Supreme Court E-Library

to the folly of her act. Inasmuch as a Petition for *Certiorari* (G.R. No. 133535) raising the same issue had already been submitted by her mother before the Court at the time, the present Petition for *Habeas Corpus* should not have been filed at all. A motion in G.R. No. 133535 asking for Mrs. Organo's release would have accomplished the same result even more expeditiously and would have avoided the double vexation on this Court's time and attention. While the elements of forum shopping may not be present because the herein petitioner was not a party in G.R. No. 133535, still we must express our displeasure at the attempt to vex this Court twice for the same relief. Hence, though granted relief, petitioner is assessed costs.

WHEREFORE, the Petition is *GRANTED* and the Manila jail warden is *ORDERED* to immediately release Lilia B. Organo from custody, unless a valid information has been filed in the proper court and a warrant for her arrest properly issued. Costs against petitioner.

SO ORDERED.

Melo (Chairman), Vitug, Purisima, and *Gonzaga-Reyes, JJ.*, concur.

EN BANC

[A.M. No. RTJ-99-1508. December 15, 1999.]
(formerly A.M. OCA IPI NO. 96-232-RTJ)

FLAVIANO B. CORTES, *complainant, vs.* **JUDGE SEGUNDO B. CATRAL,** *respondent.*

SYNOPSIS

Complaints for Grave Misconduct and Gross Ignorance of the Law were filed by complainant against respondent judge. In his first letter-complaint, complainant alleged that on January

Supreme Court E-Library

26, 1996, respondent judge who had personal knowledge of the illegal game being operated by his nephew, Julio "Bong" Decierto, refused to act upon the applications for search warrant without any valid ground. Instead , respondent judge referred the said applicants to the municipal trial court knowing fully well that municipal trial court judges cannot act on applications for search warrant when there are available regional trial court judges. In addition, complainant averred that all criminal cases against Julio "Bong" Decierto and Jimmy Siriban, are always raffled to the sala of respondent judge. As regards charges of Gross Ignorance of the Law, complainant alleged that Mrs. Lilia Lee's petition for letters of administration before the respondent Judge was not raffled off, that the creditors and heirs concerned were not notified and that the said petition was not published. On his part, respondent Judge denied knowledge of subject applications for search warrant. He theorized that on January 26, 1996, he was in Buguey, Cagayan inspecting the municipal trial court docket of that town, in his capacity as Executive Judge. Respondent Judge branded as a brazen lie the averment in the second Complaint. Respondent Judge likewise denied the allusion by complainant that cases of Julio "Bong" Decierto had always been raffled to his sala. In his reply, complainant cited orders issued by respondent Judge, and other proofs indicating that the latter handled several cases of Julio "Bong" Decierto and companions.

Disqualification of judges is governed by Section 1, Rule 137 of the Rules of Court, which expressly disqualifies a judge from sitting in a case on account of close relationship with any of the parties. Under the attendant facts and circumstances at bar, the Supreme Court found that the actuations of respondent Judge in connection with applications for orders of arrest and other motions in a criminal case, wherein his nephew, Rodolfo "Bong" Decierto, was charged with Murder, were improper. Respondent Judge should have refrained from acting in such cases involving his nephew and the latter's cohorts, considering the unfavorable perception in the community that he was tolerating his nephew's illegal activities. Undoubtedly, such an impression of the public is destructive of the good image of the judicial system. As regards complainant's charges of Gross Ignorance of the Law, the Court found no evidence

Supreme Court E-Library

on record to prove complainant's allegations. Hence, the Supreme Court upheld the report of the Court of Appeals finding respondent Judge guilty of Grave Misconduct. Considering that he had retired from the judiciary on March 25, 1998, in lieu of the recommended suspension for six (6) months without pay, respondent Judgewas ordered to pay a fine of Fifteen Thousand (₱15, 000.00) Pesos, to be deducted from whatever retirement benefits due him.

