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FIRST DIVISION

[A.M. No. RTJ-00-1563. May 31, 2001]

ROSEMARIE LATORRE, *complainant, vs.* **HON. LEONARDO P. ANSALDO, Executive and Presiding Judge Regional Trial Court, Branch 94, Boac, Marinduque,** *respondent.*

SYNOPSIS

Complainant charged respondent with bias and partiality, grave misconduct and gross ignorance of the law relative to his handling Criminal Case No. 13-97 for murder wherein her husband was the victim. In the said criminal case, the husband of the complainant was killed by the accused. Three of the accused surrendered to the court and the others remained at large. Upon arraignment, said accused pleaded not guilty. On September 22, 1998, they filed a motion for an order granting accused's right to bail and for provisional liberty. On November 4, 1998, respondent issued an order suspending further proceedings due to a pending request for change of venue of the trial. On November 12, 1998, the accused filed a motion for speedy trial as a reconsideration of the order suspending the proceedings: This was set for hearing on November 17, 1998. On November 16, 1998, respondent scheduled the hearing on the petition for bail on November 18, 1998, less than three (3) days from the issuance of the order. However, respondent reset the said hearing on November 25, 1998. No hearing was conducted until private complainant filed a motion to dismiss the case with the conformity of the accused and the approval of the public prosecutor. The trial court dismissed the case with prejudice.Hence, the instant complaint against respondent judge.

The Office of the Court Administrator referred the case to the Executive Judge, Regional Trial Court, Batangas City, who made the recommendation that respondent be fined.

In affirming the said recommendation, the Supreme Court ruled that respondent's act of scheduling the petition for bail for hearing less than three (3) days from the issuance of the

Supreme Court E-Library

order constitutes plain ignorance of the law. Such order created a cloud of impropriety on the part of the judge.

Nevertheless, the Court considered the respondent judge's act of resetting the hearing to November 25, 1998. Obviously, he realized that he committed an error and tried to rectify it. The doubt as to the impartiality of the judge, however, was attendant in the minds of the parties. Considering such situation, respondent should have inhibited himself instead of proceeding with the case.

Respondent was declared guilty of simple ignorance of the law.

SYLLABUS

1. **LEGAL AND JUDICIAL ETHICS; JUDGES; SETTING THE PETITION FOR BAIL FOR HEARING LESS THAN THREE (3) DAYS FROM THE ISSUANCE OF THE ORDER CONSTITUTES PLAIN IGNORANCE OF THE LAW; CASE AT BAR.**— Respondent judge's act of scheduling the petition for bail for hearing on November 18, 1998, less than three (3) days from the issuance of the order constitutes plain ignorance of the law. Such order created a cloud of impropriety on the part of the judge. Nevertheless, we have to consider the respondent judge's act of resetting the hearing to November 25, 1998. Obviously, he realized that he committed an error and tried to rectify it. The doubt as to the impartiality of the judge, however, was attendant in the mind of the parties.

2. **ID.; ID.; VOLUNTARY INHIBITION; PRIMARILY A MATTER OF CONSCIENCE AND SOUND DISCRETION BASED ON VALID REASONS ON THE PART OF THE JUDGE.**— In *Gutang vs. Court of Appeals,* we said that in the final reckoning, there is really no hard and fast rule when it comes to the inhibition of judges. Each case shall be treated differently and decided based on its peculiar circumstances. The issue of voluntary inhibition is primarily a matter of conscience and sound discretion based on valid reasons on the part of the judge. It is a subjective test the result of which the reviewing tribunal will not disturb in the absence of any manifest finding of arbitrariness and whimsicality. The discretion given to trial judges is an acknowledgment of the fact that judges are in a better position to determine the issue of inhibition as they are

