

## SECOND DIVISION

[ A.M. No. MTJ-95-1056, May 21, 2001 ]

**DATU INOCENCIO C. SIAWAN, COMPLAINANT, VS. JUDGE  
AQUILINO A. INOPIQUEZ, JR., RESPONDENT.**

### D E C I S I O N

**MENDOZA, J.:**

This is a complaint filed by Datu Inocencio Siawan against Judge Aquilino A. Inopiquez, Jr. of the Municipal Circuit Trial Court, Kananga-Matag-ob, Leyte, for gross ignorance of the law, gross abuse of power, and misconduct in connection with the latter's handling of a criminal case and two election cases for inclusion of voters. Originally, two identical complaints against respondent were filed. The first was referred to this Court by the Department of Justice, the National Bureau of Investigation, the Commission on Elections, and the Government Service Insurance System, while the second one, O.C.A.I.P.I. No. 95-54-MTJ, was referred to this Court by the Office of the President.

O.C.A.I.P.I. No. 95-54-MTJ was dismissed by the First Division on October 25, 1995.

[1] On the other hand, O.C.A.I.P.I. No. 95-25-MTJ was redocketed as Administrative Matter No. MTJ-95-1056 and referred by the Second Division to Acting Executive Judge Fortunato [2] L. Madrona of the Regional Trial Court of Ormoc City, Leyte, for investigation, report, and recommendation on October 16, 1996. [3]

On September 15, 1997, Investigating Judge Fortunato L. Madrona submitted his report. [4] With respect to Criminal Case No. 584, entitled "people of the Philippines v. Julia Enriqueta Seco," the Investigating Judge found the following facts:

(1) In Crim. Case No. 584 entitled People of the Philippines vs. Julia Enriqueta Seco . . . , the accused then was charged of Usurpation of Authority and Official Functions under Art. 177 of the Revised Penal Code, involving as the complaint states, a "paquiao" contract in which the accused Julia Seco allegedly signed as the Barangay Captain of Brgy. Cansuso, Matag-ob, Leyte;

(2) In the course of the proceedings after the prosecution had already presented its witnesses, the complaint was dismissed on the basis of an Affidavit of Desistance executed by complainant Restituto C. Pedrano which was prepared and executed before Provincial PROSECUTOR Rosario D. Beleta on June 4, 1992 (Exh. "R"). This Affidavit of Desistance is opposite to the earlier affidavit of the same complainant dated March 17, 1997. . . which was made the basis of the Complaint;

(3) On the basis of the Affidavit of Desistance the respondent issued the

Order dated December 22, 1992 dismissing the case (Exh. "S");

(4) Prior to the issuance of Affidavit of Desistance that is on May 20, 1987, accused Julia Enriqueta Seco had filed before the Municipal Circuit Trial Court a Motion for Inhibition of the Presiding Judge now respondent in this case (Exh. "Q"). The meat of this motion for inhibition is that the father-in-law of the Presiding Judge, herein respondent, was conspicuously present in the proceedings during which time he gave consultation to the complainant who was reportedly his political leader and protégée. The accused herself signed the motion with "conforme" of a certain Atty. Camilo Superable acting as counsel;

(5) The Motion for Inhibition was denied by the Presiding Judge, herein respondent;

(6) The accused after the dismissal of the case sued Restituto C. Pedrano in a separate civil action for damages (docketed as Civil Case No. 3167-0 before the RTC, Ormoc City and now elevated to the Court of Appeals as CA-G.R. CV No. 51495), as a result of which the latter, through an Omnibus Motion (Exh. "T") dated November 4, 1993 or about a year after the dismissal of Criminal Case No. 584, filed by Atty. Eusebio Otadoy, Jr. who acted as counsel and private prosecutor, wanted to revive the case against accused Julia Enriqueta Seco;

(7) Then accused Seco herself filed Opposition to Omnibus Motion dated November 26, 1993 (Exh. "U") stating, among others, the grounds that (a) the lower court has no more jurisdiction as the assailed order was long final and (b) the motion was only signed by the private prosecutor with no authority from the public prosecutor to file such kind of pleading;

(8) Respondent as Presiding Judge issued the Order dated January 20, 1994 (Exh. "V") ordering the withdrawal from the records of the affidavit of Restituto Pedrano dated June 4, 1992 (the desistance) and recalling the Order of the Court dated December 22, 1992 (which is for dismissal) and reinstating the case in the court's calendar;

