

SECOND DIVISION

[A.M. No. RTJ-16-2478 (Formerly OCA IPI No. 11-3637-RTJ), November 08, 2017]

DOMINADOR I. FERRER, JR., COMPLAINANT, VS. JUDGE ARNIEL A. DATING, REGIONAL TRIAL COURT, BRANCH 41, DAET, CAMARINES NORTE, RESPONDENT.

DECISION

CAGUIOA, J:

For resolution is the Administrative Complaint^[1] dated April 18, 2011 filed by Atty. Dominador I. Ferrer, Jr. against Judge Arniel A. Dating, Regional Trial Court (RTC), Branch 41, Daet, Camarines Norte, for "abuse of authority, judicial oppression and unreasonable/malicious acts to delay raffle of cases," relative to Special Civil Action (SCA) No. 7788^[2] (subject case), entitled, "*Cesar E. Barcelona and Jose Vargas vs. Atty. Freddie A. Venida and Atty. Dominador Ferrer, Jr.*" for Quo Warranto with prayer for temporary restraining order and/or injunction.^[3]

The subject case, where complainant Atty. Ferrer, Jr. is one of the respondents, was first raffled to respondent Judge Dating's sala, RTC, Branch 41, Daet, Camarines Norte.^[4] In an Order^[5] dated January 14, 2011, Judge Dating granted petitioners Barcelona and Vargas' prayer for a temporary restraining order (TRO) and set the hearing of the application for a writ of preliminary injunction on January 24, 2011.^[6]

Aggrieved by the said Order, Atty. Venida and Atty. Ferrer, Jr. filed the following: (a) Motion for Inhibition/Disqualification dated January 14, 2011; (b) Joint Omnibus Motion dated January 17, 2011; and (c) Second Amended Joint Omnibus Motion dated January 20, 2011.^[7]

In an Order^[8] dated January 25, 2011, Judge Dating denied the Motion for Inhibition/Disqualification due to absence of valid or just cause.^[9] Moreover, in an Order^[10] dated January 26, 2011, Judge Dating cited Atty. Ferrer, Jr., Atty. Venida, and two (2) other lawyers for direct contempt of court, and imposed a fine of Two Thousand Pesos (P2,000.00) upon each of them, and then voluntarily inhibited himself from hearing the subject case.^[11]

The subject case was re-raffled to the *sala* of Judge Winston S. Racoma, RTC, Branch 39, Daet, Camarines Norte.^[12] The respondents in the subject case, through their counsel, filed motions for inhibition which Judge Racoma granted in an Order^[13] dated March 9, 2011.^[14] The case records were then transmitted to the Office of the Executive Judge on March 15, 2011 for re-raffle.^[15]

As mentioned above, Atty. Ferrer, Jr., filed an Administrative Complaint dated April 18, 2011 against Judge Dating, then the Executive Judge, alleging that the latter deliberately caused the delay of the re-raffle of the subject case for more than a month because he was always unavailable, either on a leave of absence or in a seminar.^[16] Atty. Ferrer, Jr. alleged that while Judge Dating has the right to attend seminars or take a leave of absence, the same should not cause unreasonable delay in the re-raffle of the subject case.^[17]

Atty. Ferrer, Jr. also alleged that Judge Dating favored the petitioners in the subject case since the latter immediately conducted hearings thereon and issued the TRO after only four (4) days from the filing of the subject case.^[18] Hence, Atty. Ferrer, Jr. prayed that the appropriate sanction be imposed upon Judge Dating.^[19]

In the 1st Indorsement^[20] dated May 9, 2011, signed by then Deputy Court Administrator (DCA) and Officer-In-Charge of the Office of the Court Administrator (OCA) Nimfa C. Vilches, and OCA Chief of Legal Office, Wilhelmina D. Geronga, the said Administrative Complaint was referred to Judge Dating for his comment.

