

## EN BANC

**[ A.M. No. SB-04-11-J (formerly A.M No. OCA IPI No. 03-10-SB), February 13, 2004 ]**

**LEONIDES T. CORTES, COMPLAINANT, VS. SANDIGANBAYAN JUSTICES MINITA V. CHICO-NAZARIO, MA. CRISTINA G. CORTEZ-ESTRADA AND RODOLFO G. PALATTAO, RESPONDENTS.**

### DECISION

**CALLEJO, SR., J.:**

The instant administrative case arose when Leonides T. Cortes filed a verified Letter-Complaint dated July 28, 2003 charging Justices Minita V. Chico-Nazario, Rodolfo Palattao\* and Ma. Cristina G. Cortez-Estrada, Sandiganbayan, Fifth Division, with violation of Supreme Court Resolution No. 2-9-2002, gross and culpable violation of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act), and gross and culpable violation of Rep. Act No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees) relative to Criminal Case No. 25064 entitled *People of the Philippines v. Dolores T. Reyes and Pastor P. Vichauco*.

The complainant filed the complaint for violation of Rep. Act No. 3019 against Dolores T. Reyes, Municipal Treasurer of Samal, Bataan and Pastor P. Vichauco, Provincial Treasurer of Balanga, Bataan, before the Ombudsman. The case was, thereafter, submitted to the Sandiganbayan.

According to the complainant, the accused committed the crime charged by taking advantage of their official functions and through manifest partiality, evident bad faith or gross inexcusable negligence, caused the sale of his property, Lot No. 2179, at public auction. He averred that the sale was made without legal right or authority to do so, as the real property taxes therefore were duly paid up to 1994.<sup>[1]</sup> The complainant further alleged that he was not notified of the said auction sale.<sup>[2]</sup>

The complainant claimed that he paid his taxes in the amount of P21,114.72 in 1996 to Ramon Castro, clerk and right hand of the Municipal Treasurer. Mr. Castro was, however, forced to resign after he testified before the Ombudsman on the matter, allegedly to cover up the anomaly committed by the accused.

In the instant administrative complaint, the complainant claimed that the proceedings before the Sandiganbayan were irregular, as it terminated the case without the defense having conducted a cross-examination on him to rebut the direct testimonies against the accused.<sup>[3]</sup> He, however, admitted that clarificatory questions were propounded on him, where he narrated all the events that transpired prior to the public auction. He, likewise, admits being asked to testify on the civil aspect of the case where he claimed that the conduct of the public auction made him suffer high blood pressure, sleepless nights and mental anguish, and that he lost business transactions amounting to P45,000,000.<sup>[4]</sup>

The complainant also questions the pronouncement made by the Sandiganbayan that "he slept on his rights" for failing to redeem the property in question within the one-year period as required under the law as this is erroneous. He avers that there was no need for him to redeem the property as the auction sale was not duly registered with the Register of Deeds of the Province of Bataan; hence, null and void. [5]

Complainant also imputes irregularity on the part of the Sandiganbayan when the Sandiganbayan reconsidered its Resolution dated November 16, 2000. According to the complainant, the reason why the Sandiganbayan reconsidered its earlier Resolution dated November 16, 2000 denying the Demurrer to Evidence of the accused is that the counsel for the latter, Atty. Lazaro, negotiated for its reversal. The accused were apparently "convinced to sacrifice the amount of P5,000,000 in consideration for a favorable resolution.

In their Consolidated Comment<sup>[6]</sup> dated October 14, 2003, the respondent justices denied the charges against them. They surmised that the said charges are anchored on the reconsideration of the Resolution dated November 16, 2000 in Criminal Case No. 25064 where the Demurrer to Evidence filed by the accused was originally denied. In a plea for the reconsideration of the said resolution, the accused therein alleged, among other things, that it was not for them to show their innocence but for the prosecution to prove their guilt beyond reasonable doubt. According to the respondents:

Finding the same to be statutorily and jurisprudentially correct, we reexamined the prosecution's testimonial and documentary evidence to determine if there was at least *prima facie* proof of the guilt of the accused. Indeed, only if such quantum of evidence existed would there have been a legal need for the accused to present evidence to controvert the prosecution's case.

As explained in the Resolution dated 25 June 2001, we found that no evidence was presented to prove two (2) essential elements of the crime charged. Hence, we were constrained to give due course to the *Motion for Reconsideration* filed by the accused so as to make the court's resolution of the demurrer to evidence, as reconsidered, conform to the facts and law.<sup>[7]</sup>

The respondents aver that Supreme Court Resolution No. 02-9-2002,<sup>[8]</sup> contrary to the complainant's allegation, does not define or punish any offense.<sup>[9]</sup> Furthermore, the charge of gross and culpable violation of Rep. Act No. 3019 deserves no consideration, "not only because it is false but also because it is utterly unsubstantiated."<sup>[10]</sup> The respondents also intimated that the complainant had made it a point to indiscriminately charge all persons who were involved in his case, either directly or indirectly, as he had also filed a similar complaint against Secretary of Finance Jose Isidro Camacho.<sup>[11]</sup> According to the respondents:

3. Nonetheless, we hereby very respectfully state that while, as earlier adverted to, we have initially denied the demurrer to evidence filed by the accused in the above-described criminal case,

there was nothing illegal or immoral in reversing our previous resolution in a motion for reconsideration subsequently filed by both accused. The filing of a motion for reconsideration is sanctioned by the Rules of Court and is a well-recognized remedy in order that judges, who may have overlooked facts in issuing a decision or resolution, would be given the chance to make their final resolutions conform to law and justice. This, precisely, is the essence of the rule allowing a motion for reconsideration.<sup>[12]</sup>

It was further averred that the questioned resolution of the court was based on established facts and law, and that the reversal of its earlier resolution is sanctioned by the Rules of Court.

Anent the charge of gross and culpable violation of Rep. Act No. 6713, the respondents allege that the instant complaint did not set out distinctly the alleged serious misconduct or the provisions of the Code of Ethics which they violated. The respondents reiterate that the accusation against them is purely unfounded and baseless.<sup>[13]</sup>

On October 22, 2003, the complainant filed an Urgent Motion to Declare Respondents in Default, alleging that the respondents failed to comply with the directive of the Office of the Court Administrator to submit their comment within ten days from receipt of notice.

In its Report dated November 7, 2003, the Office of the Court Administrator made the following evaluation and recommendation:

**EVALUATION**: The instant case should be dismissed for lack of merit.

It appears that the complainant implicated the respondent Justices in the alleged "negotiation" wherein the accused in Criminal Case No. 25064 were convinced by their lawyer to sacrifice the amount of five million pesos (P5,000,000.00) in consideration of a favorable resolution. From this theory, complainant anchored his charge that the respondent Justices violated R.A. 3019. After a careful evaluation of the records of the case, we however find that the theory is completely without factual basis. The complainant himself failed to adduce any evidence to substantiate his allegation. So basic is the doctrinal rule that in administrative proceedings, complainants have the burden of proving by substantial evidence the allegations in their complaint (Araos vs. Judge Luna-Pison, February 28, 2002).

We also find no specific act attributable to the respondent Justices that would constitute violation of R.A. 6713 or any of its provision thereof. Even the complainant himself failed to identify the act(s) committed by the respondent Justices violative of the law or any of its provision. In this regard, there would be no basis to hold the respondent Justices administratively liable for violation of R.A. 6713.

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**RECOMMENDATION**: Respectfully submitted for the consideration of