

THIRD DIVISION

[A.M. No. RTJ-99-1436, September 30, 2004]

ATTY. FIDELA Y. VARGAS, COMPLAINANT, VS. JUDGE FATIMA GONZALES ASDALA, RESPONDENT.

DECISION

SANDOVAL-GUTIERREZ, J.:

This administrative case was instituted by "a contentious and vexatious lawyer" against "an insensitive and overbearing judge." That is how Investigating Justice Hilarion L. Aquino,^[1] in his Report and Recommendation, described the protagonists in the instant case.

The facts of this case are as follows:

Complainant Atty. Fidela Y. Vargas is single, 74 years old, a resident of Olongapo City and a member of the Integrated Bar of the Philippines (IBP), Zambales Chapter. She appeared as a "special counsel" in the following criminal cases pending before the Regional Trial Court (RTC), Branch 74, Olongapo City, presided by Judge Fatima Gonzales-Asdala, respondent herein:

1. People vs. Rolando - Criminal Case No.
Morales 411-89
2. People vs. Danilo - Criminal Case No.
Arteta 727-89
(detained since (Homicide)
September 20, 1996)
3. People vs. Artemio - Criminal Case No. 32-
Abad 92
(Homicide)
4. People vs. Eduardo - Criminal Cases Nos.
Bada 410-92,
411-92 (Robbery),
412-92, and
413-92
5. People vs. James - Criminal Cases Nos.
Bowman 123-93, 124-93, and
125-93 (Homicide,
Robbery, and Illegal
Possession Of
Firearms)
6. People vs. Abraham - Criminal Case No.
Bautista 667-93
(Homicide)

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| 7. People vs. Samuel Fortunato (detained since August 22, 1996) | - | Criminal Case No. 58-94 (Homicide) |
| 8. People vs. Joey Delos Santos (detained since May 13, 1996) | - | Criminal Case No. 440-95 (Theft) |
| 9. People vs. Reynaldo Aspiras (detained since July 15, 1996) | - | Criminal Case No. 276-97 |

The above cases, as indicated in their docket numbers, were filed between 1989 and 1997. Only two of the cases (Criminal Cases Nos. 440-95 and 276-97) were filed after respondent judge assumed her post in Branch 74 in 1995. All the accused were detention prisoners assisted by lawyers from the Public Attorneys' Office (PAO) appointed by the trial court.

On July 9, 1996, this Court issued Administrative Order No. 78-96^[2] designating respondent Judge Asdala as assisting judge of Judge Rodolfo A. Ortiz, RTC, Branch 89, Quezon City, effective immediately. In the same Administrative Order, Judge Eliodoro G. Ubiadas was deputized as acting presiding judge of RTC, Branch 74, Olongapo City (in place of respondent judge), in addition to his regular duties as presiding judge of Branch 72, same court, effective immediately.

Early in 1997, Judge Eliodoro Ubiadas suffered a stroke and was on sick leave for quite sometime. Consequently, during his ailment, all cases in Branch 72 and Branch 74 were at a stand still.

Taking the initiative of finding a solution to the inactivity of the two courts, specifically Branch 74 presided by respondent, complainant, in May 1997, wrote the Chief Justice and the Court Administrator about the delay in the hearing of cases in said Branch. She also filed with this Court a *petition for mandamus* (G.R. No. 130329) against the Court Administrator to compel him to immediately recall respondent judge from RTC, Branch 89, to her Olongapo City sala (Branch 74). The petition, however, was dismissed. All these actions taken by complainant were known to respondent judge.

Meanwhile, a regular judge was appointed to preside over RTC, Branch 89, Quezon City. Consequently, on February 1, 1998, respondent judge reassumed her post in RTC, Branch 74, Olongapo City.

