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SECOND DIVISION

[G.R. No. 144618, August 15, 2003]

JORGE CHIN AND MARIA SANDOVAL CHIN, PETITIONERS, VS. HON. COURT OF APPEALS, HON. ARSENIO J. MAGPALE, MARIANO TAN BON DIONG, AND REGISTER OF DEEDS OF QUEZON CITY, RESPONDENTS.

D E C I S I O N

QUISUMBING, J.:

This petition for certiorari assails the decision[1] dated April 28, 2000, of the Court of Appeals in CA-G.R. SP No. 53872 and its resolution[2] dated August 2, 2000, denying petitioners' motion for reconsideration. Said decision affirmed the resolution[3] issued by respondent Judge Arsenio J. Magpale[4] of the Regional Trial Court of Quezon City, Branch 225, in Civil Case No. Q-96-27730, inhibiting himself from further proceeding with the case.

The records show that herein private respondent Mariano Tan Bon Diong (TAN, for brevity) was originally the complainant before the trial court against herein petitioners Jorge and Maria Sandoval Chin. The complaint was for the cancellation and nullification of (1) TCT No. RT-105582 (240043) registered under Angel S. Rafol, petitioners' predecessor- in-interest, and (2) TCT No. N-135462 registered in the name of petitioners (the CHINS) on the ground that the two titles overlapped with TAN'S title. The complaint prayed for the issuance of a Temporary Restraining Order and a Writ of Mandatory Injunction to prevent the CHINS from enjoining TAN from developing the disputed property. It also prayed that the CHINS be ordered to remove their security guards who prevented deliveries therein of construction materials.[5]

In their answer with counterclaim and cross-claim, the CHINS prayed for the cancellation of TAN's title, TCT No. RT 066892 (240191), for being spurious. They also prayed for issuance of a TRO and Writ of Preliminary Injunction to restrain TAN and all those acting under him from trespassing into or usurping the disputed lot as well as constructing improvements on the subject property.[6]

Judge Tirso Velasco of RTC, Quezon City, Branch 88, conducted initial hearings on the propriety of the provisional reliefs prayed by both parties. In view of his removal as a judge, however, the pairing judge, Hon. Elsa I. de Guzman, acted on the pending incident upon TAN's motion.[7]

On June 24, 1998, Judge de Guzman denied TAN's prayer for preliminary injunction on the ground that he failed to show a clear and unmistakable right over the property. Judge de Guzman ruled that what happened was a clear case of double sale of registered real property. It does not appear that TAN registered the subject

property in his name prior to the registration of the title of the CHINS. In fact, said the judge, the evidence seemed to support the opposite. Judge de Guzman held that by virtue of the earlier registration, made in good faith, of the sale by petitioners' predecessor-in-interest, the CHINS had a better right to the property in question. The matter of the genuineness of title and of the sales leading to the CHINS' title, according to Judge de Guzman, was left to be ventilated in the main case. Hence, concluded the judge, it was more judicious to maintain the status quo between the parties and to wait for the resolution of the main case in order to avoid a miscarriage of justice.[8]

Complainant TAN filed a motion for reconsideration and an "Urgent Motion for Voluntary Inhibition" against Judge Elsa de Guzman, alleging that she had prejudged the case in favor of the CHINS. He also alleged that the denial of the motion for issuance of a writ of the preliminary injunction was rendered prematurely, considering that the CHINS had yet to present their evidence.[9]

On July 22, 1998, Judge de Guzman inhibited herself from further hearing the case but denied TAN's allegation that she prejudged the case or that she issued the denial of the preliminary injunction prematurely.[10] Subsequently, the case was raffled to Branch 95 of the RTC of Quezon City, presided by Judge Diosdado M. Peralta, who inhibited himself on the ground that his sala was already burdened with heinous crime cases that required expeditious resolution.[11] Upon Judge Peralta's order, the case was re-raffled to Branch 225, presided by respondent Judge Arsenio J. Magpale.

Complainant TAN's motion seeking reconsideration of the resolution dated June 24, 1998 denying his prayer for a writ of preliminary injunction was denied by Judge Magpale on February 1, 1999, for lack of merit. A determination of the validity of the sales leading to the CHINS' title, he said, should be decided after trial on the merits.[12] Hence, TAN filed an "Urgent Motion for Voluntary Inhibition" against respondent judge, likewise for alleged pre-judgment of the case.[13] On June 25, 1999, Judge Magpale inhibited himself from proceeding with the case, stating that:

> Wherefore, in order that the movant's perception may be put to rest, the prayed for inhibition is granted, but not for the reasons set forth by the movant, but for the institution's own protection - considering that this is not the first Court to be asked by the movant to inhibit himself from hearing this case.[14]

Because of Judge Magpale's resolution to voluntarily inhibit himself, the CHINS went to the Court of Appeals *via* a petition for *certiorari* docketed as CA-G.R. SP No. 53872. Meanwhile, the case was re-raffled to Judge Reynaldo B. Daway, who also issued an order inhibiting himself from the case, on the ground that his sala was the only special court in Quezon City dealing with intellectual property rights.[15] Since then, the case had been set for hearing by the pairing judge, Hon. Normandie B. Pizarro of Branch 101 of the RTC, Quezon City.[16]

