

SECOND DIVISION

[A.M. NO. RTJ-02-1713, October 25, 2005]

ROMULO D. JABON, COMPLAINANT, VS. JUDGE SIBANAH E. USMAN, REGIONAL TRIAL COURT, BRANCH 28, CATBALOGAN, SAMAR, RESPONDENT.

A.M. OCA IPI NO. 03-1744-RTJ

PLARIDEL D. BOHOL, COMPLAINANT, VS. SIBANAH E. USMAN, RESPONDENT.

R E S O L U T I O N

AUSTRIA-MARTINEZ, J.:

Before the Court are the complaints filed by complainants Romulo D. Jabon and Plaridel D. Bohol against Judge Sibannah E. Usman, Presiding Judge of the Regional Trial Court, Branch 28, Catbalogan, Samar.

The facts of the case and the proceedings held are accurately summarized in the Final Investigation, Report and Recommendation submitted by Investigating Justice Renato C. Dacudao, to wit:

The allegations in the sworn statement dated August 31, 2001^[1] of complainant Jabon are as follows:

I. FOR GRAFT AND CORRUPTION.

When I appeared before his court to pursue my case for damages against Adolfo Ibañez (Civil Case No. 7082) he placed me under duress by requiring me to buy from him a set of earrings and ring for P40,000.00 in order for me to be able to testify ex-parte in the absence of defendant Adolfo Ibañez, despite notice and without formally asking for postponement on valid ground.

II. FOR INCOMPETENCE.

He is unable to decide on time cases and matter submitted for resolution, thereby clogging the cases in his RTC Branch 28 permanently presided by him unheard and non-tried cases. The same is true in the cases he temporarily presides at RTC Branch 33 at Calbiga, Samar.

...

III. FOR IGNORANCE OF THE LAW.

Judge Usman issued an order of preliminary injunction to stop the running of the period to redeem a property foreclosed when legally said period of redemption cannot be stopped by injunction, it being to lapse ipso facto after the expiration of the period of one (1) year from the date of registration of the certificate of sale, pursuant to Rule 29, Section 28 of the 1997 Rules of Civil Procedure.

IV. FOR DISHONESTY.

Judge Usman committed grave dishonesty when he bided (sic) in an auction sale conducted by the office of the Provincial Sheriff of Samar of properties levied in execution under the name of another person.

V. FOR PARTIALITY AND SCANDALOUS BIAS IN THE CONDUCT OF HIS JUDICIAL PROCEEDINGS.

In the case of Dacaynos vs. Flordeliza, Civil Case No. 7275, he refused to issue a writ of attachment in favor of plaintiff because defendant Danilo Flordeliza is his good friend and also his basketball playing chum.

Judge Usman wanted said case settled for P200,000.00 even if defendant Flordeliza have (sic) previously offered plaintiffs a settlement of P300,000.00 which plaintiff declined and rejected because plaintiffs' expenses alone in medication amounted to P300,000.00 already.

In another case filed by Alfonso Quilapio against a bus company wherein Judge Usman issued a writ of preliminary attachment against defendant bus company which plaintiff Quilapio settled amicably with the bus company at the time when Judge Usman was in Manila and a passenger bus of defendant was under attachment and impounded in the court premises, Judge Usman faulted plaintiff Alfonso Quilapio of unilaterally settling the case that resulted in the discharge of the attachment and eventually dismissal of the case without asking permission from Judge Usman, because according to him, he could have made money out of the release of the attachment as he was then in need of money because the bus company was then desperate to have one of its units released impounded on account of the attachment.

VI. FRATERNIZATION WITH LAW PRACTITIONERS AFFECTING THE DISPOSITION OF CASES IN THE COURTS HE PRESIDES.

Judge Usman has favored lawyers practicing in his sales (sic). He gets regular plane tickets from said lawyers to use in frequently going to Manila and elsewhere. He solicits building materials in the construction of the local Muslim mosque as he is said to be one of their ministers.

