44 Phil. 608

[. March 12, 1923]

IN RE IMPEACHMENT OF HONORABLE TOMAS FLORDELIZA, JUDGE OF FIRST INSTANCE OF THE SIXTEENTH JUDICIAL DISTRICT.

D E C I S I O N

MALCOLM, J.:

Six members of the bar of Sorsogon who, together, make claim to at least 50 per cent of the law practice of that province, have filed a verified petition in this court praying for the removal from office of the Honorable Tomas Flordeliza, Judge of First Instance of the Sixteenth Judicial District. The charges laid against the respondent Judge are, in general: (1) That on different occasions the respondent certified falsely as to the status of the cases pending decision before him, in violation of section 129 of the Administrative Code; (2) that the respondent is guilty of delay and lack of diligence in the disposition of the cases pending before him, in violation of section 165 of the Administrative Code, and generally accepted principles which determine judicial standards; and (3) that the respondent is guilty of partiality in the performance of his official duties.

A copy of the above-mentioned complaint was, by order of the court, furnished the respondent Judge, with instructions to answer the same. In response to this order, Judge Flordeliza has filed a verified answer, denying each and every charge, and suggesting the disbarment of the complainants. Certificates from the provincial commander of the Philippine Constabulary, the provincial governor of Sorsogon, and Attorney Robert E. Manly, as to the moral conduct, social standing, and integrity of the respondent have been furnished. The records of the cases in question have also been forwarded by the respondent.

We feel that we have before us all of the facts which are necessary for the

disposition of this matter. For this reason, therefore, we forego referring the charges to the Attorney-General for investigation and proceed to dispose of them as justice requires. For purposes of convenience, the order of the charges as found in the complaint will be departed from.

One charge is that the respondent Judge has proceeded in many cases with manifest and evident partiality. It is alleged that the Judge has deferred unduly to the accused Father Casiano de Vera, the accused Fermin Barranechea, the justice of the peace Gillego de Vera, the justice of the peace Felix Gallego, and Amado Gimenez, municipal president of Bacu, Sorsogon. It is further alleged that the Judge has acted with discourtesy toward the complainants, while showing a spirit of condescension to attorneys Francisco Arellano and Federico Jimenez. The respondent, on the other hand, proferred satisfactory explanation of these matters, mentioned in the complaint. At best a charge of partiality is difficult to prove and is one which is to be expected from disgruntled lawyers.

Under the subject of negligent performance of the duties of his office to the grave prejudice of the public interest, complainants allege that there are too many cases placed on the calendar for one day. Even without taking into consideration the expected explanation of the respondent, this, obviously, is a question which must rest in the discretion of the presiding Judge.

Under the same subject, it is further alleged that court sessions are held only for three hours and a half each day, while section 165 of the Administrative Code calls for not less than five-hour sessions of courts of first instance except on Saturdays. The respondent answers that he has held court for five hours each day as prescribed by the law. We accept the statement of his Honor.

Under the same subject, attention is invited to the fact that only 11 civil cases and 107 criminal cases, making a total of 118 cases were decided by Judge Flordeliza during the year 1921. The respondent Judge, on the contrary, states that 66 civil cases, 190 criminal cases, and 9 complaints against justices of the peace, or a total of 265 cases were disposed of. The annual report of the clerk of court of Sorsogon for the year 1921 shows that 11 ordinary civil cases, 4 probate cases, 3 land registration cases, 9 administrative investigations, and

81 criminal cases were decided during the year. The same report shows that 256 ordinary civil cases, 104 probate cases, 11 land registration cases, 1 administrative investigation, and 266 criminal cases, or a total of 638 cases were pending on December 31, 1921. As of September 30, 1922, according to data furnished by the office of the Attorney-General, 236 criminal cases, 262 civil cases, 108 probate cases, and 8 land registration cases, making 614 cases in all were pending decision in Sorsogon.

Under the same subject of negligence, the serious charge is made that there has been great delay in the disposition of criminal cases in which the accused is without bail. The time which has elapsed between the arrest of the defendant and the trial in these cases is between four months and nine months. In response, the Judge contends: (1) That he is not responsible for the accused before the complaint or information is filed; (2) that the postponements have been due to the failure of Government witnesses to appear; and (3) that where the complaint or information is filed in March or April, he may set the case for trial when court reopens in July or August.

We postpone our comment on the last two phases of the complaint until we reach an analysis of the case later on in the opinion.