In their petition before the Court of Appeals, the CHINS contended that herein respondent judge committed grave abuse of discretion amounting to excess of jurisdiction in voluntarily inhibiting himself from presiding over and hearing the civil case *a quo.* They argued that TAN's motion was baseless. They pray that the

resolution issued by respondent judge be nullified and set aside.[17]

The Court of Appeals denied the petition in a decision[18] dated April 28, 2000. Thus:

> WHEREFORE, premises considered, finding the instant petition to be unmeritorious, the same is hereby DENIED. The pairing judge is hereby directed to proceed with the pre-trial and hearing on the merits of the civil case *a quo.*[19]

Petitioners' motion for reconsideration[20] was likewise denied.[21] Hence, they filed the instant petition for certiorari before this Court alleging that:

> THE PUBLIC RESPONDENTS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN GRANTING AND CONFIRMING THE INHIBITION OF HON. ARSENIO MAGPALE DESPITE WANT OF LEGAL AND FACTUAL BASIS THEREBY ALLOWING THE PRIVATE RESPONDENT TO PRACTICALLY CHOOSE A MORE SYMPATHETIC AND FRIENDLY JUDGE.[22]

For resolution is the sole issue of whether the Court of Appeals committed grave abuse of discretion in affirming the resolution of respondent judge voluntarily inhibiting himself from hearing the case, Civil Case No. Q-96-27730, between TAN and the CHINS.

Petitioners maintain that Judge Magpale's order of voluntary inhibition, issued on the ground of protecting the integrity of the judiciary, is null and void and should be set aside. They contend that the protection of the judiciary is not one of the grounds provided by law for voluntary inhibition of a judge. According to the CHINS, TAN's motion for voluntary inhibition was without legal and factual bases, hence in granting it, respondent judge committed grave abuse of discretion amounting to lack or excess of jurisdiction. They add that the resolution was, in effect, tolerance of private respondent's practice of moving for the inhibition of trial judges who would not rule in his favor.[23]

We find the petition meritorious.

The rule on inhibition and disqualification of judges is laid down in Section 1, Rule 137 of the Rules of Court:

> SECTION 1. *Disqualification of judges*. - No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.
>
> A judge may, in the exercise of his sound discretion, disqualify himself

from sitting in a case, for just or valid reasons other than those mentioned above.

It contemplates two kinds of inhibition: compulsory and voluntary. In the first paragraph, compulsory disqualification conclusively assumes that a judge cannot actively or impartially sit on a case for the reasons therein stated. The second paragraph, concerning voluntary inhibition, leaves to the judge's discretion whether he should desist from sitting in a case for other just and valid reasons with only his conscience to guide him.[24]

The issue of voluntary inhibition is primarily a matter of conscience and sound discretion on the part of the judge.[25] It is a subjective test the result of which the reviewing tribunal will not disturb in the absence of any manifest finding of arbitrariness and whimsicality. The discretion given to trial judges is an acknowledgment of the fact that these judges are in a better position to determine the issue of inhibition as they are the ones who directly deal with the parties-litigants in their courtrooms.[26]

As we have held in *Pimentel v. Salanga*,[27] a judge may not be legally prohibited from sitting in a litigation. But, when a suggestion is made of record that he might be induced to act in favor of one party or with bias or prejudice against a litigant arising out of circumstance reasonably capable of inciting such a state of mind, the judge should conduct a careful self-examination. He should exercise his discretion in a way that the people's faith in the courts of justice is not impaired. A salutary norm is that he should reflect on the probability that a losing party might nurture at the back of his mind the thought that the judge had unmeritoriously tilted the scales of justice against him. A judge could gracefully inhibit himself where the case could be better heard by another judge and where no appreciable prejudice would be occasioned to others involved therein. If after reflection he should resolve to voluntarily desist from sitting in a case where his motives or fairness might be seriously impugned, his action is to be interpreted as giving meaning and substance to the second paragraph of Section 1, Rule 137.

The decision on whether he should inhibit himself, however, must be based on his rational and logical assessment of the circumstances prevailing in the case brought before him.[28] The second paragraph of Section 1, Rule 137, does not give the judge the unfettered discretion to decide whether he should desist from hearing a case. The inhibition must be for just and valid causes. The mere imputation of bias or partiality is not enough grounds for a judge to inhibit, especially when it is without any basis.[29]

In the present case, we see no cogent reason for respondent judge to disqualify himself from the case, and we are constrained to rule that respondent Court of Appeals erred and committed grave abuse of discretion in affirming the resolution of Judge Magpale to voluntarily inhibit himself. An allegation of prejudgment, without more, constitutes mere conjecture and is not one of the "just and valid reasons" contemplated in the second paragraph of Rule 137 of the Rules of Court for which a judge may inhibit himself from hearing the case. We have repeatedly held that mere suspicion that a judge is partial to a party is not enough.[30] Bare allegations of partiality and prejudgment will not suffice[31] in the absence of clear and convincing