EN BANC

[A.M. OCA IPI NO. 04-72-CA-J, July 08, 2005]

RAFAEL RONDINA, ROLAND GERON, ARTURO ORTEGA, BERNARDO RAMOS, ROBIN ROBIN RONDINA AND DANILO ABARAO, COMPLAINANTS, VS. ASSOCIATE JUSTICE ELOY R. BELLO, JR., COURT OF APPEALS, RESPONDENT.

R E S O L U T I O N

CALLEJO, SR., J.:

The instant administrative matter arose when Rafael Rondina, Roland Geron, Arturo Ortega, Bernardo Ramos, Robin Rondina and Danilo Abarao, forwarded to Chief Justice Hilario Davide, Jr. a Letter-Complaint dated March 7, 2004 charging Court of Appeals (CA) Associate Justice Eloy R. Bello, Jr. with alleged misconduct and unethical behavior relative to G.R. No. 134903 entitled "*Unicraft Industries International Corporation v. Court of Appeals*." The letter-complaint is herein quoted, as follows:

> Dear Mr. Chief Justice,
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> We, RAFAEL RONDINA and 31 other co-employees, at Cogon Victoria, San Remegio, Cebu, are lowly employees of Unicraft Industries International Corporation et al. since [the] 1980s. We were loyal and dedicated workers, deprived of the statutory minimum wages and standard benefits. When we formed a union to ask for our rights, we were dismissed in 1995. We promptly filed our complaints NLRC RAB 7 Cebu City and [were] assigned to Labor Arbiter DOMINADOR ALMIRANTE, who referred our case to Voluntary Arbitration. After being selected voluntary arbitrator, Mr. FLORANTE CALIPAY conducted hearings and ordered [the] submission [of] position papers and evidence, after which, he rendered judgment on March 15, 1997.
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> On March 31, 1997, Unicraft went to the Court of Appeals (CA) on certiorari docketed as CA G.R. No. 43765, which issued a TRO on April 4, 1997. On June 18, 1998, [the] CA ordered execution of the VA judgment. Unicraft filed [a] motion for reconsideration, which was denied by the CA on July 31, 1998.
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> In a petition for certiorari dated 22 August 1998, docketed as **G.R. NO. 134903**, Unicraft went to the Supreme Court which, on 26 March 2001, remanded the case for reception of evidence of VA Calipay. We moved for reconsideration fearing that Unicraft *et al.* would only further delay the proceedings by not cooperating with VA Calipay. You Mr. Chief Justice joined Justice REYNATO PUNO in dissent opting to dismiss the Unicraft Petition for lack of merit. The *ponente*, Justice CONSUELO YNARES-SANTIAGO, who wanted to remand the case to Calipay for reception of

evidence, was joined by Justices KAPUNAN & PARDO. Copy of the Order and the dissent are attached as **Annex A & B.**

In compliance, the VA issued an Order on **27 December 2002** for the parties to submit their position paper, pleadings with evidence. While we submitted additional pleadings and evidence, Unicraft refused to do so. Clearly then, Unicraft's cry at the Supreme Court that they were deprived [of] due process is a ploy to obstruct the administration of justice. Unicraft maliciously misled Justice CONSUELO YNARES-SANTIAGO. On 23 January 2004, the Voluntary Arbitrator issued its Judgment.

On 19 February 2004, we received a copy of a telegram from Atty. VIRGINIA ABELLA, Division Clerk of Court, announcing that a resolution was issued by the Court of Appeals on 18 February 2004 restraining or stopping voluntary arbitration proceedings. We later were furnished copy of the Order and realized that Unicraft had filed another certiorari with the CA, docketed as **CA G.R. SP No. 81951** and it was Justice ELOY BELLO who signed the TRO that obstructed and cause[d] extreme delay to the proceedings. Copy of the Telegram is attached as **Annex C.**

Mr. Chief Justice Davide, we had been dismissed from our job in 1995 but up to the present Unicraft is just bringing the case up and down the judicial structure and it is Justice ELOY BELLO who again restrained the VA proceedings even when the CA and the Supreme Court had reviewed and ordered the proceedings be ruled out by VA Calipay and that justice be done. Justice BELLO had committed grave injustice by again restraining the VA proceedings, making the litigation eternal and our sufferings endless.

Unicraft, the Dino family and their counsel, Atty. JOSHUA DACUMOS want to delay [the] proceedings and the delivery of labor justice to us and our families causing us [to] suffer deeper deprivation and despair. We have suffered almost (10) years of extreme hunger, delays and physical threats [from] Unicraft and the Dino family, who wanted us to surrender by sheer delay and hopelessness in our justice system.

The Dino family and Unicraft officials, through their agents continue to threaten and entice us to withdraw our complaints since according to them they had "paid," "settled" and "transacted" with Justice ELOY BELLO of the Court of Appeals, to block the VA proceedings despite the Supreme Court's order to proceed. They promised that there will be no justice for us since we are poor. According to them, Justice Bello is committed to them to defeat our case. We are overwhelmed by discouragement and despair. Until when should we wait Mr. Chief Justice? How many times do we have to go up and down the Supreme Court and the Court of Appeals? We have waited for almost 10 years already. How many more years do we have to wait?

WE PRAY, please protect us from JUSTICE ELOY BELLO of the Court of Appeals. We pray that he be prohibited from issuing [a] restraining order against our case.