SYLLABUS

1. **REMEDIAL LAW; DISQUALIFICATION OF JUDGES; A JUDGE SHOULD NOT PRESIDE OVER A CASE IN WHICH HE IS NOT FREE, DISINTERESTED AND IMPARTIAL; REASON.** — Disqualification of judges is governed by Section 1, Rule 137 of the Rules of Court, which expressly disqualifies a judge from sitting in a case on account of close relationship with any of the parties. In *People vs. Serrano*; (203 SCRA 171, 180 [1991] citing *Gutierrez vs. Santos, etc. et al.*, 2 SCRA 249 [1961]), it was held that in construing and applying the aforecited provision of law, the Court should not disregard its true intention and the real ground for the disqualification of a judge or judicial officer, which is the impossibility of rendering an impartial judgment on the matter before him. It has been held also, that due process of law requires a hearing before an impartial and disinterested tribunal, and that every litigant is entitled to nothing less than the cold neutrality of an impartial judge. (30 Am. Jur. p. 767) Moreover, second only to the duty of rendering a just decision, is the duty of doing it in a manner that will not arouse any suspicion as to the fairness and integrity of the Judge. Consequently, the true intention of the law is that no judge shall preside over a case in which he is not free, disinterested and impartial (30 Am. Jur. *supra*) because — "x x x However upright the judge, and however free from the slightest inclination but to do justice, there is peril of his unconscious bias or prejudice, or lest any former opinion formed *ex-parte* may still linger to affect unconsciously his present judgment 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;

Supreme Court E-Library

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.' x x x" (Ann. Cas. 191 7 A, p. 1235).

2. **JUDICIAL ETHICS; JUDGES; GRAVE MISCONDUCT; RESPONDENT JUDGE FOUND GUILTY THEREOF FOR PARTICIPATING IN CASES INVOLVING HIS NEPHEW AND THE LATTER'S COHORTS IN CASE AT BAR.** — After a careful examination of the evidence and records on hand, the Court upholds the report of the investigating Justice of the Court of Appeals, finding respondent Judge is guilty of Grave Misconduct. Under the attendant facts and circumstances at bar, the Court is of the irresistible finding and conclusion that the actuations of respondent Judge in connection with applications for orders of arrest and other motions in Criminal Case No. II-6563, wherein his nephew, Rodolfo "Bong" Decierto, was charged with Murder, were improper. Respondent Judge should have refrained from acting in such cases involving his nephew and the latter's cohorts, considering the unfavorable perception in the community that he (respondent Judge) was tolerating his nephew's illegal activities. Undoubtedly, such an impression of the public is destructive of the good image of the judicial system.

3. **ID.; ID.; CHARGES OF GROSS IGNORANCE OF THE LAW; NOT PROVED IN CASE AT BAR.** — As regards complainant's charges of Gross Ignorance of the Law against the respondent Judge, there is no evidence on record to buttress the allegations that Mrs. Lee's petition for letters of administration before the respondent judge was not raffled off, that the creditors and heirs concerned were not notified and the said petition was not published. Besides, the respondent Judge submitted documentary evidence of his compliance with the required special raffle and publication of subject petition.

D E C I S I O N

PURISIMA, *J.*:

Under consideration here are two letter-complaints of Flaviano B. Cortes, a private citizen and taxpayer in the Municipality of

Supreme Court E-Library

Aparri, Cagayan, charging Judge Segundo B. Catral with Grave Misconduct (Dereliction of Duty, Abuse of Authority) and Gross Ignorance of the Law.