Respondent judge could not shake off the thought that complainant was instrumental in her recall, which deprived her of the convenience of working in Quezon City, her place of residence. She could not hide her displeasure towards complainant as she issued an Order dated February 10, 1998^[3] inhibiting herself from presiding over a case^[4] wherein she (complainant) is the plaintiff, thus:

"It has come to the knowledge of the Presiding Judge (now respondent) that during her stint as judge-on-detail with the

Regional Trial Court of Quezon City, and before she was directed by the Court Administrator to return to this station, plaintiff Atty. Fidela Y. Vargas (now complainant) had been making an issue of the Presiding Judge's detail, in various fora x x x such as a seminar conducted by the IBP Zambales Chapter and one conducted by the Office of the Court Administrator.

"Whatever is plaintiff's reason in doing so is, to the Presiding Judge, certainly tainted with malice. Plaintiff has no basis in fact and in law to question the detail, the matter having been passed upon meritoriously by the Supreme Court, and the Presiding Judge's request for detail with the Regional Trial Court of Quezon City on July 8, 1996 had justifiable reasons.

"To the mind of the Presiding Judge, her assignment in Quezon City could not have been recalled were it not for plaintiff's undue interference and meddling. Indeed, plaintiff's actuation had made a lasting impression on the Presiding Judge's mind. By reason thereof, the Presiding Judge cannot be expected to be impartial and pretend that she has no personal prejudice against the plaintiff.

"In order to avoid that situation and to disabuse both the minds of the Presiding Judge and plaintiff, the former desires to take no part in the hearing and disposition of this case where plaintiff is the real-party-in-interest, and hereby voluntarily inhibits herself from further presiding thereon.

"WHEREFORE, and by virtue of said inhibition, let the records of this case be forwarded to the Clerk of Court for re-raffle and reassignment.

"SO ORDERED." (Underscoring supplied)

Respondent's antipathy towards complainant heightened when the latter entered her appearance as "special counsel" for the accused-detainees in the aforementioned nine (9) criminal cases^[5] without the conformity of their respective counsel *de officio* from the PAO. Thus, respondent judge rejected complainant's "special" appearances.

Thus, on March 9, 1998, respondent issued an Order in Criminal Cases Nos. 667-93^[6] & 123-93 to 125-93^[7] stating therein the *Manifestation* of Atty. Romeo Alinea, counsel *de officio* for accused Abraham Bautista, that he has not authorized any other lawyer to collaborate with or substitute for him as counsel in the said cases; and that he was not informed by complainant that she would appear as "special counsel" for his client. Accordingly, respondent judge refused to recognize the "special appearance" of complainant "unless she would present a confirmation from the counsel on record."

In retaliation, complainant sent the Court Administrator a telegram^[8] stating that since February 2, 1998, respondent judge reported to office only during Mondays, Tuesdays and Wednesdays, thereby causing further delay in the resolution of the

criminal cases against her clients; and inquiring whether respondent has been given the privilege of holding office only three times a week.

Complainant then filed an *Urgent Motion to Dismiss (the criminal cases) Due to Denial of Accused's Constitutional Right to Speedy Trial*.^[9] The motion was signed by the accused to signify their conformity thereto. However, respondent judge, in her Order dated April 30, 1998,^[10] denied the motion for lack of merit.

Undaunted, on May 22, 1998, complainant filed with the Ombudsman two complaints^[11] (signed by the accused) against respondent for violation of Article 207 of the Revised Penal Code (malicious delay in the administration of justice). However, finding that respondent judge's absences were justified, the Ombudsman dismissed the complaints.^[12]

But complainant remained obstinate. On May 27, 1998, she again appeared as a "special counsel" for the same accused in an *Urgent Motion for Inhibition*^[13] alleging that: (1) respondent judge **"deliberately refused to hear/resolve"** the accused's motion to dismiss **"by keeping on absenting herself, deferring the hearing of the accused's motion, and intentionally going on a non-forfeitable leave the whole month of May 1998, in total disregard of the accused's several years of confinement x x x"**; and that (2) the accused "believe the Hon. Presiding Judge is no longer in a position to exercise judicial fairness, impartiality and justice in the resolution of their motions and cases," especially that they already filed with the Ombudsman a complaint against her. Movants thus prayed that respondent judge "immediately inhibit herself from further hearing and/or acting on the criminal cases," and that the cases be re-raffled to another sala.

