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FIRST DIVISION

[G.R. Nos. 69640-45. April 30, 1985]

MIGUEL P. PADERANGA, AS CITY MAYOR OF GINGOOG CITY, *petitioner, vs.* HON. JUDGE CESAR R. AZURA, AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH XXVI, 10th JUDICIAL REGION, MEDINA, MISAMIS ORIENTAL, *respondent.*

SYLLABUS

LEGAL AND JUDICIAL ETHICS; JUDGES; MOTION FOR INHIBITION; GUIDELINES ON MATTER OF INHIBITION; CASE AT BAR.— Considering the antagonistic positions taken by the parties in their respective pleadings, and, particularly, the seriousness of the imputations made by petitioner, which prompted him and others to file administrative charges against respondent Judge, we advert to this Court's guidelines on the matter of inhibition in Pimentel *vs.* Salanga, L-27934, 21 SCRA 160 [1967], prescribing as follows: "All the foregoing notwithstanding, this should be a good occasion as any to draw attention of all judges to appropriate guidelines in a situation where their capacity to try and decide fairly and judiciously comes to the fore by way of challenge from any one of the parties. *A judge may not be legally prohibited from sitting in a litigation. But when suggestion is made of record that he might be induced to act in favor of one party or with bias or prejudice against a litigant arising out of circumstances reasonably capable of inciting such a state of mind, he should conduct a careful self-examination. He should exercise his discretion in a way that the people's faith in the courts of justice is not impaired.* x x x" (Italics supplied) The reminder is also *apropos* that next in importance to the duty of rendering a righteous judgment is that of doing it in such a manner as will beget no suspicion of the fairness and integrity of the judge x x x.

APPEARANCES OF COUNSEL

Juanito De la Riarte for petitioner.

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RESOLUTION

MELENCIO-HERRERA, *J.*:

In this Petition for Certiorari, petitioner, as City Mayor of Gingoog City, seeks to annul respondent Judge's Order denying the Motion for Inhibition which he (petitioner) had filed.

The grounds advanced for the inhibition of respondent Judge from hearing, deciding and issuing Orders in any of the seven pending cases[1] in his Court wherein the City of Gingoog, its officials, including petitioner, are parties, may be summarized as follows:

1. Loss of trust and confidence in the competence and impartiality of respondent Judge, particularly in view of the administrative complaints filed against him by petitioner and others before this Court.

2. Entertaining suits assailing the validity of auction sales of tax delinquent properties by issuing restraining orders enjoining the City Treasurer of Gingoog City from proceeding with the auction sales of said properties when under Sec. 64 and 83 of P.D. 464, the remedy to stay execution of auction sales of tax delinquent properties is by paying the tax, pursuant to Sec. 74 of P.D. 464, *supra*, and not by issuance of restraining orders;

3. Bias, oppressive dispensation of justice, and abuse of his power of contempt in ordering the arrest of petitioner and the members of the Sangguniang Panglunsod of Gingoog City and imposing upon them an excessive fine of P10,000.00 and an excessive bond of P50,000.00 when the claim for salary was only for P5,000.00, and by sensationalizing their arrest with the aid of the Provincial Commander at Camp Alagar,

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[1] Sp. Civ. Case 636-M, Kiunisala, Sr. *vs.* City Mayor, et al.; Sp. Civ. Case 649-M, Lugod *vs.* Leonor, et al.; Sp. Civ. Case 660-M, Ayensa *vs.* City Mayor, et als.; Sp. Civ. Case 676-M, Pollentes *vs.* Leonor, et al.; Civil Case No. 670-M, Co Untian, et al. *vs.* City of Gingoog, et als.; Civil Case No. 688-M, Lu Barro *vs.* City of Gingoog, et als.; Civil Case No.___, Rodriguez *vs.* City of Gingoog, et als.

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Cagayan de Oro City, as if they were hardened criminals and fugitives from justice, for the purpose of embarrassing them before the public.

4. Issuing of Orders against the interests of the City of Gingoog."

Respondent Judge denied the Petition for Inhibition on the ground that loss of trust and confidence by petitioner in his neutrality is unfounded, notwithstanding the administrative charges filed against him, and that the plea for inhibition was prompted more because the "City Attorney (petitioner's counsel) appears to have persisted in his grotesque arguments and haughty conduct in his subsequent pleadings which already constitute direct contempt for which he may be cognizant of his inevitable punishment, and for which reason he now entertains the resultant fears from his own indiscretions, to appear before this presiding judge."

Petitioner assails said Order denying inhibition for having been issued despotically, whimsically, and with grave abuse of discretion amounting to lack of or in excess of jurisdiction. On the other hand, respondent Judge, in his Comment filed pursuant to this Court's requirement, states:

1. He merely followed the provisions of Sec. 1, Rule 137, Rules of Court, in resolving petitioner's Motion for Inhibition, there being no legal ground for him to inhibit himself from proceeding to hear any of the several cases therein enumerated;

2. In regard to the tax cases, he submits that if, indeed, he has no jurisdiction, the proper remedy is not a petition for inhibition but an action for prohibition in accordance with Sec. 2, Rule 65;

As regards the cases of Barro *v.* City of Gingoog and Rafael Rodriguez *v.* City of Gingoog, he had rendered the corresponding decisions which had already attained finality for lack of appeal; although in the Barro case, a petition for review is pending before the IAC;

In the case of Ayensa *v.* Paderanga, involving a public high school teacher, who was not paid his salaries although

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> he was continually rendering services, he had ordered petitioner to pay the aforesaid salaries, but since the Order was defied, petitioner and other officials were cited for contempt pursuant to the Rules."

Considering the antagonistic positions taken by the parties in their respective pleadings, and, particularly, the seriousness of the imputations made by petitioner, which prompted him and others to file administrative charges against respondent Judge, we advert to this Court's guidelines on the matter of inhibition in Pimentel *vs.* Salanga, L-27934, 21 SCRA 160 [1967], prescribing as follows:

> "All the foregoing notwithstanding, this should be a good occasion as any to draw attention of all judges to appropriate guidelines in a situation where their capacity to try and decide fairly and judiciously comes to the fore by way of challenge from any one of the parties. *A judge may not be legally prohibited from sitting in a litigation. But when suggestion is made of record that he might be induced to act in favor of one party or with bias or prejudice against a litigant arising out of circumstances reasonably capable of inciting such a state of mind, he should conduct a careful self-examination. He should exercise his discretion in a way that the people's faith in the courts of justice is not impaired.* x x x" (Italics supplied)

The reminder is also *apropos* that next in importance to the duty of rendering a righteous judgment is that of doing it in such a manner as will beget no suspicion of the fairness and integrity of the judge x x x.[2]

ACCORDINGLY, respondent Judge is hereby ordered to inhibit himself from hearing the cases enumerated in paragraph 4 of the Petition involving the City of Gingoog or its officials, including petitioner. The venue of said cases is hereby transferred to Cagayan de Oro City each to be assigned by raffle to the Regional Trial Courts thereat.

SO ORDERED.

Teehankee, (Chairman), Plana, Relova, Gutierrez, Jr., de la Fuente, and *Alampay, JJ.*, concur.

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[2] 48 C.J.S. 1039-1040.