(9) Because of the reinstatement, the accused through her daughter, Mrs. Lilia Tordillo, requested the fixing of the bail bond, which in the Order of the Court dated February 24, 1994 (Exh. "W") was fixed at P4,000.00;

(10) The Order of respondent (Exh. "W") shows a warrant of arrest must have been issued against complainant, then accused Seco in connection with Criminal Case No. 584. This was testified to by her during the hearing (TSN of April 29, 1997, pp. 56-57) although respondent through counsel stated that the record of the case is "bereft of warrant of arrest" (Ibid, p. 65);

(11) Respondent reconsidered the previous Order by issuing the Order dated March 29, 1994 (Exh. "X"). In this latter Order, he voluntarily inhibited himself from further taking cognizance of the case for reasons of delicadeza;

(12) Obviously because of the statement in respondent's Order of March 29, 1994 (see last sentence, first paragraph, page 2 thereof) herein quoted as follows:

If ever the private complainant wants to [revive], the case he should refile the case [anew]. Anyway the crime has not yet [prescribed] and double jeopardy will not come in for the accused in the instant case had not been [arraigned].

a complaint denominated as Criminal Case NO. 1181 (Exh. "Y") was filed by the same complainant, Restituto Pedrano, before the same Municipal Circuit Trial Court of Kananga-Matag-ob, Leyte of respondent judge against the same accused and involving the same offense.

(13) The complaint in Criminal Case No. 1181 (Exh. "Y") in substance, is the same as the complaint in Criminal Case No. 584 (Exh. "O")... All supporting affidavits except the complaint affidavit of Pedrano, were all reproduced from the previous complaint in Criminal Case No. 584 (TSN of June 16, 1997, pp. 28-29);

(14) The new complaint re Criminal Case No. 1181 was filed April 21, 1994 (supra, p. 30). About a week later, or on April 28, 1994, respondent Judge issued the Order... inhibiting himself from trying the case (Exh. "6") on the ground that "the counsel for the offended party is related to the Presiding Judge";

(15) The Order of inhibition, however, was denied by the Regional Trial Court, Ormoc City in an Order dated September 1, 1994 (Exh. "7") and soon thereafter, respondent judge in an Order dated September 5, 1994 dismissed Criminal Case No. 1181. The principal reason given for the dismissal is the admission by respondent that the case "had been filed by the offended party without however the intervention of the public prosecutor or the station commander. The crime of Usurpation of Authority and Official Function is a public offense and the offended party is the People of the Philippines. It appears that the instant case has been instituted not by the proper party." (Exh. "VV" and Exh. "9");

(16) A Motion For Reconsideration re the Order of dismissal was filed by the private complainant to which the respondent judge directed accused's counsel, to file comment to the motion despite the fact she was not yet arrested or that the Court had not yet acquired jurisdiction over her body (TSN, supra, p. 34 et seq. Cf. p. 37);

(17) The respondent judge issued the Order of November 14, 1994 (Exh. "8") denying the motion for reconsideration;

(18) A second motion for reconsideration was again filed by the private complainant and the respondent in an Order dated December 23, 1994 (Exh. "SS") directed anew the accused's counsel for another comment;

(19) Atty. Custodio Cañete complied and filed his comment dated

December 26, 1994 and a supplemental comment dated February 6, 1995 (Exh. "TT") stating among others that the counsel is not the lawyer representing the then accused (herein complainant) in Criminal Case 1181 whom the Court had not yet acquired jurisdiction in the first place;

(20) Criminal Case No. 1181 was finally laid to rest on February 17, 1995 as per admission of complainant (TSN, April 29, 1997, pp. 57-58).<sup>[5]</sup>

As regards the election cases decided by respondent, the Investigating Judge found the following:

(1) Respondent is the Presiding Judge of the Municipal Circuit Trial Court of Kananga-Matag-ob, Leyte, residing in Brgy. Riverside, Matag-ob, Leyte (TSN of June 3, 1997, p. 19).

(2) Respondent has had relatives who ran for public office while he assumed as such presiding judge. His brother-in-law Edgardo Laurente ran for Mayor during the January 18, 1988 elections but lost to complainant Michael L. Torrevillas (TSN of April 15, 1997, pp. 63-64). His son, Van Russel, ran for SK Chairman of Brgy. Riverside and won on the December 4, 1992 election. His daughter, Cheri May, also ran for the position of Chairman of the Sangguniang Kabataan of Brgy. Riverside on May 6, 1996. The son, Van Russel, again ran but lost as Mayor of Matag-ob on the May 8, 1995 congressional and local elections (see TSN, supra, pp. 62-63).