According to the allegations of the first Complaint, mentioned in the official report submitted by Col. Enrique B. Galang, Jr. to the Regional Director in Camp Aduru, Tuguegarao, Cagayan, on January 26, 1996 police investigators from the headquarters of the Cagayan Provincial Command brought before Judge Segundo B. Catral applications for search warrant against Edgar Navarro, Arnel Duran, Onchie Rescar, Rudy Abinan, Michael Villados and Ronnie Melvar, who were reported to be operating proscribed video carrera machines, and managing the said games for one Julio "Bong" Decierto in Aparri, Cagayan. After going over such applications for search warrant, Judge Catral who had personal knowledge of the illegal game being operated by his nephew, Julio "Bong" Decierto, refused to act upon the applications for search warrant, without any valid ground. Instead, he referred the said applicants to municipal trial court Judge Felino Bangalan, knowing fully well that municipal trial court judges cannot act on applications for search warrant when there are available regional trial court judges. The same applicants for search warrant were directed to go to Judge Benedicto Paz of the Regional Trial Court, who told them that subject applications for search warrant should first be coursed through the Executive Judge (who, at the time, was Judge Catral). As a result of the delay of the action on, and exposure of, the said applications for search warrant, the whole thing must have leaked out and the operation to confiscate the illegal video carrera machines became futile and failed. Complainant also averred that "all criminal cases against Julio 'Bong' Decierto and Jimmy Siriban, notorious characters of Aparri, but politically influential, are always raffled to the sala of Judge Catral. x x x Judge Catral, being the Executive Judge, has control over the raffle of cases." (*Rollo*, p. 110)

In the second letter-complaint, Judge Segundo B. Catral is charged with Gross Ignorance of the Law, in that when a certain

Supreme Court E-Library

Mrs. Lilia Lee filed a petition for letters of administration for properties of her husband, Bondy Lee, who was found guilty of murder, the petition of Mrs. Lee was assigned sans any raffle to the sala of Judge Segundo B. Catral, who immediately acted thereon without the required publication and notice to the creditors and heirs of Bondy Lee, in violation of the rules.

Respondent Judge denied knowledge of subject applications for search warrant. He theorized that on January 26, 1996, he was in Buguey, Cagayan, inspecting the municipal trial court docket of that town, in his capacity as Executive Judge. To support his allegation, he (respondent Judge) produced affidavits of: Marcelo C. Cabalbag, then his Clerk of Court, Judge Herminio del Castillo, Presiding Judge of the Metropolitan Trial Court of Buguey, Cagayan, and of the latter's clerk of court, Rogelio Ligsay, to the effect that respondent Judge was not really in his sala on January 26, 1996, to receive and act upon subject applications for search warrant.

Respondent Judge also presented as his witness SPO2 Jonathan W. Santos, one of the police investigators alluded to in Col. Galang, Jr.'s report. Witness SPO2 Santos declared that when he went to the hall of justice on January 26, 1996, he was informed by Marcelo C. Cabalbag that the respondent judge was not available because he was in Buguey, Cagayan, inspecting the docket of the Buguey Municipal Trial Court, such that the said Clerk of Court instructed them (police investigators) to go to Vice Executive Judge Benedicto Paz but the latter did not want to act on subject applications for search warrant, because the same were not assigned through raffle. As a consequence, their (police investigators) mission to confiscate video carrera machines in funhouses was not carried out due to the absence of a regional trial court judge to act on their applications for search warrant.

Respondent Judge branded as a brazen lie the averment in the second Complaint that a petition for letters of administration filed by Mrs. Lilia Lee was not raffled. He exhibited a

Supreme Court E-Library

Certification (Annex "A") evincing compliance with the requirement under Supreme Court Circular No. 36-96 for a special raffle, and an Order issued by his office on July 25, 1996 (Annex "B"), granting the motion of movant for a special raffle of the said case. On the lower portion of such Order, respondent Judge invited attention to the initials of representatives of the different branches of the regional trial courts in Aparri, Cagayan, to show that their representatives were given notice and they actually attended the raffle of subject petition. Respondent Judge also attached copies of several clippings of local newspapers (Annexes "D", "E", "F", "G", "H", "I") in circulation in Aparri, Cagayan, which published Mrs. Lee's petition for letters of administration, in acceptance with Section 3, Rule 79, in relation to Sections 3 and 4 of Rule 76 of the Rules of Court. (*Rollo*, pp. 133-134)

