THIRD DIVISION

[A.M. No. RTJ-01-1641, May 09, 2002]

GERRY JAUCIAN, COMPLAINANT, VS. JUDGE SALVACION B. ESPINAS, REGIONAL TRIAL COURT, BRANCH 5, LEGASPI CITY, RESPONDENT.

D E C I S I O N

PANGANIBAN, J.:

Judges are expected to exhibit more than just a cursory acquaintance with statutes and rules. To be able to render substantial justice and to maintain public confidence in the legal system, they must keep abreast of all laws and prevailing jurisprudence.

Statement of the Case

In a sworn Administrative Complaint[1] dated May 12, 2000, Judge Salvacion B. Espinas of the Regional Trial Court (RTC, Branch 5), Legaspi City, was charged by Gerry Jaucian with gross ignorance of the law, gross partiality, bias, incompetence and willful delay in the adjudication of cases.

The Facts

The facts of the case are summarized by Investigating Justice Teodoro P. Regino of the Court of Appeals (CA) in his January 11, 2001 Report,[2] which reads as follows:

> "Complainant, as losing mayoral candidate for the Municipality of Daraga, Albay, in the May 11, 1998 local elections, filed a petition, dated May 22, 1998, denominated as an 'election protest and/or revision/recounting of votes,' on the ground that fraud and anomalies were allegedly committed during the aforesaid local elections, both in the course of voting and during the counting and tabulation of the ballots, to his prejudice. He prayed for the issuance of an order directing the revision or recounting of the ballots in the contested 114 precincts as enumerated in his petition, the nullification and setting aside of the proclamation of Wilson Andes as mayor, and his own proclamation as mayor.

> "Respondent judge subsequently conducted a pre-trial conference on June 10, 1998.

> "On June 18, 1998, complainant filed an Omnibus Motion praying for the issuance of an order directing the following: first, for the COMELEC Registrar of the Municipality of Daraga, to deliver to the trial court, the ballot boxes together with other related documents, of the precincts enumerated therein and corresponding [to] the 1998 local elections; second, the appointment of revisors comprised of three (3) members

with the clerk of court as chairman; and third, the payment by the protestant and the protestee, of the expenses [for] the recounting of ballots in the amount of five hundred pesos (P500.00) each.

"Without resolving the aforecited motion, the respondent judge issued an order requiring the parties to submit their supporting affidavits but only the complainant complied.

"On December 17, 1998, respondent judge issued an Order submitting the case for resolution. However, [s]he subsequently issued another Order, dated January 5, 1999, directing the complainant to submit additional affidavits as specified thereat.

"Upon complainant's compliance with the later order, respondent judge issued the assailed Order, dated March 8, 1999 which contained a finding that 'only thirteen (13) ballot boxes were found well supported to warrant the approval of the relief being sought by the protestant' and decreed, as follows:

> 'WHEREFORE, premises considered, this court hereby orders the Office of the Municipal Treasurer of Daraga, Albay, to deposit with this court the ballot boxes containing the ballots used during the May 11, 1998 Election having the corresponding Precinct Nos. 10-A; 53-1; 229-A; 230-A; 231-A-2; 231-A-1; 13-A; 14-A; 15-A; 44-A; 44-A-1; 50-A and 76-A, their keys, list of votes with voting records, book of voters and other documents used in the election. This should be done within a period of five (5) days from receipt hereof. From then on, the ballot boxes with all other documents herein above mentioned shall be kept and held [secure] in the care and custody of the Clerk of Court, this Branch (RTC-Branch 5). The expenses incidental to the bringing of the ballot boxes and other documents before this court and returning them after the termination of the case as well as the compensation of the revisors, shall be charged against the party requesting the revision and paid from their cash deposit which under the circumstances is in the amount of fifty thousand (P50,000) pesos plus damages and attorney's fees if set and an additional filing fee as the case may be based on Rule 29, Annex A page 222 of the updated Omnibus Election Code of the Philippines (Batas Pambansa Blg. 881) as modified/amended by R.A. Nos. 6636, 6646, 6734, 6766, 7166, 7941, 8189 and the 1987 Constitution.

> 'Upon receipt of the ballot boxes and the rest of the election documents mentioned, this court shall thereafter create such numbers of revision teams as may be necessary for the revision.

> 'SO ORDERED.'

"The complainant immediately moved for a reconsideration of the aforecited order, on the ground that the allegations in the petition warrant a recount of the ballot boxes and election results in all the precincts stated in the petition. (*citing Part VI, Rule 35, Section 12 of the 1993 COMELEC Rules of Procedure and Section 255 of the Omnibus Election Code*)

"He likewise filed a Motion to Correct the Required Payment of Docket Fees, on the ground that Rule 35, Section 10, paragraph (b) of the Omnibus Election Code, only requires the payment of the sum of three hundred pesos (P300.00) for every ballot box.

"The two (2) motions were jointly resolved in an Order, dated March 17, 1999. The motion for correction of docket fees was granted but the motion for reconsideration of the Order, dated March 8, 1999, was denied with respondent judge calling complainant's attention to The updated Election Code of the Philippines (Batas Pambansa Blg. 881) as modified/amended by R.A. Nos. 6636, 6646, 6734, 6766, 6679, 7166, 7941, 8189 and the 1987 Constitution; Annex 'A' Rule 3 page 230, edited & compiled by RTC Judge Amado M. Calderon. "

"Aggrieved by the aforecited order, complainant, by way of petition for certiorari, elevated his case to the Commission on Elections, which subsequently rendered its Resolution, dated November 9, 1999, granting the petition and decreeing, as follows:

> '**WHEREFORE,** the Commission En Banc, resolved as it hereby resolves to:
>
> (a) **SET ASIDE** the Order dated March 8, 1999 as well as the subsequent Order dated March 17, 1999, both issued by the public respondent;
>
> (b) **DIRECT** public respondent to open the ballot boxes of the 162 contested precincts and revise the contents thereof;
>
> (c) upon payment by protestant **Gerry Jaucian,** of the amount necessary to defray expenses in the revision proceedings. Such amount must be computed in accordance with the rates provided under the Comelec Rules of Procedure; and
>
> (d) Public respondent is directed to expedite proceedings in this case without delay.
>
> ' SO ORDERED.'

"After the remand of the case to the respondent judge for disposition, the complainant related, as follows:

'2.12 The Respondent Judge was present during the promulgation of the

said Comelec Resolution (Exhibit 'I'), yet it took her more than one (1) month to issue an Order for the delivery of the 162 ballot boxes, and then again, only upon the insistence of the Protestant (complainant herein).

'2.13 From the filing of the Election Protest in May, 1998, to the issuance of the Order for the delivery of the ballot boxes in 162 contested precincts in December, 1999, a period of more than one (1) year had elapsed. x x x [.]

'2.14 Respondent Judge's intent to delay the case also became manifest

> a) in the fact that she delayed the order for the Custody of Ballot Boxes in the 162 contested precincts for more than one (1) year in manifest disregard of Sec. 255 of the Omnibus Election Code, and of Rule 35, Section 12 of the 1993 COMELEC Rules of Procedures;

> b) in the fact that the revision of ballots started only on February 7, 2000, three (3) months after the promulgation of the COMELEC Resolution, because she delayed the creation of the Revision Committees;

> c) in the fact that no revisions were conducted from April 24 to 25, 2000 because she allowed the Stenographer to attend a seminar without designating a substitute stenographer;

> d) in the fact that no revisions were conducted from May 2 to 6, 2000 because she approved the stenographer's vacation leave without assigning, again, a substitute stenographer;

given the nature of the case, and in the light of the fact that the revision has been delayed for two (2) years already from the time of the filing of the election protest.

'2.15 Further, prior to the Holy Week in April 2000, the Respondent Judge took the key to the room where the ballot boxes were stored from its custodian, Romeo Solano, RTC Branch 5 Clerk, and gave the same key to the janitor without explanation and in manifest disregard of the 1993 Comelec Rules of Procedure, specifically, Part VI, Rule 35, Sec. 12, which states, to wit:

> 'Sec. 12. Custody of Ballot Boxes, Election Documents and Paraphernalia. - x x x Said election documents and paraphernalia shall be kept and held secure in a place to be designated by the Court **in the care and custody of the Clerk of Court.'** [emphasis in the original]

Her actuation has cast suspicion on her integrity, particularly when viewed together with the fact that one ballot box, when opened after the holidays, turned out empty, and Respondent Judge, without reason, refused to have the same photographed.

'2.16 On May 30, 2000, Respondent Judge inhibited herself from the case but only after two (2) Motions for Inhibition were filed. Surprisingly, on June 1, 2000, a day after she inhibited herself, Respondent Judge issued an Order denying Protestant's Motion to Photocopy the Contested Ballots. x x x.'"[3] (Citations omitted)

In her Position Paper,[4] respondent strongly denied the accusations against her and attached several documents to bolster her defense. She averred that the allegations in the election protest filed by complainant were too generalized to serve as basis for contesting the irregular acts of some of the members of the Board of Election Inspectors.

The Court Administrator's Recommendation

In its May 21, 2001 Report,[5] the Office of the Court Administrator (OCA) recommended the following:

"1. the instant case be **RE-DOCKETED** as a regular administrative matter; and

"2. the case be **REFERRED** to an Associate Justice of the Court of Appeals for investigation, report and recommendation within ninety (90) days from receipt of the records of this case."[6]

The case was subsequently referred by this Court to Justice Teodoro P. Regino of the Court of Appeals for investigation, report and recommendation.

Report of the Investigating Justice

The investigating justice found that respondent, despite being apprised of the relevant law, consistently and unjustly refused to order a recount of *all* of the contested boxes and ballots.

He then recommended that Her Honor be found liable for issuing an unjust interlocutory order and for delaying the disposition of Election Case No. 02-98, offenses for which she should be penalized with a forfeiture of one month's salary and a fine of three thousand pesos (P3,000), to be deducted from whatever retirement benefits she may be entitled to receive from the government, considering that she had compulsorily retired on January 15, 2001.

This Court's Ruling

We agree with the recommendations of the investigating justice, but with some modifications in the penalty, consistent with newly amended Rule 140 of the Rules of Court.