Records of cases involving his favored lawyers appearing in his

court will prove how he uses his judicial powers to accommodate his crony lawyers.

VII. FOR ABSENTEEISM.

Records of cases with RTC Branch 28 from the time Judge Usman became its Presiding Judge as well as in RTC Branch 33 of the cases handled by Judge Usman ad interim will show and establish that he had been absent without notice, much less, justification, in the days and dates said courts issued subpoenas in the hearing of cases.

...

To this, respondent Judge filed a counter-affidavit dated November 28, 2001^[2] vehemently denying the charges hurled against him, to wit:

1. That I denied having sold any kind of gold to Mr. Romulo Jabon. I never have the occasion to talk to him. Atty. Plaridel D. Bohol, counsel for plaintiff Romulo Jabon, moved in open court that plaintiff, a resident of the United States of America, should be allowed to present evidence ex parte due to the unexplained absence of the defendant, Adolfo Ibañez, which I granted. He wanted that the case be decided immediately but I denied, and instead, allowed the defendant to present evidence. This is the only reason this complaint was filed against me. So, last hearing, I inhibited myself and transferred the case to the other sala;
2. To boost my competence or judgment for the span of 18 years, none of my judgment or order has been reversed. I have no pending cases for decision. No single case has been decided beyond ninety (90) day period. I always see to it that if I leave my office in the afternoon, my table is clean, without leaving any assignment for the next day;
3. The charge for ignorance of the law is not properly substantiated. Whether or not the complainant agreed to the order of the undersigned, only the Supreme Court can decide whether my judgments, as well as appreciation of facts in all cases are erroneous or illegal. So far, none yet had been reversed by the Supreme Court;
4. The charge of grave dishonesty is not also properly substantiated. The undersigned refuted the charges of grave dishonesty. Neither has the undersigned bidden in an auction sale nor directly or indirectly participated in any bidding, so far, among my employees, only Mr. Vito B. Liad bidden in an auction sale before another branch, RTC, Branch 29, not in my branch;
5. In the case of Dacaynos versus Flordeliza, Civil Case No. 7275, the undersigned refused to issue a writ of attachment in favor of the plaintiff because the case against Danilo Flordeliza is still pending and the Judge is still determining whether or not there is valid

ground to issue the writ. Mr. Flordeliza and the undersigned being playmates in a basketball tournament is only incidental. It is the parties that discussed the settlement of the case. The undersigned never influenced the parties. In fact, up to now, they are still negotiating for the possible settlement of the case. In another case of Alfonso Quilapio, this is a closed case. The parties have settled the case amicably and Atty. Bohol hastily terminated the case while the undersigned was on leave and Hon. Sinfiorano Monsanto, acting as pairing judge was the one who approved the compromise agreement between the parties, not the undersigned;

6. The records of my Court can clearly show that I have not favored any lawyer. All of them are my friends. I maintained a clean and friendly relationship with them. Even to Atty. Bohol, counsel for the complainant, I have cordial relationship. Except that at one time, I inhibited myself to handle the cases of Atty. Bohol because he charged me before the Supreme Court of which I was exonerated. So, within the period of five (5) years, I inhibited myself from handling all cases of Atty. Bohol. Other Judges also inhibited themselves to handle cases of Atty. Bohol, like Judge Quimsing, Judge Mabansag, Judge Jakosalem, Judge Llosa and Judge Monsanto. Atty. Bohol approached me to reconsider my order of inhibition. So, because of the honest to goodness appeal of Atty. Bohol, I reconsidered my order and allowed him to appear before my sala;
7. For absenteeism, it is understood that every judge is entitled to a 30-day creditable leave and another 30-day forfeitable leave. I did not secure a leave of absence for more than one week. True, I always asked for a leave of absence, but I do not exceed or consume my 30-day forfeitable leave. The records will bear me out that for more than 18 years, I never have had a leave of absence of more than one week. I admit that I have two (2) wives - Soledad and Noraiaam, who are both Muslims. I am a Muslim Imam. It is my duty to marry two (2), but not more than four (4) wives. I never abused my wives and children. I never touched any other women. Neither mingle not flirt with them;
8. If my performance for the last two (2) years has been a little bit reduced, although, I do not admit, perhaps, it is because I was designated as Acting Presiding Judge in Calbiga, RTC Branch 33, from November 22, 1999 to June 2001, which is fifty (50) kilometers away from Catbalogan. Now, I was relieved. It is understood that a judge is a man, not a robot. Our performance is sometimes limited by the constraint of time and physical force. The increase of cases in the Province of Samar is due to the increase of population and growth of crimes which is true to all other provinces. Population grows geometrically. Poverty aggravates or increase crime rate. The delays of the disposition of cases sometimes are not solely the fault of a judge;