Meanwhile, in a Manifestation on the Continuing Delay and Non Raffle of the Case of Respondent Honorable Judge Arniel A. Dating^[21] dated May 10, 2011, Atty. Ferrer, Jr., reiterated the allegations in the Administrative Complaint, and added that, as of that date, the subject case had not yet been re-raffled.^[22]

Upon receipt of the above Manifestation, Judge Dating submitted a letter^[23] dated May 19, 2011 to DCA Vilches stating that the subject case was included in the raffle on April 28, 2011, but that the Raffle Committee unanimously decided to return the subject case to Branch 39 since the petitioners (*i.e.*, Barcelona and Vargas) in the subject case had filed a motion for reconsideration of the order of inhibition issued by Judge Racoma.^[24]

Moreover, in compliance with the above 1st Indorsement, Judge Dating submitted his Comment^[25] dated June 3, 2011 stating that the case raffle is conducted every Thursday.^[26] Judge Dating also stated therein that, while the records of the subject case were received by the Office of the Executive Judge on March 15, 2011 (Tuesday), no raffle was done on March 17, 2011 (Thursday), since there was no urgent case and the number of cases was not sufficient for a raffle.^[27]

Judge Dating also alleged that the judges of RTC, Daet, Camarines Norte were scheduled to travel to Manila on that day, March 17, 2011 to attend the 1st General Assembly of Judges the following day.^[28] Judge Dating also stated that, in the morning of March 17, 2011, he even heard cases in Branch 40 (a Family Court), where he was a concurrent assisting judge, before he left for Manila in the afternoon of that day.^[29]

Judge Dating also explained that he used his forfeitable leave credits on March 21-31, 2011.^[30] On April 7-9, 2011, he attended the IBP National Convention in Subic, Zambales and, on April 14-15, 2011, he attended the Land Valuation and Just Compensation Seminar sponsored by the Philippine Judicial Academy in Tagaytay

City.^[31] He also denied that the delay was deliberate.^[32]

In a Report^[33] dated March 4, 2016, the OCA recommended that the Administrative Complaint against Judge Dating be re-docketed as a regular administrative matter, and that he be found guilty of simple neglect of duty and fined in the amount of Ten Thousand Pesos (P10,000.00) with a stern warning that a repetition of the same or any similar infraction would be dealt with more severely.^[34]

After considering the allegations in the Administrative Complaint and Judge Dating's explanation, the OCA found as follows:

This Office finds such explanation to be unacceptable. A careful perusal of Chapter V of A.M. No. 03-8-02-SC,^[35] specifically the provisions on the conduct of raffle of cases, would reveal that it was never intended as an indispensable requirement that a substantial number of cases must have been filed in court before raffle of cases could be conducted. On the contrary, Section 2 thereof explicitly mandates that "[r]affling of cases *shall* be regularly conducted at two o'clock in the afternoon every Monday and/or Thursday as warranted by the number of cases to be raffled." Clearly, as can be easily inferred from the use of the words "*shall*" and "*regularly*," the raffle of cases should be mandatorily done on a regular basis and, much more, not only once but even twice a week depending on the number of cases to be raffled. Clearly, if the supposed substantial number of cases to be raffled affects the conduct of raffle as what respondent Judge Dating is trying to impress upon us, it is more of the fact that the conduct of raffle of cases in a week could be done twice if necessary, but *never* to altogether dispense with the raffle.

Respondent Judge Dating averred that there was no urgency to conduct a raffle (as there was no case [presumably including the Special Civil Action No. 7788] which applied for a TRO, a special raffle, and the like). Again, respondent Judge Dating missed a substantial point on the matter. Assuming that, save for Special Civil Action No. 7788, there were no cases scheduled to be raffled on 17 March 2011, respondent Judge Dating was still obligated to cause the re-raffle of the *quo warranto* petition for that particular day. As provided under Section 8 of the same guidelines, "[w]here a judge in a multiple-branch court is disqualified or voluntarily inhibits himself/herself [as what Judge Racoma did], the records shall be returned to the Executive Judge and the latter shall cause the inclusion of the said case in the next regular raffle for re-assignment." The rule is so worded in a mandatory tenor for Executive Judges to require the inclusion of cases [inhibited by judges] in the next regular raffle for a re-assignment. Unfortunately, respondent Judge Dating apparently failed to grasp the true intent of that particular guideline.

Respondent Judge Dating rationalized the failure to immediately raffle the *quo warranto* petition on 17 March 2011 by pointing out that on that day, the judges would be travelling to attend the 1st General Assembly of Judges in Manila on 18 March 2011. Curiously though, he also averred that he conducted trial in the morning of 17 March 2011 for cases