The last and most serious charge presented, having a close relationship with the congestion of cases on the docket of the Court of First Instance of Sorsogon, the delay in the disposition of these cases, especially criminal cases, and the lack of diligence in catching up with the court work, concerns the alleged false certification of the respondent under section 129 of the Administrative Code, in order to secure the payment of his salary. Attention is invited to a number of cases which were decided beyond the ninety-day period mentioned in the law, and, with certain qualifications, these facts are admitted by the respondent. The latter, however, offers four reasons or, more accurately speaking, excuses, for this state of affairs. He says in the first place that the time taken by stenographers in transcribing their notes should not be counted in the computation of the ninety-day period. He contends in the next place that the vacation period should be excluded. He asserts in the next place that the period should begin to run from the date the clerk reported the case for decision. And, lastly, his construction of the law is, that an oral decision is sufficient.

The admitted facts require of us an interpretation and construction of section 129 of the Administrative Code, not alone to set right the respondent Judge, but in order to lay down a definite ruling for the benefit of all the members of the judiciary to whom the law applies. Said section 129, derived from Act No. 1552, reads as follows:

> "Judges and auxiliary judges of first instance, judges of municipal courts, and justices of the peace shall certify on their applications for leave, and upon salary vouchers presented by them for payment, or upon the pay rolls upon which their salaries are paid, that all special proceedings, applications, petitions, demurrers, motions, and all civil and criminal cases which have been under submission for decision or determination for a period of ninety days or more have been determined and decided on or before the date of making the certificate, and no leave shall be granted and no salary shall be paid without such certificate.
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> "In case any special proceeding, application, petition, demurrer, motion, civil or criminal case is resubmitted upon the voluntary application or consent in writing of all the parties to the case, cause, or proceeding, and not otherwise, the ninety days herein prescribed within which a decision should be made shall begin to run from the date of such resubmission."

The law requires that before leave shall be granted or salary shall be paid to any judge or auxiliary judge of first instance, he shall make a certificate that all cases and proceedings which have been under submission for determination or decision for a period of ninety days or more have been determined and decided on or before the date of making the certificate. The key words, needing construction, are "determined and decided."

The word "determined" is hardly the equivalent of "decided" and does not have quite as far-reaching a meaning. "Determine," it has been said, does not mean more than tried. (Goddard *vs*. Fullam [1865], 38 Vt., 75.) "Decided" or "decide," according to the lexicographers, is denned as "to form a definite opinion," "to render judgment." (*In re* Milford & M. R. R. [1895], 68 N. H., 570.) In this jurisdiction, upon the trial of a question of fact, the decision of the court must be given in writing and filed with the clerk. (C. C.

P., sec. 133.)

The meaning given to section 129 of the Administrative Code by the respondent Judge would result in qualifying the law where no such qualifications were intended. With special reference to the answer of the respondent Judge, we state that the vacation months should not be excluded in the computation of the ninety-day period prescribed by law, that the time should begin to run from the submission of the case, without awaiting notification from the clerk of court, and that an oral decision is not sufficient. As to the point that the time taken by a stenographer to transcribe his notes should not be taken into consideration, no hard and fast rule can be laid down. The general rule would be to conform with the intent of the law and thus not to permit decisions to be delayed for this reason, but conceivably special circumstances may arise, which cannot now be imagined, which would force the trial judge to await the transcription of the stenographer's notes for long periods of time; when they do the judge should so state.

Sometimes, in the United States, judges are prohibited from drawing their salaries so long as cases that have been submitted to them for decision for ninety days remain undecided. California is an instance of a jurisdiction with such a provision appearing in its Constitution. The law there is, however, somewhat more extensive and explicit than in the Philippines, because applying to members of the Supreme Court as well as to members of inferior courts, and because of this further provision: "In the determination of causes, all decisions of the Supreme Court and of the district courts of appeal shall be given in writing and the grounds of the decision shall be stated." (23 Cyc., 528; 5 Henning, General Laws of California, lxxxv; Meyers *vs*. Kenfield [1881], 62 Cal., 512.)

The purpose of the Philippine Legislature in placing section 129 of the Administrative Code and related provisions on the statute books is evident. With the judicial facts before it, the Legislature must have had in mind a forceful method reaching the pockets of the judges by which to spur them on to greater activity. This wise and salutary legislation it is now for this Tribunal to vitalize by equally wise and salutary interpretation and enforcement.