Supreme Court E-Library

the ones who directly deal with the parties-litigants in their courtrooms

3. ID.; ID.; DUTY TO MAINTAIN AND PRESERVE THE TRUST AND FAITH OF PARTIES LITIGANTS IN THE COURT'S IMPARTIALITY.— Judges must at all times maintain and preserve the trust and faith of parties litigants in the court's impartiality, and that the slightest doubt in the actions of a judge, whether well grounded or not, will leave the judge no better alternative than to rescue himself as the ideal mode to preserve the image of the judiciary. By inhibiting himself, he avoids being misunderstood, his reputation for probity and objectivity is preserved. More importantly, the ideal of impartial administration of justice is lived up to. In *Orola vs. Alovera*, we reiterated that when a judge exhibits actions that give rise, fairly or unfairly, to perceptions of bias, such faith and confidence are eroded, and he has no choice but to inhibit himself voluntarily. A judge may not be legally prohibited from sitting in a litigation, but when circumstances appear that will induce doubt on his honest actuation and probity in favor of either party, or incite such 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. The better course for the judge is to disqualify himself.

APPEARANCES OF COUNSEL

Tiberio U. Prado for complainant.

R E S O L U T I O N

PARDO, *J.*:

On November 23, 1998, Rosemarie Latorre filed with the Office of the Court Administrator, Supreme Court a complaint charging respondent Judge Leonardo P. Ansaldo with bias and partiality, grave misconduct and gross ignorance of the law relative to his handling Criminal Case Number 13-97[1] for murder.

[1] Entitled. *People of the Philippines versus Alberto Bayotas, Cesar Pe, PO3 Arnold Tablatin, Dennis Magcarang, and Benny Sotto*, Crim. Case No. 13-97. RTC Marinduque. Branch 94. Boac.

Supreme Court E-Library

The antecedent facts are as follows:

On January 19, 1997, Alberto Bayotas, Cesar Pe, PO3 Arnold Tablatin, Dennis Magcarang and Benny Sotto killed Edwin Latorre, the husband of complainant Rosemarie Latorre.

On February 11, 1997, the Municipal Trial Court, Buenavista, Marinduque found a *prima facie case* for homicide and frustrated homicide against the accused.

Sometime in September or October 1998, accused Cesar Pe, Dennis Magcarang and Benny Sotto surrendered to the court. They were detained at Marinduque Provincial Jail, Boac, Marinduque. Alberto Bayotas and Arnaldo Tablatin remain at large.

On October 13, 1998, upon arraignment, accused Cesar Pe, Dennis Magcarang and Benny Sotto pleaded not guilty.[2] They were assisted by counsel, Atty. Julian Vitug, Jr. Neither the private prosecutor nor complainant Rosemarie Latorre was notified of the arraignment.

The order indicated that by agreement of the parties, the pre-trial conference of the case was set on November 4, 1998, at about 8:30 a.m.

On September 22, 1998, accused filed a "Motion For An Order Granting Accused Right To Bail And For Provisional Liberty."[3]

On November 4, 1998, the private prosecutor moved that the respondent judge discipline the jail guards in charge of the accused for allowing the accused to sleep in a hotel during nighttime and for not confining them in jail during day time. Complainant alleged that on November 3, 1998, the accused stayed at the compound of Camp Col. Maximo Abad, 1,000 meters away from the provincial jail.

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[2] *Rollo*, p. 36.

[3] *Rollo*, pp. 43-44-A.

Supreme Court E-Library

Without acting on the motion, respondent judge issued an order[4] suspending further proceedings due to a pending request before the Supreme Court to change the venue of the trial from Boac, Marinduque to Metro Manila. Thus –

"When these cases were called for hearing on the petition for bail of accused Cesar Pe, Dennis Magcarang and Benny Sotto, counsel for the accused Atty. Julian Vitug, Jr., together with the private prosecutor Atty. Tiberio U. Prado and the public prosecutor Edgardo P. Balquiedra appeared.

