ALIAS WRIT OF POSSESSION ITSELF DATED MARCH 25, 1996.

The rule on inhibition and disqualification of judges is laid down in Section 1, Rule 137 of the Rules of Court, which states:

”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, 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 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 and valid reasons other than those mentioned above.”

As correctly pointed out by the public respondent Court of Appeals, the resolution of this case would hinge on the proper interpretation and application of the second paragraph of the above-mentioned provision.

While the second paragraph does not expressly enumerate the specific grounds for inhibition and leaves it to the sound discretion of the judge, such should be based on just and valid reasons.[6] The import of the rule on the voluntary inhibition of judges is that the decision on whether or not to inhibit is left to the sound discretion and conscience of the trial judge based on his rational and logical assessment of the circumstances prevailing in the case brought before him. It makes clear to the occupants of the Bench that outside of pecuniary interest, relationship or previous participation in the matter that calls for adjudication, there might be other causes that could conceivably erode the trait of objectivity, thus calling for inhibition. That is to betray a sense of realism, for the factors that lead to preference or predilections are many and varied.[7]

Thus, in the case at bar, the question is whether there were just and valid reasons for respondent Judge Marino dela Cruz to voluntarily inhibit himself from the case.

Petitioners contend that there are none. They argue that since respondent judge found the motion for inhibition to be without factual nor legal basis, unjustified and unfounded, as stated in the assailed order, there was no just and valid reason for him to inhibit voluntarily. It is thus contended that respondent judge committed a grave abuse of discretion amounting to lack of jurisdiction when he denied the motion for inhibition and at the same time voluntarily inhibited himself from the case. Petitioners also question the wisdom and legal soundness of the judgment of the Court of Appeals, contending that it was an error of law for the appellate court to deny the petition for certiorari, prohibition and mandamus filed by the above-named petitioners.

We are not convinced.

In the questioned order[8], respondent Judge Marino dela Cruz, Jr. invoked the ruling of this Court in the case of *Pimentel v. Salanga*, to wit:

“All the foregoing notwithstanding, this should be a good occasion as any to draw attention of all judges to appropriate guidelines in a situation where their capacity to try and decide a case fairly and judiciously comes to the fore by way of challenge from any one of the parties. A judge may not be legally prohibited from sitting in a litigation. But when suggestion is made of record that he might be induced to act in favor of one party or with bias or prejudice against a litigant arising out of circumstance reasonably capable of inciting such a state of mind, he should conduct a careful self-examination. He should exercise his discretion in a way that the people’s faith in the courts of justice is not impaired. A salutary norm is that he reflect on the probability that a losing party might nurture at the back of his mind the thought that the judge had unmeritoriously tilted the scales of justice against him. That passion on the part of a judge may be generated because of serious charges of misconduct against him by a suitor or his counsel, if not altogether remote. He is a man, subject to the frailties of other men. He should, therefore, exercise great care and caution before making up his mind to act or to withdraw from a suit where that party or counsel is involved. He could in good grace inhibit himself where that case could be heard by another judge and where no appreciable prejudice would be occasioned to others

involved therein. On the result of his decisions to sit or not to sit may depend on a great extent the all-important confidence in the impartiality of the judiciary. If after reflection he should resolve to voluntarily desist from setting in a case where his motives or fairness might be seriously impugned, his action is to be interpreted as giving meaning and substance to the second paragraph of Section 1, Rule 137. He serves the cause of the law who forestalls miscarriage of justice.”

While not expressly stated, respondent judge nevertheless did have a just and valid reason for voluntarily inhibiting himself. In the questioned order, it was evident that he thought it more prudent to inhibit himself than to have any decision, order or resolution he would make on the incidents of the case be put under a cloud of distrust and skepticism. In this sense, he would no longer be effective in dispensing justice to the parties to the litigation.

Taking the cue from the Pimentel case, the respondent Judge de la Cruz, Jr. Properly took heed of this Court’s advice, to wit:

“ . . . But when suggestion is made of record that he might be induced to act in favor of one party or with bias or prejudice against a litigant arising out of circumstance reasonably capable of inciting such a state of mind, he should conduct a careful self-examination. He should exercise his discretion in a way that the people’s faith in the courts of justice is not impaired. . . .”[9]

Truly, the presiding judge must maintain and preserve the trust and faith of the parties-litigants. He must hold himself above reproach and suspicion. At the very first sign of lack of faith and trust in his actions, whether well-grounded or not, the Judge has no other alternative but to inhibit himself from the case. When circumstances appear that will induce doubt as to his honest actuations and probity in favor of either party, or incite such state of mind, he should conduct a careful self-examination. He should exercise his discretion in a way that the people’s faith in the Courts of Justice is not impaired. The better course for the judge under such circumstances is to disqualify himself. That way, he avoids being misunderstood, his reputation for probity and objectivity is preserved. What is more important, the ideal of impartial administration of justice is lived up to.[10]

While we admire and commend petitioners for their scholarly examination and analysis of the cases[11] cited by public respondent, We take this occasion to remind petitioner that the cases merely showed instances when the court decided one way or another in tackling the issue of whether or not there were just and valid grounds for inhibition.

