

ROCKWELL PERFECTO GOHU, PETITIONER, VS. SPOUSES ALBERTO GOHU AND ADELAIDA GOHU, RESPONDENTS.*G.R. No. 128230. October 13, 2000*

Ponente: YNARES-SANTIAGO, J.

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This is a petition for review of the February 14, 1997 Decision of the Court of Appeals[1] dismissing CA-G.R. SP No. 40631 which, in turn, assailed the refusal of Judge Francisco Donato Villanueva of the Regional Trial Court of Makati, Branch 145, to inhibit himself from hearing Civil Case No. 89-5919.

Civil Case No. 89-5919 was a Complaint for Specific Performance filed by petitioner against respondents to compel them to accept the P500,000.00 balance of the purchase price of P600,000.00 for a parcel of land allegedly sold to him by the latter via an Option to Buy, and to execute a corresponding Deed of Sale thereafter. The case was originally heard before Branch 142 of the Makati Regional Trial Court with Judge Salvador P. De Guzman, Jr. presiding. In their Answer to the Complaint, respondents denied petitioner's claim, alleging that their signatures on the purported Option to Buy, as well as those of the supposed witnesses thereto, were forged.

Upon referral by the court, acting through Judge De Guzman, the National Bureau of Investigation (NBI) examined the sample signatures of respondent Alberto Gohu and those appearing on the subject Option to Buy. The NBI found that the questioned and sample signatures were not written by one and the same person. Thereafter, respondents moved to dismiss the case. Meanwhile, upon petitioner's motion, the signatures were referred by the trial court to the PC Crime Laboratory for further examination. Again, it was found that the sample and questioned signatures were written by two different persons. Accordingly, invoking such findings, respondent filed a Motion to Resolve Motion to Dismiss.

Before this incident could be resolved, petitioner filed a Motion for Inhibition, on the ground that respondent's designated attorney-in-fact was a relative of Judge De Guzman. This was denied by Judge De Guzman who clarified that said attorney-in-fact was not a close relative of his.

On June 28, 1991, Judge De Guzman granted the Motion to Dismiss but on appeal to the Court of Appeals, the dismissal order was reversed and the case ordered reinstated.[2]

Upon remand to the trial court, the case was repeatedly set for pre-trial conference.

On June 29, 1995, petitioner filed a Motion for Disqualification of Judge Francisco Donato Villanueva, who had replaced Judge Salvador as presiding judge of Branch 142, on the ground that a partner in the law office representing respondents, Gregorio Narvasa II, was the son-in-law of Atty. Eduardo C. Tutaan who, in turn, acted as counsel for Judge Villanueva in an administrative case filed against the latter.

On August 1, 1995, Judge Villanueva denied the said Motion and set the case for pre-trial conference on August 28, 1995. During the pre-trial conference, petitioner requested that he be allowed to have the signatures of respondent Adelaida Gohu as well as those of the two witnesses of the Option to Buy examined by expert

witnesses as well. This was denied by Judge Villanueva for being premature.

Following the continued resetting of the pre-trial, Judge Villanueva ordered the pre-trial terminated and for trial to commence. He then gave the parties five (5) days from receipt of the pre-trial order within which to file motions for correction thereof, if any, and set the first trial date of the case on February 16, 1996.

On the scheduled trial date, counsel for petitioner manifested that he had not yet received a copy of the pre-trial orders. Judge Villanueva thus gave him an unsigned copy and directed him to read the same and manifest any correction he may wish to make so that trial could proceed as scheduled.

On March 4, 1996, at the scheduled trial for reception of petitioner's evidence, petitioner instead filed a Second Motion for Inhibition based on Judge Villanueva's alleged actuations that "grossly exhibited his bias for private respondents and/or prejudice against the petitioner." The Motion was denied. On the same date, Judge Villanueva issued an Order stating that petitioner's case is deemed submitted for resolution without evidence in its support.

Meanwhile, the case was transferred to Branch 145 following the appointment of Judge Villanueva as presiding Judge of that Branch.

On March 26, 1996, petitioner filed a Motion for Reconsideration of Judge Villanueva's Resolution denying his Motion for Inhibition and his Order considering the case submitted for resolution without evidence.