These allegations of complainant offended respondent. In her Order dated June 3, 1998^[14] in Criminal Case No. 440-73, she did not only deny the *Urgent Motion For Inhibition* but cited complainant in direct contempt of court for (1) "making misleading, baseless and unfounded statements" which were "offensive and malicious x x x, intended not only to threaten, intimidate and embarrass the judge, but also to interfere with the Court's functions of administering justice and exercising its judicial discretion; and (2) "representing the accused who are already duly represented in Court, without authority x x x." Accordingly, respondent judge penalized complainant with imprisonment of ten (10) days at the City Jail, Camp Maquinaya, Olongapo City and a fine of ₱2,000.00. The contempt Order also directed the Camp's Commanding Officer to detain complainant immediately.

Unfazed, complainant filed on June 8, 1998 a *Notice of Appearance*^[15] in Criminal Cases Nos. 440-95, 58-94, 727-89 & 276-97, again signed by the accused, stating that they requested complainant to represent them in their cases, in addition to their counsel *de officio*.

Believing that complainant's appearance is improper, respondent judge, for the second time, issued an Order dated June 8, 1998^[16] in Criminal Case No. 58-94, citing her in direct contempt of court and penalizing her with imprisonment for 10 days and a fine of ₱2,000.00, payable within 24 hours from notice. Respondent judge held:

"Firstly, and earlier on, this Court has refused to recognize Atty. Fidela Vargas' appearance as special counsel in this case. Her representation as 'special counsel' for the accused has no leg to stand on. Accused is duly represented by a Court-appointed counsel *de officio* in all proceedings. The counsel *de officio* has never been relieved and the Court has not named any other lawyer to act vice the designated counsel *de officio*. **The act of appearing as lawyer for a detained accused in a case where a counsel is already appointed by the Court without notice to and authority from the counsel on record and from the Court is, *per se*, a contemptuous act, and Atty. Vargas is guilty of contempt.**

"Secondly, officially from July 6, 1996 to January 31, 1998, this Judge was detailed with the Quezon City Regional Trial Court and during said period, it was Judge Eliodoro G. Ubiadas, Presiding Judge of RTC Branch 72, Olongapo City, who presided over this Court in an acting capacity. The last time this case was heard by this Judge prior to her assumption of her duties in the Quezon City Regional Trial Court was on July 31, 1996. But then, the case had to be reset to August 8, 1996 since the Public Prosecutor assigned to this Court failed to show up. Thereafter, it was Judge Eliodoro G. Ubiadas who presided over this Court, as earlier pointed out, in all those instances, accused Samuel Fortunato has always been duly represented by a court appointed counsel *de officio*. While trial did not take place in some dates, they were upon orders of Judge Ubiadas, the acting judge.

"The case is presently being tried and the prosecution evidence is still set on June 17, 1998, while that of the defense, on July 4, 1998 and July 15, 1998, respectively.

"There is, therefore, nothing in the record which would show, at any time, that this Judge has deliberately and intentionally disregarded accused's right to a speedy trial or has been unfair and partial to the detriment of the accused. Such unfounded accusations simply cannot be disregarded or ignored, for it is an attack not only against the person sitting on this Court but also against the Court itself. It is an accusation against this Judge of a personal wrongdoing, and disrespect to the one who sits on the bench and before whom respondent lawyer appears and on the whole, a clear discourtesy to the Court. All the allegations of wrongdoing to this Judge, while camouflaged with the words 'her honor,' are but sarcasm and obvious disrespect and manifestations of contempt.

"To this court, respondent's actuation of assailing this Judge and attributing to her unbecoming acts in the performance of her official duties, ascribing to this Judge faults, by deliberately falsifying and twisting the truth is a serious misconduct, designed to bring the authority of the Court, the administration of justice into disrepute, and ultimately to impede the administration of justice. Simply wanting this Court to dismiss this case when the Court is in the middle of receiving evidence, is obstructing the