

## SECOND DIVISION

[ **A.M. NO. RTJ-03-1809 (FORMERLY A.M. OCA IPI NO. 03-1643-RTJ), October 17, 2006** ]

**BUSILAC BUILDERS, INC. AND ROMEO M. CAMARILLO,  
COMPLAINANTS, VS. JUDGE CHARLES A. AGUILAR, REGIONAL  
TRIAL COURT, LAOAG CITY, BRANCH 12, RESPONDENT.**

### RESOLUTION

**GARCIA, J.:**

This is an administrative case<sup>[1]</sup> filed by Busilac Builders, Inc. and its president Romeo M. Camarillo against Judge Charles A. Aguilar of the Regional Trial Court (RTC) of Laoag City, Branch 12, charging the latter with serious misconduct, gross ignorance of the law, oppression, grave abuse of judicial authority and violation of the Canons of Judicial Ethics and Republic Act No. ( R.A.) 6713.<sup>[2]</sup>

The background facts:

Sometime in 1993, complainant Romeo Camarillo, president of co-complainant Busilac Builders, Inc., entered into an agreement with the spouses Anatolio Ramos and Pacita Ramos for the sale to the former of three (3) parcels of land, denominated as Lot 1, Lot 2 and Lot 3, all situated at Laoag City. Titles to Lot 2 and Lot 3 were immediately transferred in the name of Camarillo. With respect to Lot 1, however, only its physical possession was transferred because the spouses Ramos failed to execute the necessary deed of conveyance therefor despite Camarillo's repeated demands.

On July 16, 2001, Camarillo instituted an action for "*Specific Performance*" against the spouses Ramos before the RTC of Laoag City. The case, docketed as *Civil Case No. 12310*, was raffled to Branch 12 of the court, then presided by its pairing judge, the Honorable Perla Querubin.

Later, Camarillo discovered that out of the total area of 426 square meters comprising the entirety of Lot 1, the spouses Ramos, under a Deed of Sale dated February 14, 2001, sold 300 square meters thereof to the following: Esperanza Tumaneng, 100 square meters; Victoria Balcanao, 100 square meters; and to the herein respondent Judge who was then a prosecutor, another 100 square meters.

Meanwhile, on August 21, 2001, then prosecutor Charles A. Aguilar was appointed presiding judge of RTC, Branch 12, Laoag City where *Civil Case No. 12310* was then pending.

Following his appointment to the Judiciary, Judge Aguilar as presiding judge of RTC, Branch 12, proceeded to hear the case and on April 26, 2002, issued an Order<sup>[3]</sup> dismissing the same, to wit:

In today's hearing, Atty. Daniel Rubio appeared for the plaintiff while Atty. Marlon Manuel Wayne appeared for the defendants.

Considering the ground stated in the instant Motion to Dismiss to which counsel for the plaintiff could not as yet controvert and considering further the joint motion of counsels for the parties that the instant case shall be dismissed without prejudice to give the parties better opportunities of threshing out their differences out of Court, which joint motion is not contrary to law, morals, public order or public policy and the same being meritorious, this instant case is hereby ordered immediately dismissed without prejudice.

SO ORDERED.

On July 1, 2002, the Register of Deeds of Laoag City issued Transfer Certificate of Title T-32810 in the name of the respondent judge covering the 100-square meter portion of Lot 1 earlier sold to him by the spouses Ramos.

On October 12, 2002, the respondent judge, together with the other co-owners of Lot 1, removed the concrete posts and barbed wires installed thereat by Camarillo. The respondent also caused the leveling of the hilly portion of Lot 1 with the use of a payloader which he rented from the Municipality of Bacarra, Ilocos Norte.

On October 30, 2002, Camarillo filed a complaint for "*Specific Performance, Quieting of Title/Ownership, Declaration of Nullity of Title/s, transactions and dealings, including derivative ones, if any and Damages*" against Judge Aguilar and the other co-owners of Lot 1. The complaint was docketed as *Civil Case No. 12635* in the RTC of Laoag City and raffled to Branch 16 thereof.

As among the defendants in that case, Judge Aguilar appeared in at least two (2) hearings thereof<sup>[4]</sup> and therein manifested that "*for purposes of pleadings he is represented by counsel but for purposes of appearing in court, he appears for himself.*"<sup>[5]</sup>

In a related development, Judge Aguilar issued a search warrant on November 10, 2002 against Camarillo. The warrant was issued upon application of PO2 Rolando Amangao of the Criminal Investigation and Detection Group (CIDG), Laoag City, based on a deposition of a certain Boy Ravena, a civilian agent of CIDG. Pursuant to the same search warrant, several firearms and ammunitions were seized by police operatives from the custody and possession of Camarillo.

