Supreme Court E-Library

FIRST DIVISION

[A.M. No. (2170-MC) P-1356. November 21, 1979]

HON. REMIGIO E. ZARI, *complainant*, *vs.* **DIOSDADO S. FLORES**, *respondent*.

SYLLABUS

ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; COURT PERSONNEL; REMOVAL OF RESPONDENT FROM THE SERVICE; WARRANTED BY EVIDENCE IN CASE AT BAR.— It is a fact that the respondent was convicted of libel in Criminal Case No. Q-7171 of the Court of First Instance of Rizal, Branch IV, at Quezon City. While this fact alone is not sufficient to warrant disciplinary action, the respondent's conviction for libel shows his propensity to speak ill of others. His letter dated March 11, 1976 to Judge Minerva C. Genovea, then Executive Judge of the City Court of Quezon City contains defamatory and uncalled for language. The handwritten notes of the respondent regarding different cases pending in Branch VI of the City Court of Quezon City, presided by the complainant, Judge Remigio E. Zari, show that the respondent had exerted undue influence in the disposition of the cases mentioned therein. It is true that conviction for libel does not automatically justify removal of a public officer. However, the fact of conviction for libel of the respondent, taken together with the letter he wrote to then Executive City Judge of the City Court of Quezon City, Judge Minerva C. Genovea, shows the tendency of the respondent to malign people. Respondent's act of interfering in the cases pending before Branch VI of the City Court of Quezon City presided by the complainant is inimical to the service. This alone warrants severe disciplinary measures. In his affidavit subscribed and sworn to before then City Judge Oscar A. Inocentes on June 10, 1969, the respondent stated "That I am a person of good moral character and integrity and have no administrative, criminal or police record." This averment is not true because the respondent had been convicted of libel in Criminal Case No. Q-7171, of the Court of First Instance of Rizal, Branch IV, in a sentence dated April 28, 1967. This

Supreme Court E-Library

prevarication in a sworn statement is another ground for serious disciplinary action. The removal from the service of the respondent is warranted by the evidence adduced during the investigation conducted by Judge Sergio A. F. Apostol of the Court of First Instance of Rizal, Branch XVI, Quezon City.

DECISION

FERNANDEZ, *J.*:

In a letter dated July 15, 1976 addressed to the Supreme Court, Hon. Remigio E. Zari, Presiding Judge of Branch VI, City Court of Quezon City, recommended the dismissal from the service of Mr. Diosdado S. Flores, Deputy Clerk of Court of Branch VI, City Court, on the following grounds:

"1. Conviction for libel on April 28, 1967, (Criminal Case No. Q-7171, Branch IV, Court of First Instance, Quezon City), a crime involving moral turpitude. He was sentenced to pay a fine of ₱500.00, which he paid on July 18, 1974, under Official Receipt No. 4736418.

2. Persistent attempts to unduly influence the undersigned amounting to undue interest in cases pending before Branch VI as shown by his handwritten notes to the undersigned and to my present deputy clerk of court, Atty. Reynaldo Elcano.

On March 8, 1976, Mr. Flores was relieved from his position as Deputy Clerk of Court upon request of the undersigned primarily to dissociate myself from these actuations of Mr. Flores, which I strongly disapproved of, and to avail my Court of the services of a full-fledged lawyer with unquestionable integrity. After his transfer, as can be seen from his handwritten notes, he persisted in taking this unwarranted course of action in at least three (3) cases of Branch VI.

3. Gross discourtesy to superior officers as manifested by his uncalled for and unjustified use of strong and contemptuous language in addressing the City Judges, when he wrote a letter, dated March 11, 1976."[1]

---

[1] *Rollo*, pp. 3-4.

Supreme Court E-Library

In a resolution of this Court dated July 29, 1976, Deputy Clerk of Court Diosdado S. Flores was required to file his answer to the letter of Judge Remigio E. Zari and this case was transferred to the First Division.[2]