Justice Bello, for his part, vehemently denied the allegations against him. He averred that he does not know any member of the Dino family, any official of Unicraft Industries, or their lawyers, and that he has not transacted nor talked to anyone regarding the said case. He clarified that Unicraft, together with Robert Dino, *et al.,* filed a petition for *certiorari* under Rule 65 of the Rules of Court with prayer for preliminary injunction and/or temporary restraining order, seeking to restrain the execution of the Voluntary Arbitrator's Decision dated January 23, 2004. An Urgent *Ex-Parte* Motion reiterating the request for the immediate issuance of a temporary restraining order and/or preliminary injunction was, thereafter, filed on February 4, 2004, followed by another motion filed on February 17, 2004 reiterating the same prayer. Unicraft's prayer for a temporary restraining order was granted in a Resolution[1] dated February 18, 2004, with Associate Justices Amelita G. Tolentino and Arturo D. Brion concurring. Justice Bello averred that the resolution was issued in the exercise of his sound discretion, and on his "rational and logical assessment of the circumstances prevailing in the incident brought before [him]."

Justice Bello also averred that any error committed in the issuance of the February 18, 2004 Resolution may be corrected via motion for reconsideration and other applicable remedies under the Rules. He pointed out that the complainants had not filed a motion for reconsideration of the said resolution. He lamented that the resort to an attack on his character or integrity as a judicial officer was uncalled for, thus:

> While a judicial officer has to be patient and tolerant in dealing with intrigues affecting his office, it is extremely unfair to impute such venal acts against me based on hearsay information. Fully aware that they have no direct knowledge of the alleged acts being imputed, Mr. Rondina, *et al.* should have been more circumspect in casting aspersions against my honesty and integrity not only as a person but as a judicial officer. Indeed, such irresponsible, unfounded, and false accusations does not promote the orderly administration of justice, and achieves nothing but to unduly burden a public servant who has done no wrong.
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> Indeed, the frustration that litigants would at times encounter in procedural rules is understandable. In fact, courts should be cognizant of the anguish that they undergo as they seek justice. However, they should also realize that the responsibility of the courts is to render justice, and the rules have been designed to insure the proper dispensation of the same. **While the expeditious disposal of cases is desirable, it should never be at the expense of justice** …[2]

The Court, thereafter, resolved to require the complainants to file their reply.

In the meantime, Justice Bello retired compulsorily on November 2, 2004. In a Letter dated November 5, 2004, he requested for the approval of his retirement papers and that, if needed, a certain amount be deducted from his retirement benefits. He further prayed that a clearance be issued with respect to the money value of his accumulated leave credits to facilitate the processing of his retirement benefits. The Court noted the said letter in its Resolution dated December 1, 2004.

Thereafter, in a verified Letter dated March 11, 2005, complainants Rafael and Robin Rondina alleged that before a restraining order/injunction can be issued, a hearing is required; no such hearing was conducted in the subject case. According to the complainants, the order suspending the execution of the arbitration judgment was issued outright; they were not given an opportunity to present their side, and the consequences of the issuance of the restraining order to their cause for justice was not considered. According to the complainants, they were surprised when Justice Bello ordered the stopping of the voluntary arbitration proceedings, since the Supreme Court itself had ordered the case remanded to the voluntary arbitrator for speedy judgment; the issuance of the said resolution stopped the administration of justice. According to the complainants, "one must post a bond equal to the value of the judgment one seeks to stop;" the bond required in the said case was less than 1% of the value of the judgment which execution was sought to be restrained.

The complaint is without merit and must forthwith be dismissed.

A complaint against a magistrate, when instituted by any person, must be verified and duly supported by affidavits of persons who have personal knowledge of the facts alleged therein, or by documents substantiating such allegations. In this case, the complainants failed to attach such affidavits to prove the alleged "transaction" between Justice Bello and Unicraft; no evidence was offered to prove the allegations in the complaint. This requirement is set forth in Section 1, Rule 140[3] of the Revised Rules of Court on the Discipline of Judges of Regular and Special Courts and Justices of the Court of Appeals and the Sandiganbayan, to wit:

> Section 1. Proceedings for the discipline of Judges of regular and special courts and Justices of the Court of Appeals and the Sandiganbayan may be instituted *motu proprio* by the Supreme Court or upon verified complaint, supported by affidavits of persons who have personal knowledge of the facts alleged therein or by documents which may substantiate said allegations, or upon anonymous complaint, supported by public records of indubitable integrity. The complaint shall be in writing and shall state clearly and concisely the acts and omissions constituting violations of standards of conduct prescribed for Judges by law, the Rules of Court, or the Code of Judicial Conduct.

The rationale of this requirement is to protect magistrates from the filing of flimsy and virtually unsubstantiated charges against them. In fact, the Court has recognized this "proliferation of unfounded or malicious administrative or criminal cases against members of the Judiciary for purposes of harassment," and issued A.M. No. 03-10-01-SC[4] which took effect on November 4, 2003. It reads in part:

> 1. If upon an informal preliminary inquiry by the Office of the Court Administrator, an administrative complaint against any Justice of the Court of Appeals or Sandiganbayan or any Judge of the lower courts filed in connection with a case in court is shown to be clearly unfounded and baseless and intended to harass the respondent, such a finding should be included in the report and recommendation of the Office of the Court Administrator. If the recommendation is approved or affirmed by the Court, the complainant may be required to show cause why he should not be held in contempt of court. If the complainant is a lawyer, he may further be required to show cause why he or she should not be