

FIRST DIVISION

[A.M. No. RTJ-05-1938 (OCA-IPI No. 04-2034-RTJ), July 15, 2005]

ROVINNA DE JESUS ELEFANT, COMPLAINANT, VS. JUDGE SOCORRO B. INTING AND BRANCH CLERK OF COURT SHIRLEY M. PAGALILAUAN, REGIONAL TRIAL COURT, BRANCH 4, MANILA, RESPONDENTS.

DECISION

YNARES-SANTIAGO, J:

In a verified letter-complaint^[1] filed on July 1, 2004 before the Office of the Court Administrator (OCA), complainant Rovinna De Jesus Elefant charged respondents Judge Socorro B. Inting and Branch Clerk of Court Shirley M. Pagalilauan of the Regional Trial Court of Manila, Branch 4, with manifest bias and partiality in Civil Case No. 03-108592, entitled "*Rovinna De Jesus Elefant vs. David Elefant*", for Support/Support Pendente Lite, To Fix Visitorial Rights with Application for Immediate Issuance of Hold Departure Order.

Complainant averred that since April 2004 defendant David Elefant has failed to provide the agreed monthly support of P40,000.00, prompting her to file the following motions:

- 1) Urgent Motion to Fix the Date of Support dated March 2, 2004;
- 2) Motion to fix Date when Defendant would Give his Monthly Support dated April 23, 2004;
- 3) Omnibus Motion to Censure and Require Defendant to Give Monthly Support dated May 4, 2004;
- 4) Manifestation as regards the Preferred Schools and Failure of Defendant to Give Monthly Support dated May 21, 2004;
- 5) Manifestation and Omnibus Motion for Reconsideration and Motion to Resolve Defendant's Failure to Comply with the Court's Order (regarding defendant's failure to give monthly support since April 2004) dated June 3, 2004; and
- 6) Very Urgent Ex-Parte Motion to Direct Defendant to Give Monthly Support of P40,000.00 for the months of April, May and June 2004 dated June 11, 2004.^[2]

She alleged that while her motions remained unresolved, David's motions were favorably resolved with dispatch by the respondent judge. She assailed the May 26, 2004 Order directing her to enroll their children at David's preferred school,

Philippine Jin Nan Institute, Inc., without considering her children's preference and the money she spent in enrolling them at the Philippine Academy of Sakya.^[3]

Complainant claimed that it was Clerk of Court Pagalilauan, who told David and his counsel not to bring back the children to her on May 1, 2004 in violation of the March 12, 2004 Order.^[4]

In her comment,^[5] respondent judge alleged that she had been impartial throughout the proceedings. The parties submitted to the jurisdiction of the court and she assumed the role of *parens patriae* with the best interest of the minor children in mind. The motion for support remained unresolved because it was not yet ripe for resolution in view of the subsequent motion filed by David praying that support be mutually shared by both of them. She chose Philippine Jin Nan Institute, Inc. because it is non-sectarian and fair to both parents who have different religion. It was only incidental that it was also the preferred school of David and it does not mean that she was partial to the latter.

Respondent Clerk of Court claimed that the charges of bias and partiality against her is baseless and hearsay. She denied having told David and his counsel not to bring back the children to the complainant.^[6]

In the Agenda Report^[7] dated April 29, 2005, the OCA recommended that respondent judge be reprimanded while the charges against respondent clerk of court be dismissed for insufficiency of evidence.^[8]

We agree with the findings of the OCA and partly adopt its recommendation.

The charge of manifest bias and partiality against respondent judge is bereft of factual support. As held in *Mamerto Maniquiz Foundation, Inc. v. Judge Rogelio M. Pizarro*:^[9]

In administrative proceedings, the complainant bears the *onus* of establishing, by substantial evidence, the averments of his complaint. **Notatu dignum is the presumption of regularity in the performance of a judge's functions, hence bias, prejudice and even undue interest cannot be presumed, specially weighed against a judge's sacred allegation under oath of office to administer justice without respect to any person and do equal right to the poor and to the rich.** In a long line of cases decided by this Court, it was held that bare allegations of bias are not enough in the absence of clear and convincing evidence to overcome the presumption that the judge will undertake his noble role to dispense justice according to law and evidence and without fear or favor. In *Sinnott v. Barte*, it was further held, mere suspicion that a judge is partial is not enough. **There should be clear and convincing evidence to prove the charge of bias and partiality.** Extrinsic evidence is required to establish bias, bad faith, malice or corrupt purpose, in addition to the palpable error that 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. (Emphasis supplied)