The respondent filed his answer[3] on August 12, 1976 wherein he alleged, among others, that his conviction for libel did not involve moral turpitude; that the then Commissioner Abelardo Subido, who was also convicted of the crime of libel and was fined ₱5,000.00, had approved his appointment as Deputy Clerk of Court of Branch VI of the City Court of Quezon City; that the respondent never tried to unduly influence the complainant in the discharge of the latter's duties and responsibilities; that while respondent's language in his letter dated March 11, 1976 is strong, the same could not be considered contemptuous either directly or indirectly, in as much as he was merely expressing the sentiments of an aggrieved employee who deserves a better treatment from his superior after more than six years and nine months of highly dedicated and very efficient service in the City Court of Quezon City; that if ever respondent requested favors from his superior, these were all done in the spirit of friendship which the complainant professed to him before he left Branch VI of the City Court of Quezon City on March 9, 1976; that from October 15, 1975 up to his illegal transfer on March 8, 1976, the respondent was practically doing the work of the complainant; that the respondent has tutored the complainant on the fine interpretation and application of the law; that it was Judge Zari who tried to corrupt him as may be gathered from the following instances: On January 8, 1976, after the trial in Criminal Case No VI-5783 *vs.* Juanito Chua and two criminal cases against Emerito Lim, Judge Zari instructed the respondent to conduct an ocular inspection on the illegal constructions, subject of the cases; that Judge Zari, likewise, told the respondent to join him for lunch at Alfredo's Steakhouse in Quezon City; that after conducting the ocular inspection, the

---

[2] *Rollo*, p. 33.

[3] *Rollo*, pp. 35-39.

Supreme Court E-Library

respondent proceeded to Alfredo's Steakhouse where he joined Judge Zari, Fiscal Loja and the defense counsel of Chua and Lim; that thereafter, Judge Zari directed the respondent not to prepare anymore his report on the ocular inspection to the site; that up to the time of his illegal transfer, the respondent did not see the records of said criminal cases anymore; that in Criminal Case No. VI-166624 *vs.* Corazon and Macaria Tolentino, for the crime of estafa, the respondent was instructed to convict both the accused because the complainant was a relative of a certain Judge Erochi; and that in Criminal Cases Nos. VI-170682 and VI-170689 *versus* Gerundio Villanueva *y* Elazo, Dominador Garcia *y* Orteza and Balbino Domingo *y* Ramos, for the crime of theft, he was instructed by Judge Zari to convict the accused Dominador Garcia *y* Orteza because according to said judge, the complainant is AVESCO.

In a resolution dated September 1, 1976,[4] this Court required Judge Zari to file a reply to the answer of the respondent within ten (10) days from notice thereof.

The complainant alleged in his reply to the answer of the respondent that he had not allowed the respondent to interfere in the preparation of orders and decisions; that while the complainant is aware of his limitations, he is certainly not so naive as to allow someone not a member of the Philippine Bar to "tutor" and give him finer interpretation of the law; that he admits that Criminal Cases Nos. Vi-5783 against Juanito Chua and VI-5788-5789 against Emerito Lim are pending before his court; that he did not call the respondent to his chamber and instruct him to conduct an ocular inspection on the illegal constructions; that he did not invite the respondent for lunch that day; that the truth was that after the trial, he went to Alfredo's Steakhouse in the company of his fiscal, Fiscal Guillermo Loja; that while in the said place, the complainant was surprised to see the respondent in the company of the accused; that he counseled the respondent to be more circumspect as these people had cases before his sala; that it is true that from then on up to the relief of the respondent on March 8, 1976, the records

[4] *Rollo*, p. 46.

Supreme Court E-Library

of the aforesaid case could not be found by the respondent because the complainant had the records brought inside his chamber in order to forestall any attempt on the part of the respondent to manipulate the records; that he did not instruct the respondent to convict the accused in Criminal Case No. VI-166624 and in Criminal Cases Nos. VI-170682 and VI-170689 just because the complainant is a relative of a certain Judge Erochi and AVESCO, respectively; and that he requested Atty. Reynaldo Elcano to affix his initial in all orders, decisions and sentences in order to pinpoint responsibility.[5]

In his reply, the complainant additionally charged that when the respondent applied for the position of Deputy Clerk of Court, Branch VI, City Court of Quezon City, he submitted, among others, an affidavit dated June 10, 1969 that contains the following statement "That I am a person of good moral character and integrity and have no administrative, criminal or police record"; that the respondent also accomplished Civil Service Form No. 212 (1965) which was subscribed and sworn to before then Judge Oscar A. Inocentes; that in the aforesaid data sheet, the respondent admits having acted as counsel for three companies; and that the giving of legal advice by notaries and others who are not admitted to the practice of law is dangerous to the welfare of the community, because such persons have not demonstrated their capacity by submitting to examinations lawfully established in the practice of law.

This administrative case was referred to the Executive Judge of Rizal, Quezon City, for investigation, report and recommendation after City Judge Minerva Genovea and City Judge Aloysius Alday had been allowed to inhibit themselves from investigating this case.[6]

District Judge Sergio A. F. Apostol who conducted the investigation of this administrative case recommended that the respondent be separated from the service on the following findings:

---

[5] *Rollo*, pp. 47-53.