It was against the foregoing backdrop of events when, on December 10, 2002, Busilac Builders, Inc. and its president Romeo Camarillo filed the instant administrative complaint against the respondent judge, charging the latter with the following:

1. Failure to disqualify and/or inhibit himself from hearing *Civil Case No. 12310* and ordering its dismissal;
2. Causing the leveling of Lot 1 in gross disregard of the rule of law and with grave abuse of power and authority;

3. Acting as his own counsel in *Civil Case No. 12635* before the RTC, Branch 16, Laoag City; and
4. Maliciously issuing a search warrant against complainant Romeo Camarillo for illegal possession of firearms and ammunitions.

In his Comment of March 4, 2003, the respondent judge admitted that while still a prosecutor of Laoag City, he bought a portion of 100 square meters of Lot 1. According to him, he bought the area from a certain Diosdado Vergara who allegedly purchased said portion from the spouses Anatalio Ramos and Pacita Ramos. He claimed to be a buyer in good faith, having verified the title covering Lot 1 and found the same to be free from any flaw or defect. He explained that he acquired that portion of Lot 1 in February 2001 or six (6) months before he took his oath as presiding judge of RTC, Laoag City, Branch 12. He maintained that at the time of his appointment as presiding judge, he was unaware that the subject matter of *Civil Case No. 12310* was Lot 1. He added that it was only before the scheduled hearing of that case on April 26, 2002 when Camarillo's counsel therein, a certain Atty. Daniel Rubio, informed him that he was a co-owner of the lot subject of that case. Continuing, the respondent judge averred that he immediately informed the parties to that case of his co-ownership of Lot 1 and inquired from the two (2) opposing counsels, Attys. Rubio and Manuel, whether he should inhibit himself from hearing *Civil Case No. 12310* but both counsels told him that there was no need for him to inhibit and disqualify himself from hearing the case inasmuch as the parties therein were trying to settle the suit amicably.<sup>[6]</sup>

Anent his dismissal order of April 26, 2002 in that case, the respondent judge claimed that he issued the same at the instance of both counsels who moved for the dismissal of *Civil Case No. 12310* to give them opportunities to thresh out the differences of their respective clients out of court.

While admitting to having caused the leveling of Lot 1 with the use of a payloader, the respondent judge insisted that he, along with his co-owners of the same lot, were merely exercising their respective rights of ownership. He stressed that the leveling of that lot was even made in the presence and with the assistance of the chairman and officials of Barangay 54-B of Camangaan, Laoag City, adding that the payloader used in the leveling work was paid for by all the co-owners of Lot 1 and not by himself alone.

While not denying having appeared twice as counsel for himself during the hearing of *Civil Case No. 12635* where he was one of the defendants, he explained that the only reason for his appearance thereat was to make manifestation before the court hearing that case (RTC, Branch 16), that he had retained a counsel for purposes of signing the necessary pleadings therein.

On complainants' allegations that he arbitrarily issued a search warrant against Camarillo, the respondent judge averred that before the warrant was issued, he conducted the required searching inquiry on CIDG civilian agent Boy Ravena who claimed to have seen Camarillo carrying several firearms on the latter's way to a farmhouse and likewise upon the person of PO2 Rolando Amangao who verified that Camarillo did not secure the necessary license for the firearms. The respondent judge made it clear that it was only after having been convinced of the existence of probable cause against Camarillo and the urgent necessity for the issuance of the

search warrant applied for, that he issued the same against Camarillo for violation of Presidential Decree 1866 (Illegal Possession of Firearms and Ammunitions).

Seeking exculpation from the charges filed against him, the respondent judge asserted that he did not, in any, way abuse his authority nor did he commit any misconduct, much less violate the Canons of Judicial Ethics, the Code of Judicial Conduct and the Code of Conduct and Ethical Standards for Public Officials and Employees. He summed up the accusations against him as false and a mere fabrication of the herein complainants.

On October 8, 2003, the Court resolved to re-docket the case as a regular administrative matter and referred the same to the Court of Appeals (CA) for investigation, report and recommendation.<sup>[7]</sup> Eventually, the case was raffled to CA Associate Justice Regalado E. Maambong.

