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SECOND DIVISION

[G.R. Nos. L-37527-52. May 5, 1979]

ALFREDO C. IGNACIO, *petitioner, vs.* **THE HONORABLE JUDGE ONOFRE A. VILLALUZ, Judge, Circuit Criminal Court, 7th Judicial District, and THE PEOPLE OF THE PHILIPPINES,** *respondents.*

SYLLABUS

CONSTITUTIONAL LAW; BILL OF RIGHTS; DUE PROCESS; REQUIRES THAT LITIGANTS SHOULD BE REASSURED OF JUDGE'S BEING FAIR AND JUST. — Due process cannot be satisfied in the absence of that degree of objectivity on the part of a judge sufficient to reassure litigants of his being fair and just. Hence, to insure compliance with the demands of due process, to which every accused is entitled, in order that it may be said that every effort is always exerted to attain the ideal on an impartial administration of justice, the better alternative in cases where there is peril of unconscious bias or prejudice on the part of the judge to inhibit or disqualify himself from further continuing with the case.

APPEARANCES OF COUNSEL

Coronel Law Office for petitioner.

Solicitor General Estelito P. Mendoza, Assistant Solicitor General Alicia V. Sempio-Diy and *Trial Attorney Deusdedit B. Quijano* for respondents.

D E C I S I O N

FERNANDO, ***Acting C.J.:***

The assignment of respondent Judge to conduct the trial for the crimes of arson as well as of malversation for which petitioner Alfredo C. Ignacio was indicted started the train of events that

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led to this proceeding for *certiorari*.[1] Petitioner was convicted of arson and sentenced to suffer a penalty of *reclusion temporal*.[2] In the decision of respondent Judge in the arson case, he stated the following: "For instance, it had been duly established that Wilfredo Ignacio and Francisco Lara were among those consistently present in the meetings or conferences called by Alfredo Ignacio wherein his personal problems such as his substantial shortage and malversation case were mentioned and discussed, during which meetings or conferences, they agreed to burn the provincial capitol building of Rizal in order to destroy all evidences (*sic*) that may be used against him in his malversation case and to prevent discovery of his shortage in his accounts which amounted to ₱200,000.00, more or less. This motive for the burning of the capitol building by the accused Alfredo Ignacio and his henchmen had been duly established not only by the written statement of Romualdo Santiago but also by his testimony in court and also by the logical and inescapable conclusion that because of the big shortage of Alfredo Ignacio in his accounts and his malversation case, he had conceived and nurtured, even premeditated on the idea of burning all the evidences of said shortage and his malversation case as his last recourse to escape financial accountability and criminal liability therefor. *** Actually, however, thirty (30) of the forty (40) checks issued by accused Alfredo Ignacio had been encashed to himself and Mr. Pedro Flores, paying them from Government Funds under their respective custody, thereby giving rise to his (Alfredo Ignacio's) malversation case. Needless to say, these facts and circumstances are mute but eloquent proofs that Alfredo Ignacio and his cohorts among whom are his own son Wilfredo Ignacio and Francisco Lara had resorted to the burning of the

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[1] Petition, par. 7. Twenty-six informations for malversation was filed against petitioner and other persons.

[2] *Ibid*, par. 6. The penalty imposed was a minimum of 17 years, 4 months and one day of *reclusion temporal* to 20 years, as well as to indemnify the Provincial Government of Pasig, Rizal in the amount of ₱660,000.00 and to pay the share of the costs. His co-accused likewise convicted were Wilfredo Ignacio and Francisco Lara.

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Provincial Capitol Building so that all evidences (*sic*) kept therein and intended to be used against him in his shortage and his malversation case may all be destroyed and totally suppressed, and at the same time prevent the discovery of the big shortage in his accounts as Cashier III of the District Engineer's Office of Rizal Province."[3]

It was mainly on the basis of the above statement that petitioner moved for the inhibition of respondent Judge "praying that respondent Judge voluntarily inhibit himself from trying the said malversation cases pursuant to the second paragraph of Section 1, Rule 137 of the Revised Rules of Court which provides that '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.'"[4] He further stated "that because of the above findings made by His Honor in the arson case, it would be highly improbable to expect his Honor to view the evidence that petitioner may present in the malversation cases objectively and impartially inasmuch as whatever evidence petitioner may present to show his innocence of the charge of malversation, His Honor, influenced by his earlier pronouncement that the malversation was the motive for the arson, would find it difficult to reverse the basis of his judgment of conviction in the arson case, considering that 'however upright the judge, and however free from the slightest inclination but to do justice, there is peril of his unconscious bias or prejudice (*Del Castillo v. Javelona, et al.*, L-16742, Sept. 29, 1962, 6 SCRA 146, 149-151), and that 'any former opinion *** may still linger to affect unconsciously his present judgment, or lest he may be moved or swayed unconsciously by his knowledge of the facts which may not be revealed or stated at the trial, or cannot under the rules of evidence. No effort of the will can shut out memory; there is no art of forgetting. We cannot be certain that the human mind will deliberate and determine unaffected by that which it knows, but which it should forget in that process

[3] Petition, par. 19, Annex G, 6-8.

[4] *Ibid*, par. 17.