[6] *Rollo*, p. 71.

Supreme Court E-Library

"The first charge is 'conviction for libel which is a crime allegedly involving moral turpitude.'

Presidential Decree No. 807, Sec. 36(b) No. 10 provides that one of the grounds for disciplinary action is 'conviction of a crime involving moral turpitude.'

Evidence adduced by the complainant which was admitted by the respondent was that on April 28, 1967 respondent was convicted of the crime of Libel in (Criminal Case No. Q-7171 of Branch IV of the Court of First Instance of Quezon City. Respondent was sentenced to pay a fine of ₱5,000.00 which he paid on July 18, 1974 under Official Receipt No. 276418.

'Moral turpitude has been defined as including any act done contrary to justice, honesty, modesty or good morals.[7]

'Some of the particular crimes which have been held to involve moral turpitude are adultery, concubinage,[8] rape, arson, evasion of income tax, barratry, bigamy, blackmail, bribery,[9] criminal conspiracy to smuggle opium, dueling, embezzlement, extortion, forgery, libel, making fraudulent proof of loss on insurance contract, murder, mutilation of public records, fabrication of evidence, offenses against pension laws, perjury, seduction under promise of marriage,[10] estafa [11] falsification of public document,[12] estafa thru falsification of public document.[13]

---

[7] In re *Abesamis*, Adm. Case No. 77, Jan. 17, 1958.

[8] In re *Basa*, 41 Phil. 275. In re *Isada*, 60 Phil. 915.

[9] In Re *Dalmacio de los Angeles*, Adm. Case No. 350, Aug. 7, 1959.

[10] In re *Basa*, Phil. 275: See also In re *Gutierrez*, Adm. Case No. 263; July 31, 1962.

[11] *Medina vs. Bautista*; Adm. Case No. 190, Sept. 25, 1964; In re *Venzon* Adm. Case No. 561, April 27, 1967.

[12] *De Jesus Paras vs. Vailoces*, Adm. Case No. 439, 7 SCRA 954, April 12, 1961; In Re *Avanceña* Adm. Case No. 407, 20 SCRA 1012, Aug. 15, 1967.

[13] In Re *Basa*, 41 Phil. 275. Cited in Martins, *Rules of Court*, Vol. 6, pp. 228-229.

Supreme Court E-Library

'Moral turpitude' has been defined as an act of baseness, vileness, or depravity in the private and social duties which a man owes his fellow men, to society in general contrary to the accepted and customary rule of right and duty between man and woman or conduct contrary to justice, honesty, modesty, or good morals.[14] It implies something immoral in itself, regardless of the fact that it is punishable by law or not. It must not merely be *mala prohibita*, but the act itself must be inherently immoral. The doing of the act itself, and not its prohibition by statute fixes the moral turpitude.[15] Moral turpitude does not, however, include such acts as are not of themselves immoral but whose illegality lies in the fact of their being positively prohibited.[16] Hence, the crime of illegal possession of firearm or ammunition does not involve moral turpitude for under our laws, what is punishable is the possession of a firearm or ammunition without a license or authority.[17]

'Bribery is admittedly a felony involving moral turpitude.'[18]

However in another, the Supreme Court seems to imply that libel is not a crime involving moral turpitude.

'The mere filing of an information for libel, or serious slander, against a municipal officer is not a ground for suspending him from office, as such offenses do not necessarily involve moral turpitude.[19]

When respondent submitted his application for the position of Deputy Clerk of Court of Branch VI, City Court of Quezon City, he submitted among others an affidavit dated June 10, 1969, which reads as follows:

---

[14] *Tak Ng vs. Republic of the Phil.*, G.R. No. L-13017, Dec. 23, 1959).

[15] 41 C.J. 212.

[16] *State Medical Board vs. Rogers*, 79 S. W. 2d 83.

[17] See Opinion No. 210, Secretary of Justice, series of 1948; see also opinion of Secretary of Justice, April 16, 1940.

[18] 7 C.J.S. 736; 5 Am. 428; In Re *de los Angeles*. Adm. Case No. 350, Aug. 7, 1959.

[19] *Burguetta vs. Mayor*, G.R. No. L-6538, May 10, 1954; 50 O.G. 2447.

Supreme Court E-Library

'That I am a person of good moral character and integrity and have no administrative, criminal or police record.'

On blank space of a personal data sheet opposite question No. 10, which asked if applicant has previously been convicted of a criminal offense, accused placed no. It was later discovered that accused was previously convicted of theft. Accused was acquitted of falsification of public document under Art. 171, par. 4, because there is no legal obligation to reveal previous conviction.[20] However he maybe guilty of perjury under Art. 183.[21]

One of the grounds for disciplinary action under PD 807, Sec. 36 (b) under No. 13 is 'falsification of public documents.'