Much of the popular criticism of the courts which, it must be frankly

admitted, is all too often justified, is based on the laws' delay. Congested conditions of court dockets is deplorable and intolerable. It can have no other result than the loss of evidence, the abandonment of cases, and the denial and frequent defeat of justice. It lowers the standards of the courts, and brings them into disrepute.

The statistics relating to the unsatisfactory condition of judicial business in the Philippines are a matter of public knowledge. Said the report of the Special Mission to the Philippines: "The judges in too many courts do not realize the necessity of reaching early and prompt decisions and are too ready to postpone hearings and trials." It is known, also, that His Excellency, the Governor-General, and the Secretary of Justice, have given their attention to the subject, and have endeavored by all legitimate means to aid in cleaning up the court dockets. The members of the Supreme Court in an effort to do their part have cheerfully foregone vacations in order to catch up with accumulated legal business. But for the best results to attain, there must be judicial teamwork reaching from the capital to the most remote district, and from the highest to the lowest judicial officer.

One of the proposed canons for a decalogue for the judiciary is this: "The judge must cultivate a capacity for Quick decision. Habits of indecision must be sedulously overcome. He must not delay by slothfulness of mind or body the judgment to which a party is entitled." We write down our conformity.

The provision of law which is authority for this decision is section 173 of the Administrative Code, relating to the removal and suspension of Judges of First Instance. The grounds for removal of a judge of first instance therein provided are two: (1) Serious misconduct, and (2) inefficiency. In a recent decision on the general subject of impeachment of judges of first instance, it was said that for serious misconduct to exist, there must he reliable evidence showing that the judicial acts complained of were corrupt or inspired by an intention to violate the law, or were in persistent disregard of well-known legal rules. Again, it was said that impeachment proceedings are in their nature highly penal in character, and are governed by the rules of law applicable to criminal cases. The charges must therefore be proved beyond a reasonable doubt. (*In re* Impeachment of Honorable Antonio Horrilleno [1922], 43 Phil., 212.)

At common law there was an offense known as extortion in office, which was the taking by color of office, of money or other thing of value that is not due, before it is due, or more than is due. It has been held that a judge is removable from office for demanding and receiving compensation to which he is not entitled, and this is so notwithstanding he acts in good faith and in an honest belief that he id entitled to such compensation. The strict doctrine of these cases is: Here is one bad act; you ought not to have an opportunity to commit another. (15 R. C. L., 551; Commonwealth *vs*. Chambers [1829], 1 J. J. Marsh., 108; State *ex rel*. Rowe *vs*. District Court [1911], 44 Mont., 318; 27 Ann. Cas., 396, and note; Brackenridge *vs*. State [1889], 27 Tex. App., 513; 4 L. R. A., 360.)

That we do not adopt the rather harsh doctrines of these American cases is because the statutes there in question differ from ours and because we are not prepared to say that a judge should be separated from office where he apparently is acting in good faith, under a misconception of the law.

In conclusion, therefore, we have decided to pay no particular attention to the general charges of partiality and negligence which have been filed against Judge Flordeliza. We do find, however, that he has not displayed that interest in his office which stops not at the minimum of the day’s labors fixed by law, and which ceases not at the expiration of official sessions, but which proceeds diligently on holidays and by artificial light and even into vacation periods. Only thus can he do his part in the great work of speeding up the administration of justice and of rehabilitating the judiciary in the estimation of the people. The mountain of six or seven hundred pending cases in Sorsogon could be removed by a judge of first instance of alert mind and quick decision, not afraid of work, with the aid of a helpful bar and a sympathetic government.

As wilful and intentional wrongdoing in receiving compensation has not been demonstrated, we are not prepared to find that sufficient cause exists in our judgment involving serious misconduct or inefficiency as warrants us in recommending the removal of the respondent Judge to the Governor-General. We will take such a step if future derelictions of duty of this character recur.

Correcting, therefore, Judge of First Instance Tomas Flordeliza in his wrong

construction of section 129 of the Administrative Code, and admonishing him to proceed more assiduously in the performance of his judicial labors, it is our order that these proceedings be filed without further action. Copies of this decision shall be furnished the complainants, the respondent, and His Excellency, the Governor-General.

Araullo, C.J., Street, Avanceña, Villamor, Ostrand, Johns, and *Romualdez, JJ.,* concur.

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