"Atty. Prado moved for the suspension of the proceedings on the ground that they have a pending request before the Supreme Court for change of venue together with their intended move to disqualify Prosecutor Balquiedra from participating in this case and request for the appointment of a special prosecutor. Over the objection of defense counsel and assurance of private prosecutor that he will follow-up promptly this action of the higher court, the Court deemed it wise to suspend the proceedings on both cases until such time that the Supreme Court has made a definite ruling on the request."[5]

On November 12, 1998, accused filed a motion for speedy trial as a reconsideration of the order suspending the proceedings. The court scheduled the motion for hearing on November 17, 1998, at 9:00 a. m.

On November 16, 1998, complainant filed with the court a motion reiterating her oral motion to discipline the jail guards.[6] Complainant alleged that accused were out every Thursday and Sunday attending worship services about two (2) to three (3) kilometers away from the jail. Respondent judge did not act on the motion and declared that the accused were accompanied by jail guards whenever they were out of jail.

On the same day, November 16, 1998, a day prior to the scheduled hearing, respondent judge issued an order[7] reconsidering

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[4] Dated November 4, 1998. *Rollo*, p. 57.

[5] *Rollo*, p. 57.

[6] *Rollo*, pp. 80-85.

[7] *Rollo*, pp. 90-91.

Supreme Court E-Library

the suspension of the proceedings and setting the hearing on the petition for bail on November 18, 1998, at 9:00 a. m. Private prosecutor and complainant resided in Metro Manila. Luckily, both prosecutor and complainant were in Boac, Marinduque when they were furnished a copy of the order.

On November 17, 1998, complainant filed with the trial court an "Urgent Motion for Inhibition"[8] of respondent judge.

On November 18, 1998, respondent judge issued an order recalling his order dated November 16, 1998, and setting the case for hearing on the motion for speedy trial on November 25, 1998.

In the afternoon of November 20, 1998, the wife of counsel of complainant received a telephone call from the staff of respondent judge stating that the case was set for hearing on November 25, 1998.

Actually, no hearing was conducted until private complainant filed a motion to dismiss[9] the case with the conformity of the accused and the approval of the public prosecutor.

On December 2, 1998, the trial court dismissed the case with prejudice.[10]

On November 23, 1998, complainant filed with the Office of the Court Administrator, Supreme Court a complaint against respondent judge alleging:

"xxx respondent Judge be administratively disciplined by removing him from the service with forfeiture of all leave and retirement benefits and privileges to which respondent Judge Leonardo P. Ansaldo may be entitled with prejudice to reinstatement and/or reemployment in any branch or instrumentality of government including the government-owned or controlled agencies or corporation."

On July 3, 2000, the Court issued an order[11] referring the case to the Executive Judge, Regional Trial Court, Batangas

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[8] *Rollo*, pp. 86-89.

[9] *Rollo*, pp. 29-30.

[10] *Rollo*, p. 28.

[11] *Rollo*, p. 115.

Supreme Court E-Library

City for investigation, report and recommendation within thirty (30) days from notice.

On September 27, 2000, the Executive Judge, Regional Trial Court, Batangas City, Judge Paterno V. Tac-An, made the following recommendation:

"IN VIEW THEREOF, and considering the advanced age of the respondent Judge (68 years old on the dates in question), it is respectfully recommended that respondent Judge be fined in a moderate amount to be deducted from his retirement benefits and that he be considered retired at his 70th birthday in January 2000."[12]

The Court finds the recommendation well taken.

The Code of Judicial Conduct ordains judges to be faithful to the law and maintain professional competence.[13] Judges must live up to this expectation by diligent effort to keep themselves abreast of the legal and jurisprudential developments.[14] Likewise, judges must preserve the trust and faith reposed in them by the parties as impartial and objective administrators of justice.

When Judge Ansaldo found that the motion of the complainant to discipline the jail guards was not supported by affidavits or testimonies of witnesses on the matter, he should have set the case for hearing, requiring the jail guards to explain their side.

Respondent judge's act of scheduling the petition for bail for hearing on November 18, 1998, less than three (3) days from the issuance of the order constitutes plain ignorance of the law. Such order created a cloud of impropriety on the part of the judge.