The second charge is 'persistent attempts to unduly influence the complainant amounting to undue interest in cases pending before Branch VI as shown by his handwritten notes to the complainant and to his present Deputy Clerk of Court, Atty. Reynaldo Elcano.'

Respondent admitted that in writing the four (4) notes (Exhibits 'F', 'F-1', 'F-2', & 'F-3'), he intervened for and in behalf of Gaw Chin in Criminal Case No. VI-6196 pending before the sala of the complainant because the accused was a compadre of his friend, Salvador Estrada.

On the other hand, the defense of the respondent is that he was practically doing the work of the complainant and tutoring him in the finer interpretation and application of the law, and he was preparing the decisions in both criminal and civil cases. Thus he was not trying to influence the complainant.

The notes marked as Exhibits 'F', 'F-1', 'F-2', & 'F-3' speak for themselves. There is no need for the undersigned to quote the same.

'A proposition by an attorney to his client to visit with his wife the family of the judge before whom the client's cause is to be heard, and to endeavor, in conversation thus to be had in advance of the hearing, to commit the judge to an expression

---

[20] *People vs. Poserio*, C.A. 53 O.G. 6159.

[21] *People vs. Cruz*, 108 Phil. 255; *Bermejo v. Barrios*, 31 SCRA 704).

Supreme Court E-Library

of opinion favorable to the client's case warrants his dismissal from the bar.[22]

The acts of the respondent amounts to conducts prejudicial to the best interest of the service.[23]

The Third charge is 'discourtesy to superior Officers as manifested by respondent in calling for and unjust use of strong and contemptuous language in addressing the city judges when he wrote the letter, dated March 11, 1976.'

To quote the pertinent provisions of Exhibit 'D':

'By the tenor of your reply, you have made the change of heart and have developed cold feet. You have badly shaken my belief in your credibility. Indeed, you are truly a woman, very fickle and unpredictable, but very impulsive.'

'I take this as a clear indication of your desire to enlist the sympathies and, if possible, like the other five (5) judges, involved them in the mess originally of your own making and design and align them with you against me, hoping to impress upon me that by the tyranny of numbers, I will be convinced that mine is a lost cause.'

'However, I regret to inform the six of you that by your conduct, you have dismally failed to live up to your oaths, xxx.'

'Kindly pardon me if I say that, the six of you must be out of your wits when you all decided to lay the blame on me and condemned without trial for the alleged inefficiency.'

'Yes, when you all decided to sacrifice me you are all laboring under deep and nagging hallucinations, induced and prompted by your serious concern to save the face of a colleague.'

'By the way, could any of the Honorable Judges of Branches I, III, V & IX honestly and truthfully say the public service in their respective branches is efficient, so that they could now

---

[22] Exp. p. Cole, 6 F. Cas. No. 2793, 1 McCrary, 405.

[23] Sec. 36 (b) No. 27, PD 807.

Supreme Court E-Library

> come to the succor of a colleague and are also competent to promote the efficiency in Branch VI. My God, if that is true, promotions of Judges in the City Court would be fast, the Purge in the Judiciary would not have affected Quezon City and the unprepared and the inexperienced would not have come to the Bench.'

Respondent reasoned out that the use of strong language by him in his letter was justified and very much called for it being the indubitable manifestation of the indignation and disgust of the respondent, urged upon him by the complainant who engineered the respondent's illegal transfer from Branch VI of the City Court of Quezon City which he holds a valid and subsisting appointment to the Appeal and Docket Division, by virtue of a letter of the Executive Judge (Exhibit '43'), to quote the pertinent provision of which:

> 'as a measure to promote more efficient public service, after due and circumspect deliberation by and among the judges.'

pursuant to the authority granted to the executive judge under Administrative Order No. 6 of the Supreme Court which provides as follows:

> 'To re-assign temporarily the personnel of one branch (sala) to another branch (sala) or to the Office of the Clerk of Court, in case of vacancy in the position of Presiding Judge of a branch (sala), or when the interest of the service requires. In the latter case, the assignment shall be made in consultation with the Presiding Judge of the branch (sala) concerned; and in case of disagreement, the assignment of the Executive Judge shall be effective immediately, unless revoked by the Supreme Court.'

The transfer was made in consultation with the presiding judge of the branch concerned who is the complainant in this case.

