

EN BANC

[A.M. No. RTJ-03-1812 (OCA I.P.I. No. 01-1226-RTJ), November 18, 2004]

PABLITO R. SORIA, ET AL., COMPLAINANTS, VS. JUDGE FRANKLYN A. VILLEGAS, REGIONAL TRIAL COURT OF PAGADIAN CITY, BRANCH 19, RESPONDENT.

RESOLUTION

DAVIDE JR., CJ.:

This is in connection with respondent's Second Motion for the Reconsideration of our Decision of 19 November 2003, which ordered respondent's dismissal from the service, with forfeiture of all retirement benefits excluding leave credits and vacation benefits, and with prejudice to employment in any branch of the government or any of its instrumentalities, including government-owned and controlled corporations. The ground for his dismissal from the service was his "continued refusal to comply with the lawful orders" of the Court because he did not comply with the two (2) directives of the OCA and the resolutions of the First Division of the Court of (1) 29 July 2002 which required him to comment on the complaint within ten days from notice; and explain why no disciplinary action should be taken against him for insubordination for failure to heed OCA's directives; (2) 4 December 2002 which reiterated the resolution of 29 July 2002; (3) 23 April 2003 which resolved "to require ANEW the said judge to SHOW CAUSE why he should not be disciplinarily dealt with or held in contempt for such failure and to COMPLY with the said resolution of July 29, 2002 requiring explanation." We ruled that respondent's failure to do so "constitutes gross disrespect to the lawful orders and directives bordering on willful contumacy," and "underscores his lack of respect for authority and a defiance for law and order which is the very core of his position."

On 13 August 2003, acting on complainants' letter of 18 July 2003 expressing their sentiments on the long continued non-compliance of respondent with the Court's show-cause resolution at the same time hoping for an expeditious resolution of this case in their favor, we resolved to REFER this case to the Office of the Court Administrator for evaluation, report and recommendation. The Office of the Court Administrator thereafter submitted its report and recommendation, dated 26 September 2003. It recommended that respondent

(1) ... be meted out the penalty of ONE YEAR SUSPENSION from office without pay effective immediately upon receipt of notice for gross misconduct and insubordination for continuously defying the orders of the Court;

(2) ... DIRECTED to file his comment to the complaint within five (5) days from notice or face arrest and detention until such time that he will comply;

(3) ... ordered to pay a fine of Five Thousand Pesos (P5,000.00) to be paid within ten days from notice hereof;

(4) ... be immediately DIVESTED of his position as Executive Judge of RTC, Pagadian City in accordance with Administrative Order No. 33-2003.

xxx

Deliberating on the case, the First Division adopted the findings and conclusion of the Office of the Court Administrator but disagreed with the recommended penalty. It ruled that the penalty should be DISMISSAL from the service with all its consequences.

In light of the penalty determined by the First Division, the matter was referred to the Court *En Banc* pursuant to the revised resolution in A.M. No. 99-12-08-SC. The Court *en banc* accepted it in its Resolution of 18 November 2003. After deliberating thereon and reaching a conclusion sanctioning the First Division, the matter was assigned to the *ponente* for the writing of the decision. The decision was promulgated on 19 November 2003. A motion to reconsider it was denied with finality in the resolution of 25 May 2004.

In his second motion for reconsideration, respondent begs us to reconsider the decision "in the spirit of the doctrine of the *STARE DECISIS* ... taking into account the length of service of more than twenty (20) years he has served the Judiciary," and proceeds to discuss on *stare decisis*, thus:

Respondent anchors his hypothesis on the very same jurisprudence Your Honors' have cited. With due respect, please allow the herein respondent to make the following observations:

(a) In *Davila vs. Generoso*, [336 SCRA 576, 580 (200), citing *Longboan vs. Polig*, 186 SCRA 557, 561, (1990), the respondent Judge therein was required to comply the directives of the Honorable Court's directives, particularly in the cited Resolutions therein, more specifically, Resolution dated January 21, 1998, requiring him to show cause why he should not be dealt with disciplinarily or held in contempt for failure to comment on subject complaint of complainant Davila and to comply with the resolution of August 13, 1997, within ten (10) days from notice. The same was followed with a Resolution dated October 5, 1998, wherein the respondent judge was required to comply with the resolution of January 21, 1998, within ten (10) days from notice, under pain of appropriate disciplinary action, yet, he was still afforded one last chance and finally in a Resolution dated March 17, 1999, the respondent was required to show cause why he should not be dealt with more severely for failure to comply with the Resolution, dated December 11, 1995, and to file the required comment within ten (10) days from notice.

It is most respectfully noted that there were at least three (3) warnings given the respondent before he was finally handed the verdict of dismissal from service.

(b) In *Parane vs. Relosa*, [238 SCRA 1, (1994)], the respondent likewise

failed to heed the Honorable Court's directives and in the Resolution of August 4, 1994, the Court, wishing to afford respondent Judge another opportunity to explain himself, resolve thusly:

"WHEREFORE, finding respondent Judge guilty of gross misconduct and insubordination in his continued failure to comply with the lawful orders of this Court, the Court hereby IMPOSES on the respondent Judge a FINE of Five Thousand Pesos (P5,000.00). Said respondent is still required to COMPLY with the resolution of 22 July 1993 within ten (10) days from receipt hereof, with a STERN WARNING that non-compliance therewith will be dealt with most severely as so herein above expressed. x x x"

With respondent's continued defiance of the last Court directive, he was ultimately dismissed from the service on November 7, 1994. It is further noted that the respondent was afforded his final chance before the extreme penalty of dismissal from the service was handed down.

(c) In the case of *Guerrero vs. Deray* [A.M. No. MTJ-02-1466, 10 Dec. 2002, citing *Joseph vs. Abarquez*, 261 SCRA 629 (1996)], the respondent was found guilty of gross incompetence and inefficiency, gross misconduct and conduct prejudicial to the best interest of the service.

The Honorable Court has meted upon the respondent the extreme penalty of dismissal because it was warranted by the circumstances, when it said: "In other words, indifference or defiance to the Court's orders or Resolutions may be punished with dismissal, suspension or fine as warranted by the circumstances."

(d) In the case of *Erlinda Alonto-Frayna vs. Judge Abdulmajid J. Astih* [300 SCRA 199 (1998)], The Honorable Court found the respondent guilty of gross inefficiency and neglect of duty exacerbated by his audacious stance in defying the Court's orders.

We have carefully examined the rollo of this case and we noticed that, first, our resolution of 23 April 2003 which required ANEW the respondent to show cause and to comply with the resolution of 29 July 2002 did not specify the period within which to do so. Second, the resolution of 13 August 2003 which noted the letter of complainants expressing their sentiments on the continued non-compliance of respondent with the show-cause resolution did not take any direct affirmative action against the respondent; it only referred "this case to the Office of the Court Administrator for evaluation, report and recommendation within thirty (30) days from notice hereof." In short, we did not warn the respondent of the consequences if he will fail to show cause and to comply with the resolution of 29 July 2002. By referring the case to the OCA for evaluation, report and recommendation, we could only have meant a declaration that respondent had waived the filing of the comment.

Third, after the OCA submitted its evaluation, report and recommendation, we did not require the parties to manifest if they would submit the matter for decision on the basis of the pleadings heretofore filed. This is our policy and practice.

Fourth, respondent has in fact filed his compliance with the show-cause Resolution