

FIRST DIVISION

[A.M. No. RTJ-09-2182 [FORMERLY A.M. NO. 08-3007-RTJ], September 05, 2012]

GOVERNMENT SERVICE INSURANCE SYSTEM, BY ATTY. LUCIO L. YU, JR., COMPLAINANT, VS. EXECUTIVE JUDGE MARIA A. CANCINO-ERUM, REGIONAL TRIAL COURT, BRANCH 210, MANDALUYONG CITY, AND JUDGE CARLOS A. VALENZUELA, REGIONAL TRIAL COURT, BRANCH 213, MANDALUYONG CITY, RESPONDENTS.

R E S O L U T I O N

BERSAMIN, J.:

For resolution are the respondents' separate motions seeking the reconsideration of the resolution promulgated on June 3, 2009,^[1] whereby the Court, adopting and approving the recommendation of the Office of the Court of Administrator (OCA), imposed a fine of P5,000.00 on each of them for violating the rules regulating the raffling of cases.^[2]

Antecedents

This administrative complaint emanated from the filing on July 18, 2008 by one Belinda Martizano (Martizano) of a suit to restrain the Department of Transportation and Communications (DOTC), Land Transportation Office (LTO), Stradcom Corporation (STRADCOM), Insurance Commission, and Government Service Insurance System (GSIS) from implementing DOTC Department Order No. 2007-28 (DO 2007-28), an issuance that constituted the LTO the sole insurance provider of compulsory third party liability (CTPL) that was required for the registration of motor vehicles.

The suit, docketed as Civil Case No. MC08-3660 of the Regional Trial Court (RTC) in Mandaluyong City, claimed that the implementation of DO 2007-28 would deprive Martizano of her livelihood as an insurance agent.^[3] She applied for the issuance of a temporary restraining order (TRO). On July 21, 2008, Civil Case No. MC08-3660 was raffled and assigned to Branch 213 of the RTC, presided by respondent Judge Carlos A. Valenzuela.^[4]

On October 2, 2008, GSIS charged respondent RTC Judge Maria A. Cancino-Erum, the then Executive Judge of the RTC in Mandaluyong City, with grave misconduct, gross ignorance of the law, and violation of the *Rules of Court*.^[5] On the same date, GSIS also charged Judge Valenzuela with grave misconduct, gross ignorance of the law, violation of the *Rules of Court*, and knowingly rendering an unjust order.^[6]

The charges against the respondents were both based on the non- raffling of Civil

Case No. MC08-3660. Allegedly, Judge Erum violated Section 2, Rule 20 of the *Rules of Court* by assigning Civil Case No. MC083660 to Branch 213 without the benefit of a raffle.

According to the GSIS, the raffle of Civil Case No. MC08-3660 had been set on July 21, 2008 at 1:00 p.m. inside the courtroom of Judge Erum. On said date, all the parties, as well as the members of the raffle committee, namely, the respondents and RTC Judge Esteban A. Tacla, Jr., attended. For the conduct of the raffle, a roulette bearing the numbers 208, 212, 213 and 214 (representing the RTC Branches involved in the raffle) was brought inside the courtroom. However, Judge Erum announced that Civil Case No. MC08-3660 was being assigned to Branch 213 because Branches 208, 212, and 214 had already been assigned an injunction case each, leaving only Branch 213 without an injunction case. She then explained the practice that once a TRO/injunction case had been raffled to a Branch, that particular Branch would be automatically excluded from the raffle until all the other Branches had each been assigned a TRO/injunction case. Thus, there being only four regular RTC Branches in Mandaluyong City (*i.e.*, Branches 208, 212, 213 and 214), every fourth TRO/injunction case filed was no longer raffled but automatically assigned to the remaining Branch.