> 'A detail is the movement of an employee from one agency to another without the issuance of an appointment and shall be allowed, only for a limited period in the case of employees occupying professional, technical and scientific positions. If the employee believes that there is no justification for the detail, he may appeal his case to the commission. Pending appeal, the

Supreme Court E-Library

decision to detail the employee shall be executory unless otherwise ordered by the commission.'[24]

'An employee may be reassigned from one organizational unit to another in the same agency. Provided: That such reassignment shall not involve reduction in rank, status or salary.'[25]

In the instant case there was actually a reassignment of employee from one branch to the Office of the Clerk of Court in accordance with Administrative Order No. 6 of the Supreme Court and in consonance with PD 807.

'The language of attorney in his motion for reconsideration referring to the Supreme Court as a 'Civilized, democratic tribunal,' but by innuendo would suggest that it is not; in his motion to inhibit, categorizing the Court's decision as 'false, erroneous and illegal' and accusing two justices for being interested in the decision of the case without any basis in fact; asking the other members of the Court to inhibit themselves for favors or benefits received from any of the petitioners including the President — constitute disrespectful language to the Court. It undermines and degrades the administration of justice.'

'The language is necessary for the defense of client is no justification. It ill behooves an attorney to justify his disrespectful language with the statement that it was necessary for the defense of his client. A client's cause does not perment an attorney to cross the line between liberty and license. Lawyers must always keep in perspective the thought that 'since lawyers are administrators of justice, oathbound servants of society, their first duty is not to their clients, as many suppose, but to the administration of justice; to this their client's success is wholly subordinate; and their conduct ought to and must be scrupulously observant of law and ethics.[26]

---

[24] Sec. 24 (g), PD. 807.

[25] *Ibid.*

[26] *Surigao Mineral Reservation Board vs. Cloribel*, 31 SCRA, Jan. 9, 1970.

Supreme Court E-Library

> Thru the use of uncalled language, respondent had committed insubordination, a ground for disciplinary action.[27]

The evidence of record supports the findings of the investigating judge.

It is a fact that the respondent was convicted of libel in Criminal Case No. Q-7171 of the Court of First Instance of Rizal, Branch IV, at Quezon City. While this fact alone is not sufficient to warrant disciplinary action, the respondent's conviction for libel shows his propensity to speak ill of others. His letter dated March 11, 1976 to Judge Minerva C. Genovea, then Executive Judge of the City Court of Quezon City[29] contains defamatory and uncalled for language.

The handwritten notes of the respondent regarding different cases pending in Branch VI of the City Court of Quezon City, presided by the complainant, Judge Remigio E. Zari, show that the respondent had exerted undue influence in the disposition of the cases mentioned therein.[30]

It is true that conviction for libel does not automatically justify removal of a public officer.[31] However, the fact of conviction for libel of the respondent, taken together with the letter he wrote to then Executive City Judge of the City Court of Quezon City, Judge Minerva C. Genovea, shows the tendency of the respondent to malign people.

Respondent's act of interfering in the cases pending before Branch VI of the City Court of Quezon City presided by the complainant is inimical to the service. This alone warrants severe disciplinary measures.

---

[27] Sec. 36(b) No. 25, PD 807)."[28]

[28] *Rollo*, pp. 188-194.

[29] Annex "D", *Rollo*, pp. 30-32.

[30] Annex "B" and Annex "C", *Rollo*, pp. 28-29.

[31] *Villanos vs. Subido*, 45 SCRA 299.

Supreme Court E-Library

In his affidavit subscribed and sworn to before then City Judge Oscar A. Inocentes on June 10, 1969, the respondent stated "That I am a person of good moral character and integrity and have no administrative, criminal or police record." This averment is not true because the respondent had been convicted of libel in Criminal Case No. Q-7171, of the Court of First Instance of Rizal, Branch IV, in a sentence dated April 28, 1967. This prevarication in a sworn statement is another ground for serious disciplinary action.

The removal from the service of the respondent is warranted by the evidence adduced during the investigation conducted by Judge Sergio A. F. Apostol of the Court of First Instance of Rizal, Branch XVI, Quezon City.

WHEREFORE, the respondent, Diosdado S. Flores, is hereby DISMISSED as Deputy Clerk of Court of Branch VI of the City Court of Quezon City, with forfeiture of all retirement privileges and with prejudice to reinstatement in the national and local governments, as well as, in any government instrumentality or agency including government owned or controlled corporations effective upon the finality of this decision.

Let a copy of this decision be attached to his personal record.

SO ORDERED.

Teehankee (Chairman), Makasiar, Guerrero, De Castro, and *Melencio-Herrera, JJ.*, concur.