Petitioner's Motion for Reconsideration was denied by Judge Villanueva in an Order dated April 22, 1996. Likewise, petitioner's Motion for Cancellation of the scheduled trial date thereafter was denied.

Petitioner went to the Court of Appeals on a petition for certiorari. The Court of Appeals rendered the assailed Decision on February 14, 1997, dismissing the petition for certiorari.

Hence, the instant petition for review anchored upon the following grounds -

I

THE HONORABLE COURT OF APPEALS ERRED IN NOT ORDERING THE INHIBITION OF JUDGE VILLANUEVA.

II

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT ALL OF THE ORDERS OF THE TRIAL COURT WERE ISSUED IN ACCORDANCE WITH LAW.[3]

In a string of cases decided by this Court, we said that while bias and prejudice, which are relied upon by petitioner, have been recognized as valid reasons for the voluntary inhibition of the judge under Rule 137, Section 1(2), of the Rules of Court, the rudimentary rule is that mere suspicion that a judge is partial is not enough. There should be clear and convincing evidence to prove the charge of bias and partiality. Bare allegations of partiality and prejudgment will not suffice. Bias and prejudice cannot be presumed especially if weighed against a judge's sacred obligation under his oath of office to administer justice without respect to person and do equal right to the poor and the rich.[4]

In the case at bar, we agree with the Court of Appeals that petitioner failed to convincingly show Judge Villanueva's bias or prejudice. Indeed, we are in accord with the Court of Appeals that such actuations did not engender suspicion and doubt as to the fairness and ability to decide the case with the cold neutrality of an impartial judge.

Petitioner complains that Judge Villanueva refused to order the examination of the signatures of respondent

Adelaida Gohu and those of the two alleged witnesses of the Option to Buy. However, as admitted by petitioner himself, the Order of Judge Villanueva merely declared such examination as premature. Certainly, petitioner was not barred from having such examination done on the said signatures at a later time, more properly during trial proper. In fact, the same Order specifically gives petitioner a chance to obtain an order for the examination of the signatures, to wit -

Nonetheless, in the light of the evidence on record, an examination of the signature of the wife of Alberto Gohu and the other instrumental witnesses allegedly appearing on the document designated "Option to Buy" would be premature at this time in the absence of any showing that such document was in fact duly executed and that they signed the document.

The plaintiff is directed to establish such precondition to the favorable consideration of the order sought when plaintiff presents evidence in support of its counter-claim on 08 and 10 April 1997 as scheduled.[5]

What is more, as expressed by Judge Villanueva, such examination was not ordered because it was not the function of the court to do so. Indeed, if petitioner thought the same crucial to his case, then it was his prerogative, if not duty, to have such examination done. He cannot and should not pass on such task to the court. Petitioner can very well undertake to submit such signatures to an expert witness on his own and, thereafter, call such expert witness to testify thereon. We note that an original copy of the subject Option to Buy was given to petitioner's counsel by Judge Villanueva for that purpose.

Petitioner also argues that Judge Villanueva was practically dictating to his counsel how to present evidence; insisting that petitioner be presented as first witness instead of their intended handwriting experts. On this score, we find good ground for Judge Villanueva's insistence that petitioner be presented as witness, simply because to wait for the expert witness would delay the progress of the case. Far from showing bias or prejudice, Judge Villanueva was merely complying with his sworn duty as a judge to administer justice without delay. In other words, Judge Villanueva was not directing petitioner on how to conduct his case but was merely fending off what was obviously petitioner's attempt to further delay the case. After all, an independent and fair judge should not allow the parties to practically control the proceedings in his court through obvious dilatory tactics.[6]

Petitioner next faults Judge Villanueva for insisting that his counsel make a manifestation as to any corrections he wished made on the pre-trial order on the very day an unsigned copy of the same was furnished him. However, it appears that petitioner was given a five-day period anew within which to make any such corrections, resulting in the cancellation of the scheduled trial dates for the presentation of his evidence on February 16 and 19, 1996. Instead, petitioner chose to file his second Motion for Inhibition.