GSIS stated that it sought a clarification from Judge Erum on the non- raffling of Civil Case No. MC08-3660 to know which particular Supreme Court circular authorized the rotation scheme, but Judge Erum merely replied that the scheme had been a long-standing practice of raffling and assigning TRO/injunction cases in the RTC in Mandaluyong City; that it subsequently requested the re-raffle of Civil Case No. MC08-3660 through its letter dated September 1, 2008; that Judge Erum denied the request on the ground that there was nothing irregular in the assignment of Civil Case No. MC08-3660 to Branch 213; that such conduct showed her incompetence, lack of integrity, and partiality; and that she thereby gave rise to an anomalous situation in which –

xxx. [A]ll that a litigant with an injunction complaint in Mandaluyong has to do is to time the filing of his her case by waiting until the favored judge is the only sala left without an injunction case. Considering that there are only four salas in Mandaluyong, a litigant may not have to wait long until this happens. Once the favored judge is the only sala left, then the litigant is assured that his or her case will automatically be assigned to that judge.^[7]

Against Judge Valenzuela, GSIS asserted that he showed manifest partiality as a member of the Raffle Committee by consenting to the assignment of Civil Case No. MC08-3660 to his Branch without the benefit of raffle; that despite having previously worked at FGU Insurance Corporation, a member of the Philippine Insurance and Reinsurance Association (PIRA) that had actively opposed the implementation of DO 2007-28 and had even filed a petition in the RTC in Makati City for the nullification of DO 2007-28, he refused to inhibit himself from handling Civil Case No. MC08-3660, and, instead, issued a TRO restraining the implementation of DO 2007-28 despite Martizano's failure to substantiate her application for the TRO, and without waiting for the opposition and comment of STRADCOM as well as without requiring Martizano to post a bond; and that he also

unreasonably denied the *motion to dismiss* filed in Civil No. MC08-3660.^[8]

In her *comment* dated October 24, 2008, Judge Erum took the position that the assignment of Civil Case No. MC08-3660 to Branch 213 was by raffle, not by rotation, contrary to GSIS's position, thus:

14. xxx The assignment of cases including TRO cases is by raffle, and not by "rotation" in its strict sense. Because if we say rotation, we follow the consecutive number of the branches participating. Relative to MC08-3660, the 1st TRO case after closing the last preceding round was raffled to Branch 208 on July 7, 2008 raffle (and we used the roulette). The 2nd TRO case was raffled to Branch 212 (and we used the roulette) on July 14, 2008 raffle, and the 3rd TRO case was raffled to Branch 214 on July 14, 2008 raffle (and we also used the roulette). The next raffle was held on July 21, 2008, and that's where the case of MC08-3660 was raffled for it was during this period that it was filed, and the case was assigned to Branch 213, still by raffle although we did not use the roulette anymore in this particular case.

15. Had there been "rotation" in its strict sense, and not by raffle as what complainant is saying, then the sequence of the raffle would be Branch 208 to get the 1st TRO case, Branch 212 to get the 2nd TRO case, Branch 213 to get the 3rd TRO case, and the last or 4th TRO case would be Branch 214. That did not happen in this case because as it appears in the minutes of raffle, after Branch 208 and Branch 212 got their share, the next Branch to which the 3rd TRO case was raffled was to Branch 214.

Judge Erum explained that the roulette was not used in the assignment of Civil Case No. MC08-3660 because only Branch 213 of the four regular Branches in Mandaluyong City had not been assigned a TRO or injunction case. She cited the existing practice whereby a Branch to which a TRO was already raffled would be excluded from the next raffle, stating that the practice was adopted by consensus among the RTC Judges in Mandaluyong City for the purpose of equalizing the distribution of TRO/injunction cases among the several Branches of the station. She insisted that GSIS lodged the charges only because Judge Valenzuela denied its motion to inhibit and motion to dismiss filed in Civil Case No. MC08-3660.^[9]

Judge Valenzuela submitted his own comment dated October 20, 2008, in which he maintained as follows:

3. xxx The raffle of all cases and those which includes application for TRO/Injunction is done on a "round system." The raffle of cases at present only involves the four (4) RTC branches, i.e., RTC- Branch 208, RTC-Branch 212, RTC-Branch 213, and RTC-Branch 214, RTC-Branch 209 having been designated as a Family Court, a special court, hence excluded from raffle of ordinary cases, civil and criminal, the same with RTC-Branch 210, presided by the Executive Judge, which is likewise a special court since the same was designated as Drug Court, and RTC-

Branch 211 which at present has no presiding judge, the raffle of cases only involves said four regular courts.