In his Report<sup>[8]</sup> dated May 31, 2004, the Investigating Justice made the following findings and recommendations:

- (1) respondent's failure to inhibit himself from hearing *Civil Case No. 12310* and his issuance of the Order of Dismissal dated April 26, 2002 constitute a violation of Paragraph 28 of the Canons of Judicial Ethics<sup>[9]</sup> and Canon 3, Rule 3.12 of the Code of Judicial Conduct;<sup>[10]</sup>
- (2) respondent's participation in the leveling of Lot 1 constitutes a violation of Paragraph 3 of the Canons of Judicial Ethics<sup>[11]</sup> and Canon 2, Rule 2.01 of the Code of Judicial Conduct;<sup>[12]</sup>
- (3) the charge that respondent engaged in the private practice of law by appearing as counsel for himself in *Civil Case No. 12635* should be dismissed for lack of factual and legal basis; and
- (4) the charge of grave abuse of authority for having issued a search warrant should also be dismissed for lack of merit.

On the basis of the above, the Investigating Justice recommended that the respondent judge be fined in the amount of Four Thousand Pesos (P4,000.00) and warned that a repetition of the same acts will be dealt with more severely.

For its part, the Office of the Court Administrator (OCA), to which the report of the CA Investigating Justice was referred for review in its Memorandum of September 7, 2005, recommended that the respondent judge be: (1) suspended for one month without pay for failing to inhibit himself in *Civil Case No. 12310*, for ordering its dismissal, and for participating in the leveling of Lot 1; (2) reprimanded for appearing as his own counsel in *Civil Case No. 12635*; and (3) exonerated for grave abuse of authority in issuing a search warrant but warned that similar infractions in the future will be dealt with more severely.

After reviewing the separate Report of the CA Investigating Justice and the OCA's aforementioned Memorandum, the Court finds the actions therein recommended to be well-taken.

On the **first charge**:

There is no dispute that Judge Aguilar is a registered owner of 100 square meters of Lot 1 which was the subject matter of *Civil Case No. 12310* then pending before his court. Rule 3.12 of Canon 3 of the Code of Judicial Conduct specifically provides that "a judge should take no part in any proceeding where the judge's impartiality might reasonably be questioned." On the other hand, the Canons of Judicial Ethics mandates that a judge "should abstain from participating in any judicial act in which his personal interests are involved. If he has personal litigation in the court of which he is a judge, he need not resign his judgeship on that account, but should of course refrain from any judicial act in such controversy."

There was a definite violation by the respondent judge of the above canons when he continued to hear *Civil Case No. 12310* and ordered its dismissal. Undeniably, he had a personal and direct interest in the subject matter thereof. Worth reiterating herein is the observation of the Investigating Justice:

It is a well-established principle, applicable in criminal and civil cases, that no judge or member of a tribunal should sit in any case in which he is directly or indirectly interested. A case wherein a judge is interested is one wherein, to an extent and in effect, the case becomes his own. xxx

It [is] well-settled also that a judge is disqualified to sit in an action where he has any pecuniary interest in its result. Or owns property that will be affected by its outcome. A disqualifying pecuniary interest or property interest is an interest in the event or subject matter of the action or in the judgment to be rendered therein such that by the judgment the judge will be directly affected by a pecuniary gain or loss.

[13]

By not immediately inhibiting himself from *Civil Case No. 12310* and, worse, eventually dismissing the same, the respondent judge thereby created the impression that he intended to advance his own personal interest and ensure that the outcome of the litigation would be favorable to him. A judge should strive to be at all times wholly free, disinterested, impartial and independent. He has both the duty of rendering a just decision and the duty of doing it in a manner completely free from suspicion as to its fairness and as to its integrity.<sup>[14]</sup> A critical component of due process is a hearing before an impartial and disinterested tribunal, for all the other elements of due process, like notice and hearing, would be meaningless if the ultimate decision would come from a partial and biased judge.<sup>[15]</sup>

Judge Aguilar's excuse that he immediately informed the parties and their respective counsels of his co-ownership of Lot 1 and even asked them whether he should inhibit or disqualify himself cannot justify his continuous trial of the case. What he should have done the moment he became aware that Lot 1 was the crux of the controversy in *Civil Case No. 12310* was to forthwith disqualify himself therefrom and have the case re-raffled to another branch of the court. His reluctance to let go of the case all the more induced doubts and suspicions as to his honest actuations, probity and objectivity. Evidently, the respondent violated the clear injunction embodied in the Code and the Canons.

Further, Section 1 of Rule 137 of the Rules of Court explicitly provides: