

SECOND DIVISION

[A.M. No. RTJ-00-1545 (Formerly OCA IPI No. 98-530-RTJ), August 06, 2003]

JUDGE ANTONIO J. FINEZA, COMPLAINANT, VS. JUDGE BAYANI S. RIVERA, REGIONAL TRIAL COURT, BRANCH 129, CALOOCAN CITY, RESPONDENT.

R E S O L U T I O N

QUISUMBING, J.:

Before us is a Complaint for Grave Misconduct and Grave Abuse of Authority filed by the Hon. Antonio J. Fineza, Presiding Judge, Regional Trial Court (RTC) of Caloocan City, Branch 131, against Hon. Bayani S. Rivera, Executive Judge, RTC of Caloocan City for allegedly manipulating and disregarding the requirements and practices in the distribution and assignment of cases for the period July 19, 1996 to September 26, 1997.

Complainant alleged that Executive Judge Rivera had disregarded the requirements and practices in the distribution and assignment of cases from July 19, 1996 to September 26, 1997, thus:

...on the raffle of January 10, 1997, page 2, the previous case (#1) was raffled to Branch 123. The sequence should be that the next case (#C-3808) should be raffled to Branch 124. That was not so as shown by the attached xerox copy, marked as Annex "A". This was picked/chosen for Branch 129.

On the raffle of January 24, 1997, the first case was raffled to Branch 120 but the next case (#C-3813) was not assigned to Branch 121, in sequence. Instead, it was assigned to Branch 129 as shown by the attached Annex "B".

On the raffle of February 14, 1997, the first case (#C-3822) was raffled to Branch 125. The second case (#C-3823) was not raffled to Branch 126 because [said] Court was vacant at that time. Neither was it assigned to Branches 127, 128, 129 because these were Special Criminal Courts. It was assigned to branch 130, in sequence. The third case (#C-3824) should have been raffled to Branch 131. Instead, the third case was assigned to Branch 129 as shown by attached Annex "C". Then the fourth case was assigned to Branch 131...

The April 4, 1997 raffle clearly shows manipulation of the raffle. The attached xerox marked Annex "D" shows that on the column of Special Proceedings that the last case was raffled to Branch 122 and, therefore, the next Branch to receive a case should be Branch 124 (Branch 123 was vacant). However, the first case (#C-3835) on LRC/Petition After Decree

was taken by Branch 129. The second and third cases were assigned to branches 124 and 125. The fourth case (#C-3838) was again taken by Branch 129...

On the May 2, 1997 raffle, again Branch 129 was given the Writ of Possession case (#C-3848) without proper raffle as shown by Annex "E".

On the June 6, 1997 raffle, the case should have been raffled to Branch 126, in sequence, because the previous case was raffled to Branch 125. Branch 129 again took the case (#C-3861) as shown by Annex "F".

On the June 13, 1997 raffle, again there was a jump or gap as the previous case was raffled to Branch 124 but the writ of possession case (#C-3865) was taken by Branch 129 as shown by Annex "G".

...both cases (C-3866 and C-3867) were again grabbed by Branch 129 during the raffle of June 20, 1997 as shown by Annex "H".

... again both cases (C-3874 and C-3875) were grabbed by Branch 129 during the immediately succeeding raffle held on June 27, 1997 as shown by Annex "I".

On the raffle of July 4, 1997, the last case was assigned to Branch 131 and, therefore, the next Branch should be 120. Instead, the case (#C-3876) was given to Branch 129, as shown by Annex "J".

... Branch 129 again grabbed the only two (2) cases (#C-3893 and #C-3894) of writ of possession during the August 22, 1997 raffle while [the] same should have been raffled to Branches 125 and 126, as shown by Annex "K".

The sole case (#C-3902) was again grabbed by Branch 129 during the raffle of September 12, 1997 as shown by Annex 'L'.

Lastly, the sole writ of possession case (#C-3903) was taken by Branch 129, jumping over Branches 122, 123, 124 125, 126, 127 and 128 as shown by Annex "M", during the September 26, 1997 raffle.^[1]

Moreover, according to complainant, the respondent manipulated the raffling of cases so that Branch 129 would get the Land Registration Cases^[2] and Writ of Possession^[3] cases, notwithstanding that said Branch is a Special Criminal Court. Complainant averred that from January 10, 1997 to September 26, 1997 there were eighteen (18) writs of possession cases in the raffles, seven (7) of which included Metrobank as the petitioner. Complainant says it is highly irregular that sixteen (16) cases, inclusive of all the Metrobank cases, were assigned to Branch 129.^[4] He also stated that respondent judge "manipulated" case assignments in the following instances: (1) the "raffle" of Naturalization Case No. C-41 on March 31, 1997, which respondent allegedly got assigned to Branch 128 (another Special Criminal Court) instead of Branch 120 as the previous case was assigned to Branch 131; (2) the direct assignment of cases to Branch 121 (Judge Adoracion Angeles) of 109 appealed ejectment cases; and (3) the designation of 107 *estafa* cases without the

benefit of a raffle to Branch 123.^[5] Allegedly, respondent also allowed his Branch Clerk of Court to conduct a special "raffle" for *Marfori v. Hon. RTC Judges Bayani Rivera, Antonio Fineza and Pablo Inventor, et al.*, in his absence, which resulted in the assignment of said case to the complainant. Complainant prayed that respondent's actuations in *Marfori* should be treated not merely as an administrative case but as a criminal case because it involved the disappearance of a vital document,^[6] a felony under Art. 226^[7] of the Revised Penal Code.

The respondent answered that the instant administrative case is a belated act of retaliation for his having overruled an Opinion^[8] of complainant regarding the raffle of eight (8) inherited cases. Apparently, complainant opined that these cases should not have been re-raffled but remanded to the courts concerned.^[9] Respondent avers that he was incapable of tarnishing his long and impressive government service of no less than forty-four (44) years, by alleged irregularities in raffling of cases as imputed by complainant.^[10] The designation of the Writ of Possession cases to Branch 129 was done upon his suggestion to Raffle Committee,^[11] said respondent. He claimed good faith in his actions as his efforts were meant to help the other branches, since during the period in question, he had the lightest case load in the RTC of Caloocan City. A Consolidated Report^[12] on the average monthly case loads of the twelve (12) Branches for January to September 1997 showed that, according to respondent, Branch 129 had only 135.77^[13] pending cases, as opposed to the other branches whose totals ranged from 177.66 - 383.44 cases.^[14] True, said respondent, Branch 121 had only 126.33 cases; but since its presiding judge was also acting judge of Branch 125, the presiding judge of Branch 121 was actually looking at an aggregate case load of 395.33 cases.^[15] In effect, respondent said, all that he was trying to do was to equalize the distribution of cases among the various branches of the Caloocan City RTC. This is not only his prerogative, he added, but his duty as Executive Judge.^[16]

As to his participation in the raffle of non-heinous crime cases, notwithstanding that Branch 129 is a special criminal court, respondent stated that his participation is allowed under existing rules.^[17]

Anent the 109 appealed ejectment cases to Branch 121, the respondent maintained that these were regularly raffled, but since the judge of Branch 121 complained that he was swamped with ejectment cases, he sent a Memorandum^[18] to all Judges for the re-raffle of the ejectment cases among the eight (8) regular courts. By contrast, he said, the 107 *estafa* cases stayed in Branch 123, to which they had been raffled as the judge of said Branch did not question the same.

On March 6, 2000, we resolved to refer this matter to Associate Justice Cancio Garcia of the Court of Appeals. On respondent's motion and due to the unavailability of Justice Garcia, we resolved on May 10, 2000, to refer the matter to Associate Justice Roberto A. Barrios of the Court of Appeals for investigation, report and recommendation.

Justice Barrios found that:

First, Raffle of January 10, 1997 (Annex A) where the first listed case docketed as

C-3808 was raffled to Branch 123 but the second listed case docketed as C-3809 was assigned to Branch 129 instead of Branch 124.

Second, Raffle of January 24, 1997 (Annex B) where the first listed case docketed as C-3812 was raffled to Branch 120 but the second listed case docketed as C-3813 was assigned to Branch 129 instead of Branch 121.

Third, Raffle of February 14, 1997 (Annex C) where the second listed case docketed as C-3823 was assigned to Branch 130 but the third listed case docketed as C-1-3824 was assigned to Branch 129 instead of Branch 131 and the fourth listed case docketed as C-3825 was assigned to Branch 131 instead of Branch 120.

Fourth, Raffle of April 4, 1997 (Annex D) where the first listed case docketed as C-3835 was assigned to Branch 129 but the second listed case docketed as C-3836 was assigned to Branch 124 instead of Branch 130, while the third listed case docketed as C-3837 was assigned to Branch 125 instead of Branch 131, and the fourth listed case docketed as C-3838 was assigned again to Branch 129 instead of Branch 120.

Fifth, Raffle of May 2, 1997 (Annex E) where the first listed case docketed as C-3847 was raffled to Branch 125 but the second listed case docketed as C-3848 was assigned to Branch 129 while the third listed case docketed as C-3849 was assigned to Branch 131 instead of Branch 127.

Sixth, Raffle of June 6, 1997 (Annex F) where the first case on the list docketed as C-3861 was raffled to Branch 129 but the second case listed docketed as C-3862 was assigned to Branch 126 instead of Branch 130 while the third case listed docketed as C-3863 was assigned to Branch 130 instead of 131.

Seventh, Raffle of June 20, 1997 (Annex H) where the first case and second cases on the list docketed as C-3866 and C-3867 respectively were both assigned to Branch 129 instead of the first to 129 and the second to 130, also, the third case on the list was assigned to Branch 130 instead of 131.

Eighth, Raffle of June 27, 1997 (Annex I) where the fourth case on the list docketed as C-3872 was assigned to Branch 126 but the fifth case on the list docketed as C-3873 was assigned to Branch 130 instead of Branch 127 while the sixth and seventh cases on the list docketed as C-3874 and C-3875 respectively were both assigned to Branch 129 instead of Branch 128 and 129.

Ninth, Raffle of September 26, 1997 (Annex M) where the first listed case docketed as C-3903 was assigned to Branch 129 but the second case listed docketed as C-3904 was assigned to Branch 122 instead of Branch 130 and the third case listed docketed as C-3905 was assigned to Branch 124 instead of Branch 131. ^[19]

Justice Barrios recommended that respondent be found culpable of non-compliance with SC Circular No. 7-74^[20] and SC Adm. Order No. 6-75.^[21] Considering the nature of the offense, the absence of malice and material prejudice, as well as the service record of the respondent judge, the investigating magistrate recommended that the penalty should be admonition with warning.^[22]