During the said raffle of July 21, 2008, it was only this court which has not received its share of cases with application for TRO/Injunction for said "round" hence, Civil Case No. MC-08-3660 was considered raffled and automatically assigned to the court of the undersigned at RTC-Branch 213 to close the raffle of cases with application for TRO/Injunction for said "round."

xxxx

In short, Civil Case No. MC08-3660 was raffled on July 21, 2008 xxx, there is no need to spin the roulette, which was used in the raffle of cases, since it was only the court of the undersigned which has not received its share of civil cases with application for a TRO/Injunction for the particular "round." The raffle committee would just be wasting time and make fool out of ourselves if we would still spin the roulette, on that particular raffle of July 21, 2008 for the raffle of Civil Case No. MC083660, and wait until the pointer of the roulette would be finally pointed to the portion where the words "RTC 213" is located in the roulette since it is only RTC-Branch 213 which is the only court included in the raffle of civil cases with application for a TRO/Injunction for the particular "round."

Judge Valenzuela justified the proceedings taken thusly:

[T]he same was agreed upon by the judges as its internal rules so as not burden a particular judge with several cases with application for TRO/preliminary injunction since as aforestated, such applications requires the immediate attention of the judge in view of the fact that each court has hundreds or thousands of cases clogging in its respective dockets."

Albeit admitting being a former employee of FGU Insurance Corporation, Judge Valenzuela clarified that FGU Insurance Corporation was not a party in Civil Case No. MC08-3660. He assured that all the parties in Civil Case No. MC08-3660 were given the opportunity to argue for or against the issuance of the TRO; that although he had granted a period of five days to STRADCOM within which to file its own *comment/opposition* to Martizano's application for the TRO, he did not wait anymore for STRADCOM's written *comment/opposition* owing to the public interest involved and the urgency of resolving the issues concerning DO 2007-28. He said that the non-imposition of a bond on Martizano was justified under Rule 58, Section 4(b) of the *Rules of Court*; that he denied the *motion to dismiss* because the requisites for the grounds relied upon were not met; and that the supposed anomaly attending the raffle proceedings was only the product of GSIS's "polluted mind."^[10]

On April 1, 2009, the OCA rendered a report, stating:

A careful study of the records of the case shows that respondent violated the procedure on the raffle of cases by automatically assigning a case to

Branch 213 on the ground that the said procedure has been the practice of her predecessors.

Even on the assumption, as respondent admitted, that the procedure has been the practice prior to her assumption as Executive Judge, she should have borne in mind that practice is not the law. The law is very explicit on this as expressed by Article 7 of the New Civil Code which provides: "Laws are repealed only by subsequent ones, and their violation or non-observance shall not be excused by disuse, or customs or practice to the contrary" (Ceferino Inciong vs. Honorable Leticia S. Mariano De Guia, A.M. No. R-249-RTJ, September 17, 1987).

Circular No. 20, dated October 4, 1979, clearly provides that all cases filed with the court in stations or groupings where there are two or more branches shall be assigned or distributed to the different branches by raffle. No case may be assigned to any branch without being raffled. Respondents could not go against Circular No. 20 of the Supreme Court in the exercise of its rule-making power until it is repealed or otherwise modified.^[11]

The OCA recommended that: (a) both respondents be held guilty of violating the rules on the raffle of cases contained in Circular No. 7 dated September 23, 1974, with stern warning that the commission of the same or similar acts in the future would be dealt with more severely; (b) the charge against Judge Valenzuela for issuing the questioned orders in Civil Case No. MC08-3660 be dismissed for lack of merit; (c) the matter be re-docketed as a regular administrative matter; and (d) each of the respondents be fined P5,000.00 for violating Circular No. 7.^[12]

As earlier mentioned, on June 3, 2009, the Court, adopting and approving the OCA's recommendations, declared the respondents guilty of violating the rules on the raffle of cases and fined each of them P5,000.00.^[13]

Hence, the separate motions for reconsideration of the respondents,^[14] which GSIS opposed.^[15] The respondents then filed their separate replies.^[16]

Issue

Were the respondents properly held administratively liable for violating the standing rules on the raffle of cases?

Ruling

We grant the motions for reconsideration, and reconsider and set aside the resolution dated June 3, 2009. We absolve the respondents.

1.

Rules in Raffling of Cases

The 1997 Rules of Civil Procedure has expressly made the raffle the exclusive method of assigning cases among several branches of a court in a judicial station by