Nevertheless, we have to consider the respondent judge's act of resetting the hearing to November 25, 1998. Obviously, he realized that he committed an error and tried to rectify it.

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[12] *Rollo*, pp. 121-126.

[13] Rule 3.01, Canon 3.

[14] Re: Hold Departure Order issued by Judge Nartatez, November 18, 1998.

Supreme Court E-Library

The doubt as to the impartiality of the judge, however, was attendant in the mind of the parties.

To highlight the doubt, the judge did not fix any bail for the temporary liberty of the accused.

Considering such situation, Judge Ansaldo should have inhibited himself instead of proceeding with the case.

In *Gutang vs. Court of Appeals*,[15] we said that in the final reckoning, there is really no hard and fast rule when it comes to the inhibition of judges. Each case shall be treated differently and decided based on its peculiar circumstances. The issue of voluntary inhibition is primarily a matter of conscience and sound discretion based on valid reasons on the part of the judge.[16] It is a subjective test the result of which the reviewing tribunal will not disturb in the absence of any manifest finding of arbitrariness and whimsicality. The discretion given to trial judges is an acknowledgment of the fact that judges are in a better position to determine the issue of inhibition as they are the ones who directly deal with the parties-litigants in their courtrooms.

In this case, respondent judge failed to take into account the loss of trust on the part of the complainant as to his impartiality.

Judges must at all times maintain and preserve the trust and faith of parties litigants in the court's impartiality, and that the slightest doubt in the actions of a judge, whether well grounded or not, will leave the judge no better alternative than to rescue himself as the ideal mode to preserve the image of the judiciary.[17] By inhibiting himself, he avoids being misunderstood, his reputation for probity and objectivity is preserved. More importantly, the ideal of impartial administration of justice is lived up to.[18]

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[15] 354 Phil. 77 [1998].

[16] *Parayno v. Meneses*, 231 SCRA 807 [1994]; *Gacayan v. Pamintuan*, 314 SCRA 682 [1999].

[17] *Gutang v. Court of Appeals*, *supra*, Note 15.

[18] *Ibid.*, citing *Intestate Estate of the Late Vito Borromeo, Patrocinio Borromeo-Herrera v. Fortunato Borromeo and Hon. Francisco P. Burgos, Judge of the CFI of Cebu, Branch* II, 152 SCRA 171 [1987], citing *Bautista v. Rebueno*, 1 SCRA 535 [1978].

Supreme Court E-Library

In Orola vs. Alovera,[19] we reiterated that when a judge exhibits actions that give rise, fairly or unfairly, to perceptions of bias, such faith and confidence are eroded, and he has no choice but to inhibit himself voluntarily. A judge may not be legally prohibited from sitting in a litigation, but when circumstances appear that will induce doubt on his honest actuation and probity in favor of either party, or incite such 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. The better course for the judge is to disqualify himself.[20]

WHEREFORE, Judge LEONARDO P. ANSALDO, Presiding Judge of Regional Trial Court, Marinduque, Branch 94, Boac, is declared guilty of simple ignorance of the law and *FINED* in the amount of Five Thousand Pesos (₱5,000.00) to be deducted from his retirement benefits.

SO ORDERED.

Davide, Jr., C.J (Chairman), Puno, and *Ynares-Santiago, JJ.,* concur.

Kapunan, J., on leave.

FIRST DIVISION

[G.R. No. 116488. May 31, 2001]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **AARON FLORES @ "RONITO," SULPECIO SILPAO *y* ORTEGA @ "SULPING" and EDGAR VILLERAN *y* MAGBANUA,** *accused-appellants.*

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[19] G. R. No. 111074, July 14, 2000.

[20] *Orola v. Alovera, supra,* Note 19, citing *Garcia v. Burgos,* 291 SCRA 546, 580 [1998], citing *Bautista v. Rebueno,* 81 SCRA 535, 538 [1978]; *Bagunas v. Fabillar,* 289 SCRA 383, 393 [1998].