Petitioner likewise claims that his second Motion for Inhibition was cursorily denied by Judge Villanueva on the same date it was filed. However, as explained by Judge Villanueva, it was petitioner himself who had asked for such immediate resolution in his Motion. We see no reason why immediate action on the Motion could not be taken inasmuch as no new grounds were raised therein. The one-page Motion simply called the attention of Judge Villanueva to his denial of the first Motion for Disqualification/Voluntary Inhibition. Again, swift action on the same should be commended rather than frowned upon, given the delay attendant to the case and the lack of genuine or new issue raised therein.

Neither do we see anything wrong in the transfer of the case from Branch 142 to Branch 145 following Judge Villanueva's appointment to the latter Branch. Supreme Court Administrative Circular No. 3-94 dictates that "every trial judge who has started hearing a case shall continue to hear and decide the case" and that "the case shall be transferred to the branch to which he is assigned." The record shows that at the time the case was transferred, respondents had already presented two (2) witnesses before Branch 142 where Judge Villanueva used

to preside, albeit during the pre-trial stage, whose testimonies respondents had adopted as part of the evidence in the main case. For all intents and purposes, then, Judge Villanueva already started to hear the case and should, therefore, continue to hear and decide the same.

Petitioner argues, and it is not disputed, that at the time of the transfer of the case to Branch 145, trial on the case had not yet commenced. Such argument, however, loses sight of the basic difference between the terms "hear" and "try" or "hearing" and "trial". As defined in Black's Law Dictionary, the term "trial" means a "judicial examination and determination of issues between parties to an action".[7] On the other hand, the term "hearing" is "frequently used in a broader and more popular significance to describe whatever takes place before magistrates clothed with judicial functions," "at any stage of the proceedings subsequent to its inception".[8]

Finally, petitioner questions Judge Villanueva's order which considers him to have waived his right to present evidence. Again, far from being tainted with bias and prejudice, such order upholds the court's duty to ensure that trial proceeds despite the deliberate delay and refusal to proceed on the part of one party. As may be gleaned from the Order of the trial court, when the case was called for presentation of evidence by petitioner, neither he nor his counsel responded. It is noted that this was already the third scheduled trial date for the presentation of petitioner's evidence. Also worth noting is the fact that close to seven (7) years had elapsed since the time of filing of the Complaint in 1989, until the time such Order considering petitioner to have waived his right to present his evidence was issued in 1996. To our mind, Judge Villanueva acted with judicious wisdom when he issued the questioned Order.

At any rate, it is too late in the day for petitioner to question this matter as he had actively participated in proceedings held subsequent to said Order.

In the light of all the foregoing, the instant petition for review must necessarily fail. In order to disqualify a judge on the ground of bias and prejudice, petitioner must prove the same by clear and convincing evidence. Petitioner failed to discharge this burden. This Court has to be shown acts or conduct of the judge clearly indicative of arbitrariness or prejudice before the latter can be branded the stigma of being biased and partial.[9]

WHEREFORE, for the reasons aforestated, the instant petition for review is hereby DENIED. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

[1] CA-G.R. SP No. 40631, penned by Associate Justice Gloria C. Paras, with Associate Justices Conrado M. Vasquez, Jr. and Romeo J. Callejo, Sr., concurring; Petition, Annex "A", Rollo, pp. 58-66.

[2] See Decision, CA-G.R. CV No. 34629, dated 10 November 1993.

[3] Petition for Review, p. 21; Rollo, p. 41.

[4] People v. Court of Appeals, G.R. No. 129120, 309 SCRA 709-710 [1999], citing Go v. Court of Appeals, 221 SCRA 397, 409-411 (1993); People v. Tuazon, 159 SCRA 315 (1988); People v. Serrano, 203 SCRA 171 (1991); Beltran v. Garcia, 41 SCRA 158 (1971); Aparicio v. Andal, 175 SCRA 569 (1989); and Pimentel v. Salanga, 21 SCRA 160 (1967).

[5] Petition, Annex "P"; Rollo, p. 104.

[6] See Dysico v. Judge Dacumos, A.M. No. MTJ-94-999, 262 SCRA 275 [1996].

[7] Black's Law Dictionary, 5th ed., p. 1348.

[8] Id., at p. 649.

[9] People v. Abdula, G.R. No. 118821, 18 February 2000, citing Webb v. People, 276 SCRA 243 (1997) and Aparicio vs. Andal, 175 SCRA 569 (1989).

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