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***' (*Gutierrez v. Santos,* L-15824, May 30, 1961)."[5] Such petition for inhibition was denied by respondent Judge.[6] Immediate recourse was taken to this Court as a motion for reconsideration would be useless and to no avail as respondent Judge had made the parties understand that his denial was irrevocable.[7]

This Court required respondent Judge as well as the other respondent, the People of the Philippines, to comment. In the Comment submitted by Solicitor General Estelito P. Mendoza,[8] he alleged "that the actuations of the respondent Judge in the malversation cases against petitioner do not, by themselves, constitute sufficient and indubitable grounds to disqualify said judge from further trying and hearing said cases, ***:"[9] Nonetheless, they submitted that "in view of the close causal connection between Criminal Cases Nos. 569 to 594 against petitioner for malversation and Criminal Case No. 559 also against the latter for arson, and wherein the respondent judge, in convicting petitioner of said crime of arson, found that the motive of petitioner and his co-accused in burning the provincial capitol building of Rizal was precisely to destroy all evidences threat that could be used against said petitioner in the malversation cases against him, are constrained to agree with petitioner that sufficient reasons exist for him to entertain serious doubts and misgivings as to the degree of objectivity and neutrality with which the respondent judge can continue to try, and eventually decide, said malversation cases against him, considering that 'however upright the judge, and however free from the slightest inclination to do justice, there is peril of his unconscious bias or prejudice' (*Del Castillo v. Javelona,* 6 SCRA 146), so that to insure compliance with the demands of due process, to which every accused is entitled, and in order that it may be said that

[5] *Ibid,* par. 20.

[6] *Ibid,* par. 21.

[7] *Ibid,* par. 24.

[8] He was assisted by the then Assistant Solicitor General Alicia V. Sempio-Diy and the then Trial Attorney Deusdedit B. Quijano.

[9] Comment, 4.

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every effort is always exerted to attain the ideal of an impartial administration of justice, the better alternative under the circumstances would be for the respondent judge to inhibit or disqualify himself from further continuing with the trial of said malversation cases, thus assuring petitioner 'the cold neutrality of an impartial judge' (*Gutierrez v. Santos,* 2 SCRA 249); ***".[10] The petitory portion of such Comment considered as the answer reads as follows: "[Wherefore], it is respectfully recommended that an order be issued by this Honorable Court reversing the order of the respondent judge denying petitioner Alfredo Ignacio's petition for inhibition in Criminal Cases Nos. 569 to 594 for malversation; ordering said judge to desist from further hearing and trying the aforesaid malversation cases; and further ordering that said cases be raffled among the district judges of the Court of First Instance of Rizal."[11]

The petition must be granted.

It is difficult to understand the reluctance of respondent Judge to inhibit himself. In a case where he was named respondent, *Mateo, Jr. v. Villaluz*,[12] decided in 1973, this Court laid down the principle: "It is now beyond dispute that due process cannot be satisfied in the absence of that degree of objectivity on the part of a judge sufficient to reassure litigants of his being fair and just."[13] It is traceable to *Gutierrez v. Santos*,[14] a 1961 decision, cited in the petition. As a matter of fact, in Umale, five cases were relied upon in support of the conclusion reached, starting from *Del Castillo v. Javelona*,[15] likewise invoked by

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[10] *Ibid*, 6-7.

[11] *Ibid*, 10.

[12] L-34756-59, March 31, 1973, 50 SCRA 18.

[13] *Ibid*, 23.

[14] 112 Phil. 184.

[15] 116 Phil. 451 (1962). The four other cases are *People v. Gomez*, L-22345, May 29, 1967, 20 SCRA 293; *Pimentel v. Salonga,* L-27934, Sept. 18, 1967, 21 SCRA 160; *Luque v. Kayanan*, L-26826, Aug. 29, 1969, 29 SCRA 165; *Paredes v. Gopengco*, L-23710, Sept. 30, 1969, 29 SCRA 688.

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petitioner and referred to in the Comment of the Solicitor General. Such a doctrine has been consistently adhered to,[16] the latest case in point being *Bautista v. Rebueno*.[17]

WHEREFORE, the order of respondent Judge denying the petition for inhibition in Criminal Cases Nos. 569 to 594 for malversation is hereby nullified and set aside, respondent Judge being ordered to desist from further hearing and trying the aforesaid malversation cases which must be raffled among the District Judges of the Court of First Instance of Rizal, preferably all such cases to be tried by a single judge. This decision is immediately executory. No costs.

Aquino, Concepcion Jr. and *Santos, JJ.*, concur.

Antonio, J., concurs in the result.

Abad Santos, J., took no part.

Barredo, J., on official leave.

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[16] Cf. *Umale v. Villaluz*, L-23710, Sept. 30, 1969, 29 SCRA 688; *Paredes v. Abad,* L-36927-28, April 15, 1974, 56 SCRA 522; *Palang v. Zosa*, L-38229, Aug. 30, 1974, 58 SCRA 776; *People v. Ancheta*, L-29993, May 19, 1975, 64 SCRA 90; *Marcos v. Domingo*, Adm. Case No. 203-CJ, May 29, 1975, 64 SCRA 206; *Martinez v. Gironella,* L-37635, July 22, 1975, 65 SCRA 245; *Balieza v. Astorga*, Adm. Case No. 202-MJ, April 30, 1976, 60 SCRA 444; *Villapando v. Quitain.* L-41333, Jan. 20, 1977, 75 SCRA 24.

[17] L-46117, February 22, 1978, 81 SCRA 535.