

THIRD DIVISION

[**A.M. No. RTJ-09-2190 (Formerly OCA IPI No. 08-2909-RTJ), April 23, 2010**]

**HADJA SOHURAH DIPATUAN, COMPLAINANT, VS. JUDGE
MAMINDIARA P. MANGOTARA, RESPONDENT.**

D E C I S I O N

PERALTA, J.:

Before this Court is an Affidavit-Complaint^[1] dated May 12, 2008, filed by complainant Hadja Sohurah Dipatuan against respondent Judge Mamindiara P. Mangotara, Presiding Judge, Regional Trial Court (Regional Trial Court) of Iligan City, Branch 1, for Gross Ignorance of the Law and Grave Abuse of Authority.

The antecedent facts of the case, as culled from the records, are as follows:

On September 5, 2001, a criminal case for murder, docketed as Criminal Case No. 3620-01 was filed against Ishak M. Abdul and Paisal Dipatuan, complainant's husband, before the Regional Trial Court of Marawi City, Branch 10, then presided by Judge Yusoph Pangadapun, for the killing of Elias Ali Taher. Judge Pangadapun died during the pendency of the case. The case was transferred to different judges designated by the Supreme Court to act as Presiding Judge of Branch 10, namely, Judge Amer Ibrahim, Judge Rasad Balindog, Judge Macaundas Hadjirasul, Judge Moslemen Macarambon, respondent Judge Mamindiara Mangotara, and Judge Lacsaman Busran.

Before Judge Macarambon could render a decision on the case, he was appointed as COMELEC Commissioner. By virtue of Administrative Order No. 201-2007^[2] dated November 16, 2007, the Supreme Court designated respondent Judge Mamindiara Mangotara, Presiding Judge of the RTC of Iligan City, Branch 1, Lanao Del Norte, as Acting Presiding Judge of the RTC of Marawi City, Branch 10. Later on, Mangotara suffered a mild stroke; hence, the Supreme Court, in a Resolution dated December 26, 2007, revoked the earlier designation of Judge Mangotara and designated Judge Lacsaman M. Busran as the new Acting Presiding Judge of Branch 10, by virtue of Administrative Order No. 220-2007.

On December 28, 2007, Mangotara issued the disputed Decision^[3] in Criminal Case No. 3620-01 and found both accused Abdul and Dipatuan guilty beyond reasonable doubt of the crime of murder and sentenced them to imprisonment of *reclusion perpetua*. The trial court ruled that the prosecution was able to establish that Abdul and co-accused Dipatuan acted in conspiracy in shooting and killing the victim Elias Ali Taher. The court, likewise, increased the accused's bail bond from P75,000.00 to P200,000.00.

On January 21, 2008, the accused filed a motion for reconsideration of the Decision.

In an Order dated February 1, 2008, Mangotara denied the motion for lack of merit.^[4] In another Order of the same date, Mangotara applied the same increased bail bond with regard to accused Ishak M. Abdul.^[5] However, again on the same date, Mangotara issued another Order recalling the foregoing Orders.^[6]

Thus, on May 14, 2008, complainant filed the instant complaint. Complainant alleged that Judge Mangotara displayed bias and prejudice against her husband Dipatuan when he did not inhibit himself from the case, considering that he is a relative by affinity and consanguinity of the victim Elias Ali Taher and that he also came from Maguing, Lanao Del Sur where Taher also used to reside. Complainant also pointed out that despite the designation of Judge Busran as Acting Presiding Judge of Branch 10 on December 26, 2007, Judge Mangotara, acting with grave abuse of authority, illegally and maliciously rendered the December 28, 2007 Decision as well as the two Orders dated February 1, 2008.

On May 26, 2008, the Office of the Court Administrator (OCA) directed Mangotara to file his Comment on the instant complaint.^[7]

In his Comment^[8] dated June 24, 2008, Mangotara averred that he decided the case on December 28, 2007 as it had been pending for almost seven (7) years. He clarified that his relationship to the victim is distant and not a basis for disqualification of judges under Rule 137 of the Rules of Court. Mangotara explained that he received notice of Judge Busran's designation as the new Presiding Judge only on January 26, 2008 and that when he issued the two Orders dated February 1, 2008, Judge Busran had not yet assumed office; and in the honest belief that Abdul was also entitled to the benefits of the bail bond fixed by the court for Dipatuan. Mangotara added that, upon realizing the irregularity of the two Orders issued on February 1, 2008, he immediately rectified the same and recalled the Orders on the same day. Finally, Mangotara maintained that his decision was supported by the evidence on record and that the instant administrative complaint was only meant to embarrass him and destroy his honor and reputation.

Subsequently, in its Memorandum^[9] dated May 18, 2009, the OCA found Mangotara guilty of gross ignorance of the law and abuse of authority. The OCA, likewise, recommended that the instant complaint against Mangotara be re-docketed as a regular administrative matter.

However, in its Resolution^[10] dated July 22, 2009, the Court resolved to re-docket the instant complaint as a regular administrative matter and refer the complaint to Court of Appeals Associate Justice Portia Aliño-Hormachuelos for investigation, report and recommendation.

We adopt the recommendation of the Investigating Justice.

***On the charge of bias and partiality
resulting to grave abuse of authority***

We rule in the negative. As correctly observed by the Investigating Justice, complainant indeed failed to specify the degree of relationship of respondent Judge to a party in the subject case. She failed to present any clear and convincing proof

that respondent Judge was related within the prohibited degree with the victim. Section 1, Rule 137 of the Revised Rules of Court states:

Sec. 1. Disqualification of Judges.- No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above.

This being the case, the inhibition was indeed discretionary or voluntary as the same was primarily a matter of conscience and sound discretion on the part of the respondent Judge. When Mangotara chose not to inhibit and proceed with the promulgation of the disputed decision, he cannot be faulted by doing so. Significantly, complainant while asserting that Mangotara should have inhibited in the said case, she nonetheless failed to institute any motion for inhibition.

Moreover, complainant failed to cite any specific act that would indicate bias, prejudice or vengeance warranting respondent's voluntary inhibition from the case. Complainant merely pointed on the alleged adverse and erroneous rulings of respondent Judge to their prejudice. By themselves, however, they do not sufficiently prove bias and prejudice.

To be disqualifying, the bias and prejudice must be shown to have stemmed from an extrajudicial source and result in an opinion on the merits on some basis other than what the judge learned from his participation in the case. Opinions formed in the course of judicial proceedings, although erroneous, as long as they are based on the evidence presented and conduct observed by the judge, do not prove personal bias or prejudice on the part of the judge. As a general rule, repeated rulings against a litigant, no matter how erroneous and vigorously and consistently expressed, are not a basis for disqualification of a judge on grounds of bias and prejudice. Extrinsic evidence is required to establish bias, bad faith, malice or corrupt purpose, in addition to the palpable error which may be inferred from the decision or order itself. Although the decision may seem so erroneous as to raise doubts concerning a judge's integrity, absent extrinsic evidence, the decision itself would be insufficient to establish a case against the judge.^[11]

Mere suspicion of partiality is not enough. There must be sufficient evidence to prove the same, as well as a manifest showing of bias and partiality stemming from an extrajudicial source or some other basis. A judge's conduct must be clearly indicative of arbitrariness and prejudice before it can be stigmatized as biased and partial. As there was no substantial evidence to hold Mangotara liable on this point, the Investigating Justice correctly recommended the dismissal of this charge against