(3) In all these elections, the respondent never inhibited [himself] from hearing inclusion and exclusion cases except for once wherein his sister-in-law, Charito Laurente, was the petitioner in an inclusion proceedings (TSN of June 16, 1997, p. 51). She ran for Sangguniang Bayan (Ibid, p. 53).

(4) In an inclusion proceedings (Denominated as Election Case No. 333 Exh. "B-1") in which the petitioner was retired RTC Judge Pnciano Inopiquez, respondent's uncle, the latter did not inhibit (TSN, supra, pp. 51-52). He was not running for a public office, he was merely seeking his right to vote, which fact explained the reason for the respondent's non-inhibition of his uncle's petition (see TSN of June 16, 1997, p. 52).

(5) In an Election Case No. 292 (Exh. "C-1") for inclusion, the petition of petitioners Buenaventura Gervas and Rene Gervas, spouses Jolito Gervas and Francisca Gervas, Pastor Gervas and Calixtra Gervas and their son Dolorico Gervas, was granted in the Order of Respondent dated March 4, 1992 (Exh. "C-2"). The grant, however, was not effected or implemented (Affidavit of Torrevillas, p. 2, Exh. "A") meaning the petitioners were not able to exercise their right to vote (see Exh. "D").

(6) Complainants evidence consisting of Exhibits "D" to "L", among which are the certification from the Office of the City Election Officer, Ormoc City, dated November 17, 1992 showing the said petitioners Gervas, et

al. were registered voters in Ormoc City, and their Voter's Affidavit issued on November 17, 1992 showing petitioners place of residence, do not impute anything invalid or anomalous the findings in Election case No. 292 in which Gervas et al . were the petitioners for the simple reason that the election case and the order issued by the respondent judge in favor of the petitioners took place on March 4, 1992, way before the existence of the aforementioned documents. At the time the proceedings were conducted re the election case, there were yet no adverse or damaging evidence against the petitioners.

(7) In all these inclusion and exclusion proceedings since the time respondent's relatives ran for public office, complainant was never a party nor present in court either to protest or to oppose (TSN of April 15, 1997, p. 55, et seq.). Complainant could not rebut respondent's averment in his answer (Exh. "1", question No. 17, p. 4) that neither was there anybody who sought respondent's inhibition in all the inclusion and exclusion cases filed before his sala during the times indicated by complainant. The fact thus stands out that there was no such petition for inhibition filed against the respondent in the inclusion and exclusion cases filed in the latter's sala.<sup>[6]</sup>

On the basis of these facts, Judge Madrona found respondent guilty of grave abuse of official functions and/ or oppression and recommended that he be fined the *sum* of P15,000.00 and/ or suspended for a period of six months.<sup>[7]</sup> On March 15, 1999, the Office of the Court Administrator submitted its report likewise finding that respondent judge mishandled Criminal Case No. 584 and recommended that respondent judge be fined P15,000.00, with warning that repetition of the same or similar offense in the future will be dealt with more severely.<sup>[8]</sup>

We find both recommendations to be well taken.

Re Criminal Case No. 584

Complainant's counsel in Criminal Case No.584 was Atty. Eusebio Otadoy, Jr.<sup>[9]</sup> Respondent admits that he is related to Atty. Otadoy whose maternal surname is in fact Inopiquez, but respondent claims he could not trace who among their forefathers were related. He claims that he and counsel are not even second cousins.<sup>[10]</sup>

Although respondent is not related within the fourth degree of consanguinity or affinity to Atty Otadoy, the evidence shows that because of his relationship not only to Atty Otadoy but also to those helping the complainant, Restituto Pedrano, one of whom, Guillermo Laurente, is respondent's father-in-law, while the other one, Atty. Felix Sun, is his brother-in-law, respondent judge acted with obvious partiality for complainant in the criminal case. It must be recalled that the accused Julia Enriqueta Seco, who was charged on March 19, 1987 with usurpation of authority and official functions, moved on May 20, 1987 for the disqualification of respondent on the ground that Atty. Sun, respondent's brother-in-law, was actively participating in the prosecution of the case, while Guillermo Laurente, respondent's father-in-law, was often present during the trial because the complainant therein, Restituto Pedrano,