9. I do not solicit donation from anybody for the construction of the Muslim Mosque. Yes, I used my personal money. Anybody who contributed to the house of God does it voluntarily not for the sake of Judge Usman, but for the sake of himself.

Considering the seriousness of the charges against the respondent judge, the Office of the Court Administrator recommended that a formal inquiry be conducted thereon and that the administrative case be referred to the Court of Appeals for investigation, report and recommendation.^[3] Hence, on July 29, 2002, the Supreme Court issued a Resolution^[4] referring the instant case to the Court of Appeals. Accordingly, on August 27, 2002, the case was raffled off to now retired Justice Bennie A. Adefuin-De la Cruz.

However, on February 7, 2003, Justice Bennie A. Adefuin-De la Cruz filed with the Supreme Court a request to be relieved from the case for the reason that she might not be able to objectively act on the said case, in view of the conduct, actuations and intimidating stance and demeanor of Attys. Plaridel Bohol, Sr. and Plaridel Bohol II.^[5] The instant case was thus transferred to the undersigned investigating Justice.

On April 12, 2004, the Supreme Court issued a resolution consolidating CPL C-02-2042 (Plaridel D. Bohol vs. Judge Sibanah E. Usman) **[docketed with this Court as Adm. Matter OCA IPI No. 03-1744-RTJ]** with A.M. No. RTJ-02-1713 (Romulo D. Jabon vs. Judge Sibanah E. Usman).^[6] **[Plaridel D. Bohol's complaint reiterated the allegations in Jabon's complaint and merely added the allegation that respondent uttered grave threats against his son, Plaridel Samuel J. Bohol.]**

INVESTIGATION

During the hearings conducted, Atty. Plaridel Bohol testified and presented the following documentary evidence: The affidavit-complaint of Atty. Plaridel Bohol, Sr.; Memorandum for Hon. Zenaida Elepaño dated June 23, 2003; Sworn Statement dated October 31, 2002 of Plaridel Samuel J. Bohol; Certification of the police blotter dated October 30, 2002; Certification dated October 25, 2002 issued by the Dean of the College of Law of the University of the East; Transcript of stenographic notes dated September 21, 2000, January 18, 2001, and November 20, 2001 in Civil Case No. 7082 entitled, "Romulo Jabon vs. Adolfo Ibañez;" Sheriff's Certificate of Sale in Civil Case No. 892, entitled "Evelyn Uycoque Abrio represented by Norma J. Bohol vs. Sps. Aurelio and Noemi Esparraguera;" Record of Sale at public auction (minutes) dated December 29, 1999; Certification dated September 3, 2003 issued by Ofelia T. Borja, Director of the Department of Human Resources and Development, University of the East; Letter dated July 31, 2003 from retired Deputy Court Administrator Reynaldo L. Suarez, Dean of the University of the East College of Law in compliance with the subpoena duces tecum issued by the undersigned investigating Justice; memorandum dated June 27, 2003 of VPAA Baltazar N. Endriga