461 Phil. 28

SECOND DIVISION

[A.M. No. RTJ-03-1748, November 11, 2003]

JULIE C. PITNEY, COMPLAINANT, VS. JUDGE ZEUS C. ABROGAR, REGIONAL TRIAL COURT, BRANCH 150, MAKATI CITY, RESPONDENT.

R E S O L U T I O N

CALLEJO, SR., J.:

The instant administrative case arose when Julie C. Pitney wrote a Letter- Complaint dated January 8, 2002, charging respondent Judge Zeus C. Abrogar, Regional Trial Court, Makati City, Branch 150, with bias and partiality relative to Civil Case No. 01-1415 entitled *Arturo Rocha, Jr. vs. International School of Manila, Inc.*

The complainant, as the Vice-President of the Board of Trustees of the International School of Manila (ISM), assailed the Order dated December 10, 2001 issued by the respondent judge granting the plaintiff's application for preliminary injunction. The complainant asserted that in so doing, the respondent judge violated the fundamental rules of evidence, and failed to act on their unopposed Motion to Dismiss filed on October 11, 2001.

In another Letter dated January 15, 2002, the complainant alleged that the respondent judge's bias in favor of the plaintiff was apparent, thus:

> Our lawyers filed a Motion to Inhibit on 09 January 2002, a Motion to Resolve the Motion to Inhibit on 11 January 2002, and even a Second Motion to Inhibit on 15 January 2002. Please find copies of these three (3) Motions attached as Annexes "B," "C," and "D," respectively. However, the presiding Judge has not yet resolved these Motions, in the same way that he has not yet resolved our Motion to Dismiss, which we lodged on the grounds that Mr. Rocha did not allow the Board of Trustees to act on the matter, prior to his suing the School. The Handbook of Student Regulations is clear that the penalty of being dropped from the rolls can only be imposed by the Board of Trustees, but before that happened, and before Mr. Rocha had exhausted the avenue of a subsequent appeal to the Board, he had filed his complaint in court.
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> This inaction by the presiding judge gives us real cause for concern, since our experience so far is that he has shown an interest only in taking up and resolving those issues raised by Mr. Rocha. It appears that he is oblivious to the School's Motion to Dismiss and Inhibit. He has no concern for the School's compelling need to uphold the integrity and efficacy of its drug testing program. He takes no account of the fact that there is no provision in our Handbook for students to take private tests to weigh against those organized through the School. He chooses to ignore indisputable evidence that the two tests used by the school and arranged

> through separate, independent laboratories are far more sensitive and accurate than the drug test used by Mr. Rocha's chosen laboratory.
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> ...
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> The presiding judge has made clear his intentions. What lies at the back of his mind is that the penalty of being dropped from the rolls for a second violation of the School's drug rules and policies is *not commensurate with the offense*. It is obvious that, even if the second drug offense is proved, the judge will nevertheless prohibit the School from sanctioning Mr. Rocha according to our rules. [1]

In both letters,[2] the complainant apologized to the court for taking the instant course of action, "instead of trusting the normal judicial review process over a judge's actions." The complainant went on to explain that under the circumstances, however, unless the respondent judge inhibits himself, the ISM's endeavors to ensure that it is a drug-free community would be mocked, since it is most likely that the respondent judge would rule in favor of the plaintiff, Mr. Rocha.

In his Comment dated February 15, 2002, the respondent judge averred that the complainant's letter was "unfair, premature and highly improper, if not malicious, intended solely to harass the Court and clearly designed to trample on its judicial independence."[3] The respondent explained that in issuing the assailed Order dated December 10, 2001, he took into consideration the applicable laws and jurisprudence, and used his sound discretion. As to his failure to resolve the motion to dismiss filed on October 11, 2001, based on the court records, the plaintiff had until January 2, 2002 within which to file his comment/opposition. Since none was filed, the incident was deemed submitted for decision and the court had until April 3, 2002 within which to resolve the same.[4]

The respondent further explained, thus:

> Another reason why said motion as well as the other pending incidents, including defendant's motion for inhibition and plaintiff's motion to show cause complaining about defendant's refusal to honor the writ of injunction and the order dated January 8, 2002 issued by the Court, have remained unacted up to the present was the parties' oral manifestation that they are on the point of amicably settling the case. In fact, hearings on these incidents have been postponed several times (January 16, 18, 23, 30, February 7, 12, 2002) upon agreement of the parties on the ground of alleged talks of amicable settlement. In this regard, let it be stated in passing that in the last hearing of the pending incidents on February 12, 2002, the parties and their respective counsel were again seen conferring with one another inside the Courtroom but left before their case was called, prompting the Court to issue the following order:
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> > "When called, none of the parties is in Court. Although they were seen earlier inside the courtroom they left even before their case was called.
> >
> > Wherefore, counsel for both parties are hereby directed to explain in writing five (5) days from receipt of this Order why