

SECOND DIVISION

[A.M. No. RTJ-08-2146 (Formerly OCA-I.P.I. No. 07-2742-RTJ), November 14, 2008]

MELY HANSOR MAGPALI, COMPLAINANT, VS. JUDGE MOISES M. PARDO, REGIONAL TRIAL COURT OF CABARROGUIS, QUIRINO, BRANCH 31, RESPONDENT.

DECISION

BRION, J.:

We pass upon the verified Complaint dated September 25, 2007 filed by Mely Hansor Magpali (*complainant*) charging Judge Moises Pardo (*respondent judge*, Presiding Judge, Regional Trial Court, Branch 31, Cabarroguis, Quirino) with violation of the Code of Judicial Conduct in the handling of Civil Case No. 659-2007 entitled "*Mely Hansor Magpali v. Moises Magpali*."

The complaint originated from the civil case filed on June 12, 2007 by the complainant against her husband Moises Magpali for support and alimony *pendente lite*. She alleged that she was initially discouraged when she learned that the case was raffled to the sala of the respondent judge because her husband and the respondent judge were friends. She decided, however, to give the respondent judge the benefit of the doubt, hoping that he would be sympathetic to her situation as an abandoned wife with no means of livelihood. The complainant further alleged that since the filing of the case and after the filing of her husband's answer dated July 23, 2007, the case had not been set for pre-trial or for a hearing on her prayer for support *pendente lite* notwithstanding her obvious need for support.

The complainant also alleged that in one of her visits to the court to follow-up the status of her case, she spoke with a member of the court's staff (a certain Mr. Jose Enriquez) and with the respondent judge who inquired about the purpose of her visit. On learning that she is the wife of Moises Magpali, the respondent judge allegedly became hostile and commented that she has no right to claim any property from her husband because these properties were acquired prior to their marriage. She explained that the properties were acquired during their marriage, while Mr. Enriquez told the respondent judge that the complaint was for support from her husband. This information elicited the remark from the respondent judge that the complainant has no right to claim support. The complainant interpreted this incident to be a manifestation of the respondent judge's extreme bias, partiality in her husband's favor, and pre-judgment of the case. The complaint lastly alleged that respondent judge had delayed the hearing of the case notwithstanding its urgency; in fact, the case had not been set for hearing since it was filed.

The respondent judge filed on November 29, 2007 his comment to the complaint in compliance with the directive of the Office of the Court Administrator (OCA). He disclosed in his Comment that there are two (2) related cases involving the

complainant: (a) a Support with Alimony *Pendente Lite* case filed by complainant against her husband; and (b) an Annulment of Marriage case instituted by Moises Magpali against the complainant.

The respondent judge denied the charge that he violated the Code of Judicial Conduct. To prove his point, he contended that: he had not issued any order or document in connection with either of the two cases showing his partiality or bias towards Moises Magpali; the annulment case was scheduled ahead because the party asked for its scheduling, whereas the complainant did not in any manner request that her petition for support be scheduled for hearing; under Rule 18, par. 1, of the 1997 Rules of Civil Procedure, the complaining party should request for the setting of the case for pre-trial.

The respondent judge likewise denied the remarks attributed to him by the complainant and submitted the affidavit of the Clerk of Court Officer-in-Charge who was present when he talked with the complainant. The affidavit clarified that the respondent judge did not utter the statements attributed to him. Finally, to convince the complainant of the absence of any bias against her, the respondent judge issued an Order inhibiting himself from handling the two cases.

The OCA informed the Court that the case was already ripe for resolution in a Report dated April 24, 2008 signed by then Court Administrator Zenaida N. Elepaño (now retired) and Deputy Court Administrator Reuben P. De la Cruz. The Report likewise presented a brief factual background of the case.

The OCA recommended that the respondent judge be fined in the amount of P10,000.00 for gross ignorance of the law with a stern warning that a repetition of the same offense shall be dealt with more severely. The recommendation was based on an evaluation which reads:

EVALUATION: A close examination of the records of this administrative case shows that there is no solid evidence to substantiate the complainant's allegation of bias and partiality against the respondent Judge. Bias and partiality can never be presumed. Bare allegations of partiality will not suffice in the absence of clear and convincing proof that will overcome the presumption that the judge dispensed justice according to law and evidence, without fear and favor (*Chin v. Court of Appeals*, G.R. No. 144618, August 15, 2003).

Settled is the rule that in administrative proceedings, the burden of proof that the respondent committed the acts complained of rests on the complainant. The complainant must be able to show this by substantial evidence, or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, otherwise, the complaint must be dismissed (*Adajar v. Develos*, A.M. No. P-05-2056, [18 November 2005]). The basic rule is that mere allegation is not evidence, and is not equivalent to proof (*Philippine National Bank v. Court of Appeals*, G.R. No. 116181 [6 January 1997]).

In this case, complainant failed to substantiate the allegation that the respondent Judge exhibited extreme bias and has already pre-judged her case. Other than her bare allegations, there is nothing in the records that