Respondent Judge likewise denied the allusion by complainant that cases of Julio "Bong" Decierto have always been raffled to his sala. He (respondent Judge) contended that the complainant, Flaviano B. Cortes, is a blackmailer out to besmirch his reputation, and in the case of Col. Galang, who was relieved as Police Director of Cagayan, probably made remarks derogatory to him and to other judges to cover up his (Col. Galang's) inefficient leadership in the province. (*Rollo*, pp. 115-116)

In his Reply, the complainant cited orders issued by respondent Judge, and other proofs indicating that the latter handled the following cases of Julio "Bong" Decierto and companions, to wit: (a) Orders dated August 23, 1996 and February 15, 1997, respectively, in Criminal Case No. 6563, granting the Motions to Substitute Property Bond with Cash, where Julio "Bong" Decierto, a co-accused in that case for murder, acted as bondsman; (b) Order dated February 21, 1997 in Criminal Case No. II-6563, denying the motion for the issuance of warrant of arrest against Julio "Bong" Decierto, on the given ground that the said motion was premature because of the pendency of a Motion For Reconsideration to Recall the Information filed with the Department of Justice; (d) Supreme Court Resolution, dated

Supreme Court E-Library

February 11, 1997, regarding the Request for Transfer of Venue of Criminal Case No. II-6563, and (e) Letter of Olga Olerina, dated April 30, 1997, addressed to the respondent Judge, requesting for the transmittal of the records of Criminal Case No. 6563 to the Regional Trial Court of Manila, in compliance with a Supreme Court Resolution *En Banc*, dated April 15, 1997, showing clearly that the respondent Judge was actually handling such case of his said nephew before the venue of the case was transferred to Manila.

On June 25, 1997, after receiving the Comment of respondent Judge, the Court resolved to refer the case to the Court of Appeals for investigation, report and recommendation.

On January 12, 1998, after due hearing, Justice Jainal D. Rasul of the Court of Appeals found respondent Judge Segundo B. Catral guilty of Grave Misconduct, and recommended suspension without pay of respondent Judge for at least six (6) months. Justice Rasul ratiocinated and concluded thus:

"x x x The complainant's claim relative to respondent Judge's participation in cases involving his nephew Julio Bong Decierto and associates is *substantially supported* by the records of the cases under investigation, especially as regards *Criminal Case No. 6563*, notwithstanding persistent respondent's denial. The respondent-Judge relationship to Julio Bong Decierto, Operator of the Video Carrera Machines is *admitted* by respondent himself and is *well known in the community*.

x x x x x x x x x"

Respondent Judge's claim that the complaint is entirely baseless cannot easily be accepted as correct in the light of his admission of his relationship to Julio Bong Decierto, a well-known figure in Aparri in gambling activities and in Criminal Case No. 6563 as accused for Murder. x x x We cannot just close our eyes or fold up our arms to the fact that he actually failed to exercise that degree of care necessary for a Judge's delicate task in the correct and prompt dispensation of justice. x x x" (CA Report, pp. 12-14)

After a careful examination of the evidence and records on hand, the Court upholds the report of the investigating Justice

Supreme Court E-Library

of the Court of Appeals, finding respondent Judge is guilty of Grave Misconduct.