In the final reckoning, there is really no hard and fast rule when it comes to the inhibition of judges. Each case should be treated differently and decided based on its peculiar circumstances. The issue of voluntary inhibition is primarily a matter of conscience and sound discretion on the part of the judge. It is a subjective test the result of which the reviewing tribunal will not disturb in the absence of any manifest finding of arbitrariness and whimsicality. The discretion given to trial judges is an acknowledgment of the fact that these judges are in a better position to determine the issue of inhibition as they are the ones who directly deal with the parties-litigants in their courtrooms.

As such, mandamus would not lie to compel respondent Judge Marino M. dela Cruz, Jr. to proceed with hearing the case since the grant or denial of the motion to inhibit involves the exercise of discretion. The right or duty to exercise this discretion has been imposed on him by the Rules of Court with regard to any matter brought before him. Furthermore, petitioners have no vested right to the issuance of the motion to inhibit given its discretionary nature.

With regard to the prayer for “the issuance of an order enjoining respondent Judge Ramon P. Makasiar of Branch 35 of the same court from further acting in Civil Case No. R-82-5792,” respondent Court put the matter to rest in this manner:

“We now proceed to the question of whether co-respondent Judge Ramon Makasiar, Presiding Judge of Branch 35 of the same Court, to whom said case was re-raffled as a result of the voluntary inhibition of Judge dela Cruz, Jr. may be enjoined or prohibited from further acting in said case. Since the voluntary inhibition of Judge dela Cruz, Jr. was valid, Civil Case No. R-82-5792 must of necessity be re-assigned by raffle to another judge of the Regional Trial Court of Manila for disposition. Supreme Court Circular No. 7, dated September 23, 1974, provides:

‘IV. Re-assignment of Cases of Disqualified Judges. - In any case where the Judge concerned is disqualified or voluntarily inhibits himself, the records shall be returned to the Executive Judge and the case shall be included in the regular raffle for re-assignment. Another case, similar in category to the one re-assigned, shall be assigned by raffle to the disqualified or inhibiting Judge to replace the case so removed from his court.’

“The petition alleges that pursuant to the order of inhibition dated July 26, 1995, the Civil Case No. R-82-57920 was re-raffled and fell on Branch 35 presided by respondent Judge Ramon P. Makasiar. Be that as it may, and considering that the case was validly re-raffled pursuant to the aforecited Circular No. 7, respondent Judge Ramon P. Makasiar may proceed to take cognizance of the case and may not be enjoined by the writ of prohibition prayed for by the petitioner.”

WHEREFORE, the Petition is hereby DISMISSED. No costs.

SO ORDERED.

Regalado, (Chairman), Melo, Puno, and Mendoza, JJ., concur.

[1] Third Division, penned by Associate Justice Arturo B. Buena, Chairman, and concurred in by Associate Justices Angelina S. Gutierrez and Conrado M. Vasquez, Jr., Members

[2] cf. Decision, CA-G.R. SP No. 39067, Rollo, pp. 66-74

[3] Annex “A”, Rollo, pp. 51-53

[4] Annex “B”, Rollo, p. 54

[5] See Note 1

[6] Rodolfo E. Parayno, et. al. v. Hon. Iluminado Meneses, et.al., G.R. No. 112684, April 26, 1994 [231 SCRA 807]

[7] Mateo, Jr. vs. Villaluz, (50 SCRA 18), as cited in Query of Executive Judge Estrella T. Estrada, Regional Trial Court of Malolos, Bulacan, on the conflicting views of the Regional Trial Court -Judges Masadao and Elizaga re: Criminal Case No. 4954-M, Adm. Matter No. 87-9-3918-RTC, October 26, 1987 (155 SCRA 72).

[8] Annex “A”, Rollo, pp. 51-53

[9] Ibid.

[10] Intestate Estate of the Late Vito Borromeo, Patrocinio Borromeo-Herrera v. Fortunato Borromeo and Hon. Francisco P. Burgos, Judge of the CFI of Cebu, Branch II, G.R. Nos. L-41171, L-55000, L-62895, L-63818 and L-65995, July 23, 1987 [152 SCRA 171], citing Bautista v. Rebueno, G.R. No. L-46117, February 22, 1978 [81 SCRA 535].

[11] Gutierrez v. Santos 25 SCRA 249, Del Castillo v. Javelona 6 SCRA 146, Pimentel v. Salonga, 21 SCRA 160; Zaldivar v. Estenzo, 23 SCRA 533; Luque v. Kayanan, 29 SCRA 165, Paredes v. Gopengco, 29 SCRA 688; Beltran v. Garcia 41 SCRA 158; Mateo v. Villaluz, 50 SCRA 19; Umali v. Villaluz, 51 SCRA 84; Paredes v.

Abad , 56 SCRA 522 Palang v. Zosa 58 SCRA 776 Castillo v. Luan, 62 SCRA 124; People v. Ancheta 64 SCRA 90; Balieza v. Astorga, 60 SCRA 444; Martinez v. Gironella, 65 SCRA 245; Villapando v. Quintain, 75 SCRA 24; Bautista v. Rebuena, 81 SCRA 533; Ignacio v. Villaluz, 90 SCRA 16, Dimacula v. Concepcion, 117 SCRA 630 People v. Serrano, 203 SCRA 171.

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