

## THIRD DIVISION

[ AM No. RTJ-01-1640, October 15, 2002 ]

**ATTY. HERMOGENES DATUIN, JR., COMPLAINANT, VS. JUDGE ANDRES B. SORIANO, REGIONAL TRIAL COURT OF MALOLOS, BULACAN, RESPONDENT.**

### D E C I S I O N

**CARPIO MORALES, J.:**

Recreant members of the judiciary must be denounced, but only when charges against them are substantiated. The administrative complaint at bar presents no such occasion.

The complaint arose from Civil Case No. 1335-8 (the civil case), a complaint for sum of money filed before the Regional Trial Court at Malolos, Bulacan on December 24, 1998 by a certain Olivia Natividad against one Teresita Lopez, which was raffled to Branch 13 thereof presided by Judge Andres B. Soriano, herein respondent. In said civil case, herein complainant Atty. Hermogenes Datuin, Jr. appeared as counsel for the defendant.

On October 13, 1999, in the course of the trial of the civil case, complainant filed a Motion for Disqualification of respondent the pertinent allegations of which read *verbatim* as follows:

1. In the pre-trial conference of September 21, 1999, the Presiding Judge Hon. Andres B. Soriano, showed his *partial and bias attitude* in favor of the plaintiff *by arrogantly hollering at counsel for the defendant without any justifiable cause or motive.*
2. *When approached in Chamber* the above-named Presiding Judge intimated to the defendant that should there be a buyer of the property covered by TCT No. 368418 of the defendant which is worth Ten (10) Million Pesos and which is admittedly being illegally withheld by the plaintiff without justifiable reason and which title has nothing to do with the subject matter of the plaintiff's claim of Php 531,000.00, *the buyer should be made to appear before Him; thus, clearly showing His interest in the prospective transaction.*
3. After the pre-trial was concluded on September 21, 1999, the abovenamed Judge issued an order which, in its pertinent portion, reads as follows: "Pre-trial proceeded and in due course was concluded", without, however, reciting in detail the matters taken up in the conference contrary to and in violation of Rule 18, Sec. 7, . . . (Italics supplied).

Claiming that respondent failed to resolve the Motion for Disqualification for about three months, complainant filed a letter dated January 10, 2000, which was received at the Office of the Chief Justice on January 20, 2000, attributing to

respondent "incompetency to hear and decide cases" and requesting that the motion be treated as an administrative charge against respondent "for removal from office".

Complainant's letter-complaint was endorsed for appropriate action to the Office of the Court Administrator (OCA) which, by Ist Indorsement dated February 9, 2000, directed respondent to file a Comment within ten (10) days from receipt thereof.

Respondent thus filed his Comment on March 7, 2000 denying the alleged non-resolution within three months of the Motion for Disqualification and claiming that 1) his grant of said motion by Order of December 27, 1999 disproves his alleged bias in favor of the plaintiff, 2) granting, for the sake of argument, that hollering at complainant at the September 21, 1999 pre-trial were true, that does not by itself demonstrate bias or partiality, and 3) he intended to subsequently issue the pre-trial order contemplated in Section 7 of Rule 18 of the 1997 Rules of Civil Procedure upon the "completion" of the transcript of stenographic notes taken during the pre-trial.

By Resolution of July 11, 2001, this Court's Third Division referred the case to the Presiding Justice of the Court of Appeals (CA) for raffle among its associate justices, with the directive that the Associate Justice to whom the case is assigned SUBMIT his/her investigation, report and recommendation within sixty (60) days.

The OCA accordingly forwarded to the CA the record of the case which was raffled to CA Associate Justice Bienvenido L. Reyes for investigation, report and recommendation.

After conducting a hearing on September 19, 2001, the Investigating Justice submitted a REPORT on May 2, 2002 partly stating as follows:

After a circumspect reading of the records, We find nothing in the conduct of the respondent that would warrant any punitive action from the High Court. Outside his naked assertions, the imputation of impartiality against the public respondent was not amply substantiated by the complainant. In this regard, it needs to be underscored that in administrative cases akin to the instant controversy, it is the complainant who totes the burden of proving the respondent judge's liability (***Concepcion v. Vela, Adm. Matter No. 309-MJ, May 31, 1976, 71 SCRA 133***). The evidence presented [is] not sufficiently convincing to compel the exercise of the disciplinary powers of the Supreme Court. We cannot simply syllogize on the culpability of the respondent judge on the basis of evidence which [is], at best, inconclusive and conjectural. (Underscoring supplied).

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Under pain of redundancy, the evidence proffered by the complainant, which consists chiefly of suppositions and uncorroborated statements, fall[s] short to discharge the compulsory burden of proof beyond reasonable doubt. Collectively, [it] fail[s] to establish that the public respondent was indeed inspired by any selfish intent and that he bore personal bias which is susceptible to obscure the merits of the case, betray the respondent's objectivity and jeopardize his sense of judgment. The fact that even before an administrative case was filed against the respondent judge, he had already inhibited himself from the case belies

the claim that he was partial to the complainants and that he took special interest in the property subject of the litigation. (Underscoring supplied).

The Investigating Justice thus recommended the dismissal of the complaint against respondent.

The recommendation is well-taken.

It is settled that in administrative proceedings the complainant has the burden of proving, in general by substantial evidence, the allegations in the complaint.<sup>[1]</sup> This complainant failed to discharge.

The Motion for Disqualification filed by complainant had already been granted by respondent, before the former lodged his letter-complaint, in order, to use respondent's words, "to assure the parties that the civil case will be heard and tried without regard to personalities".

With respect to complainant's allegation that respondent yelled at him, absent evidence as to its content as well as the circumstances under which it was made, its import cannot be appreciated, hence, this Court cannot be so rash as to condemn respondent to punitive action.

Neither can this Court fault respondent on the basis of his intimation that should there be a buyer of the property subject of the civil case, the buyer "must be made to appear before him". For complainant did not dispute at the hearing of the present complaint before the Investigating Justice on September 21, 2001 that the "intimation" was made by respondent *in open court in his attempt to settle the civil case before his sala*.<sup>[2]</sup> The argument that respondent won't be asking that the buyer be presented to him if he had no hidden agenda<sup>[3]</sup> is unadulterated speculation, hence, deserves no weight.

Respondent's efforts to have the parties arrive at an amicable settlement in fact shows that he was carrying out the mandate to consider during pre-trial the possibility of an amicable settlement.<sup>[4]</sup>

*Notatu dignum* is the presumption of regularity in the performance of a judge's functions<sup>[5]</sup>, hence, bias, prejudice and even undue interest cannot be presumed, especially weighed against a judge's sacred allegation under oath of office to administer justice without respect to any person and do equal right to the poor and the rich.<sup>[6]</sup>

As for respondent's alleged violation of Section 7 of Rule 18 of the 1997 Code of Civil Procedure which reads:

SEC. 7. *Record of pre-trial*.—The proceedings in the pre-trial shall be recorded. Upon termination thereof, the court shall issue an order which shall recite in detail the matters taken up in the conference; the action taken thereon, the amendments allowed to the pleadings, and the agreements or admissions made by the parties as to any of the matters considered. Should the action proceed to trial, the order shall explicitly define and limit the issues to be tried. The contents of the order shall control the subsequent course of the action, unless modified before trial to prevent manifest injustice,