Disqualification of judges is governed by Section 1, Rule 137 of the Rules of Court, which expressly disqualifies a judge from sitting in a case on account of close relationship with any of the parties. Section 1, Rule 137, reads:

"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 the 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.

x x x x x x x x x"

In *People vs. Serrano*, (203 SCRA 171, 180 [1991] citing *Gutierrez vs. Santos, etc. et al.*, 2 SCRA 249 [1961]), it was held that in construing and applying the aforecited provision of law, the Court should not disregard its true intention and the real ground for the disqualification of a judge or judicial officer, which is the impossibility of rendering an impartial judgment on the matter before him. It has been held also, that due process of law requires a hearing before an impartial and disinterested tribunal, and that every litigant is entitled to nothing less than the cold neutrality of an impartial judge. (30 Am. Jur. p. 767) Moreover, second only to the duty of rendering a just decision, is the duty of doing it in a manner that will not arouse any suspicion as to the fairness and integrity of the Judge. Consequently, the true intention of the law is that no judge shall preside over a case in which he is not free, disinterested and impartial (30 Am. Jur. *supra*) because —

"'x x x However upright the judge, and however free from the slightest inclination but to do justice, there is peril of his unconscious bias or prejudice, or lest any former opinion formed *ex-parte* may still linger to affect unconsciously his present judgment lest he may

Supreme Court E-Library

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.' x x x" (Ann. Cas. 191 7 A, p. 1235).

Under the attendant facts and circumstances at bar, the Court is of the irresistible finding and conclusion that the actuations of respondent Judge in connection with applications for orders of arrest and other motions in Criminal Case No. II-6563, wherein his nephew, Rodolfo "Bong" Decierto, was charged with Murder, were improper. Respondent Judge should have refrained from acting in such cases involving his nephew and the latter's cohorts, considering the unfavorable perception in the community that he (respondent Judge) was tolerating his nephew's illegal activities. Undoubtedly, such an impression of the public is destructive of the good image of the judicial system.

As regards complainant's charges of Gross Ignorance of the Law against the respondent Judge, there is no evidence on record to buttress the allegations that Mrs. Lee's petition for letters of administration before the respondent judge was not raffled off, that the creditors and heirs concerned were not notified and the said petition was not published. Besides, the respondent Judge submitted documentary evidence of his compliance with the required special raffle and publication of subject petition.

According to records, Judge Segundo Catral availed of optional retirement which became effective on March 25, 1998, and his retirement benefits were withheld pending the outcome of two (2) administrative complaints filed against him.

WHEREFORE, respondent Judge Segundo B. Catral is found guilty of Grave Misconduct. Considering that he had retired from the judiciary on March 25, 1998 in lieu of suspension for six (6) months without pay, respondent Judge is hereby sentenced to pay a fine of Fifteen Thousand (₱15,000.00) Pesos, to be deducted from whatever retirement benefits due him.

Supreme Court E-Library

SO ORDERED.

Davide, Jr., C.J. (Chairman), Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and *De Leon, Jr., JJ.*, concur.

EN BANC

[G.R. No. 124374. December 15, 1999]

ISMAEL A. MATHAY, JR., in his capacity as MAYOR OF QUEZON CITY, *petitioner, vs.* **COURT OF APPEALS, CIVIL SERVICE COMMISSION, EDUARDO A. TAN, LOURDES M. DE GUZMAN, MANUEL CHUA, ANSELMO MATEO, CHRISTOPHER SANTOS, BUENAVENTURA PUNAY, ENRICO BANDILLA, FELINO CAMACHO, DANTE E. DEOQUINO, JAIME P. URCIA, JESUS B. REGONDOLA, ROMUALDO LIBERATO, CESAR FRANCISCO, WILLIAM PANTI, JR., MICHAEL A. JACINTO and CESAR DACIO,** *respondents.*

[G.R. No. 126354. December 15, 1999]

CIVIL SERVICE COMMISSION, *petitioner, vs.* **THE HON. COURT OF APPEALS and ISMAEL A. MATHAY, JR.,** *respondents.*

[G.R. No. 126366. December 15, 1999]

ISMAEL A. MATHAY, JR., in his capacity as MAYOR OF QUEZON CITY, *petitioner, vs.* **COURT OF APPEALS, CIVIL SERVICE COMMISSION and SANDY C. MARQUEZ,** *respondents.*