

## **SECOND DIVISION**

**[ A.M. No. RTJ-99-1504, November 16, 1999 ]**

**ANG KEK CHEN, COMPLAINANT, VS. JUDGE AMALIA R. ANDRADE,  
BRANCH 5, REGIONAL TRIAL COURT, MANILA, RESPONDENT.**

### **D E C I S I O N**

**MENDOZA, J.:**

This is an administrative case filed by Ang Kek Chen against respondent Judge Amalia R. Andrade of the Regional Trial Court, Branch 5, Manila, for serious misconduct, gross inefficiency, and extreme bias and partiality. The complaints, four (4) in all, have been filed against respondent judge in connection with her handling of Civil Case No. 90-52142, entitled "Visayan Surety and Insurance Company v. Estate of Choi Chee Ten, et al.," of which complainant Ang Kek Chen is one of the defendants.

The complaints were referred to the Office of the Court Administrator, which on January 25, 1999, submitted a report, the pertinent parts of which read:

In a VERIFIED COMPLAINT dated June 2, 1997, complainant charged respondent Judge Amalia R. Andrade, RTC, Branch 25, Manila with serious misconduct relative to Civil Case No. 90-52142 entitled "Visayan Surety and Insurance Company vs. Estate of Choi Chee Tin, et al."

Complainant, who is one of the defendants in the aforecited civil case, alleges that on May 20, 1997, he went to respondent court to look into the case records and discovered that the Order dated April 22, 1997 denying his Motion for Disqualification was not mailed to him nor to his counsel allegedly upon instruction of respondent Judge. He asserts that upon verification of the case records, he noticed that no proof of service was attached to the record to show that the aforesaid Order was also mailed to plaintiff's counsel, Atty. Parungao. Upon inquiry, he was informed that Atty. Parungao personally received said Order when the latter attended the hearing on April 22, 1997. However, when he requested for proof of service thereof, none was shown him. He argues that respondent Judge's concealment of the said Order shows her extreme bias and hostility against him and his counsel. In this complaint, he therefore prays for the disqualification of respondent Judge.

On June 30, 1997, another VERIFIED COMPLAINT was again filed by complainant against respondent Judge for serious inefficiency relative to the care and custody of the records of Civil Case No. 90-52142. He claims that sometime in June 1997, he inspected the records of the case and found the same in disheveled/dilapidated condition, with no cover, with the papers merely stapled, and worse with a considerable number of pages missing. Consequently, on July 3, 1997, he filed a supplement to

his complaints captioned "Motion to Act and Motion to Order Disqualification" on ground of shabby record-keeping.

In a VERIFIED COMPLAINT dated January 9, 1998, complainant charged respondent Judge with serious inefficiency and serious misconduct for violation of Canon 18 of the Canons of Judicial Ethics (Influence of decisions upon the development of the law), and violation of Canon 1 (A Judge should uphold the integrity and independence of the judiciary), Canon 2 (A Judge should avoid impropriety and the appearance of impropriety in all activities) and Canon 3 (A Judge should perform official duties honestly, and with impartiality and diligence) of the Code of Judicial Conduct claiming that during one of the hearings of the case, plaintiff's counsel manifested before the Court that the other defendant, Mr. Tui Hok, died on January 5, 1990. Despite admission of plaintiff's counsel of the fact of death of Mr. Tui Hok, respondent court kept on sending orders and notices to the deceased at 114 West Riverside St., Quezon City, which, according to complainant, is in violation of the Rule that no court can acquire jurisdiction over a dead person.

Complainant likewise alleges that on September 16, 1997 he filed an Omnibus Motion praying for the substitution of the deceased defendant Tui Hok by his heirs and for summons to be served on the latter. Despite repeated follow-ups, manifestations and motions, respondent Judge refused to act on said Omnibus Motion and instead issued the Order dated December 11, 1997 setting the case for trial for the last time on January 21, 1998 with or without the presence of defendants' counsel.

Complainant further alleges that during the hearing on December 11, 1997, he made a verbal request to cite plaintiff's counsel in contempt for failure to attend the hearing despite due notice. In open court, respondent Judge shouted, mocked and sneered at him and told him, in a voice full of hatred, that he does not know the legal procedure as it was not the appropriate pleading; and

In a LETTER-COMPLAINT dated September 7, 1998, complainant charged respondent Judge with bias and partiality alleging that the latter obstinately refused to inhibit/disqualify herself from trying the case despite numerous motions filed by complainant.

In two comments, the first undated<sup>[1]</sup> and the second one dated December 28, 1998,<sup>[2]</sup> respondent judge denied the accusations leveled against her by complainant. First, she attributes the filing of the complaints against her to her denial of complainant's motion to suspend proceedings in Civil Case No. 90-52142. She alleged that complainant retaliated by filing several motions for her inhibition, all of which were denied by respondent judge in an Order, dated September 13, 1996. Despite the denial of his motion, complainant persisted in filing pleadings based on the same grounds.

Respondent judge explained that when she took over Civil Case No. 90-52142, the records already consisted of three volumes, but the case had yet to be tried. She claimed that when all of complainant's pleadings which contain caricatures were segregated, they made up another thick volume. She likewise claimed that Civil

Case No. 90-52142 had been assigned to other judges before her but no one wanted to have the case after experiencing the practice of complainant of filing numerous pleadings, strewn with caricatures and newspaper clippings, and containing offensive, scurrilous and libelous language not germane to the issues of the case.

Second, respondent judge denied that she had concealed her Order of April 22, 1997. She explained that it is her practice to dictate her orders in open court immediately after the proceedings in each case; that the orders are transcribed, corrected, signed, and released in the afternoon or in the morning of the following day; and that it is the clerk of court who released the orders.

Respondent judge alleged that complainant would go to the court a day before the scheduled hearing of his case or early in the morning before the start of the trial, but would not attend the actual trial or send his lawyer to represent him. Instead, he would return in the afternoon after the morning's proceedings to check on what had transpired and get a copy of any order issued that day. Complainant, however, refused to sign the receipt of orders served on him and denied having been furnished a copy of the same.

Third, with respect to the charge that notices and orders continued to be sent to defendant Tui Hok, respondent judge explained that it was because no proof had been submitted to her court to prove the reported death of defendant Tui Hok.

Finally, respondent judge contended that complainant had failed to substantiate the charges of her alleged character deficiencies and vindictiveness. She admitted that, once, she issued a stern warning to complainant after a member of her staff caught complainant writing on the minutes of the hearing of his case. Respondent judge confronted complainant and told him that the minutes were public records and he was altering, if not falsifying, public records.

After evaluating the facts, the Office of the Court Administrator recommends that:

1. this instant complaint be RE-DOCKETED as an Administrative Matter;
2. with the exception of the charge relative to the care and custody of case records, the complaint against respondent Judge Amalia R. Andrade be DISMISSED for failure to substantiate the charges;
3. respondent Judge be REPRIMANDED and ADVISED to be more vigilant in the supervision and management of the personnel and the state of the docket in her sala; and
4. the directive of this Court in its Resolution dated July 29, 1997 in A.M. No. 95-8-274-RTC (Re: Letter-Complaint of Mr. Ang Kek Chen) to REFRAIN from filing his pleadings with this Court containing as in the previous pleadings, scurrilous and libelous remarks be REITERATED otherwise he will be made to account for his acts.

These recommendations are well-taken.