

## EN BANC

**[ A.M. No. RTJ-99-1513, January 19, 2000 ]**

**ALFREDO B. ENOJAS, JR., COMPLAINANT, VS. JUDGE EUSTAQUIO Z. GACOTT, JR., RTC, BRANCH 47, PUERTO PRINCESA CITY, PALAWAN, RESPONDENT.**

### DECISION

#### **PURISIMA, J.:**

At bar is an Administrative Complaint charging Judge Eustaquio Z. Gacott, Jr. with serious misconduct, inefficiency, and gross ignorance of the law.

Complainant Alfredo B. Enojas, Jr. was a candidate for mayor of the Municipality of Roxas, Palawan in the May 8, 1995 local elections. According to the canvass of election returns, complainant obtained seven thousand three hundred twenty-nine (7,329) votes, lower by forty-eight votes than the seven thousand three hundred seventy seven (7,377) votes of Jose R. Rodriguez, who was proclaimed winner on May 26, 1995.

On June 1, 1995, complainant filed an election protest, docketed as Election Case No. 891 before Branch 49 of the Regional Trial Court in Puerto Princesa City presided over by Judge Panfilo S. Salva. Alleging massive fraud and irregularities, complainant (Protestant in said case) sought revision of ballots in 102 precincts of Roxas, Palawan.

On June 9, 1995, Jose R. Rodriguez (Protestee) sent in an Answer praying for the dismissal of the election protest and interposing a counterclaim for damages and attorney's fees.

On July 11, 1995, Judge Panfilo S. Salva denied protestee's motion to dismiss. Considering that the 102 ballot boxes, election documents and book of voters were already delivered to and deposited with the trial court, at the time and the required fees and deposits therefor remitted by the protestant, Judge Salva ordered the revision of ballots to proceed.

After completing the revision of thirty nine (39) contested ballot boxes, Judge Salva granted<sup>[1]</sup> protestant's motion to terminate the revision, ordered the stenographer and revision committee to submit their revision reports within 30 days<sup>[2]</sup> and set the case for hearing.

On October 13, 1995, Judge Salva inhibited himself from trying the case on the ground that the protestee, Jose R. Rodriguez, is related by consanguinity to his wife. In due time, the case was then reraffled to Branch 47 presided over by Judge Eustaquio Z. Gacott, Jr. justice

On November 14, 1995, Judge Gacott Jr. issued an order<sup>[3]</sup> granting protestee's motion for leave to file an amended answer. Thus, on November 15, 1995 protestee presented a motion to amend his answer, and submitted the corresponding amended answer. Accompanying the same was a pre-trial brief. The Amended Answer contained new matters not appearing in the original answer, and affecting the merits of the controversy, in violation of Section 8 of COMELEC Rule 35. The following day, complainant submitted his opposition thereto on the ground that the said pleadings merely tended to delay the disposition of the election protest.

On November 28 and 29 1995, the parties submitted their respective exhibits consisting of public, official and other election documents.<sup>[4]</sup> But on December 7, 1995, the protestee begged leave of court, this time to file a motion to dismiss, which motion to dismiss was attached thereto,<sup>[5]</sup> alleging the same grounds averred in previous pleadings.

On December 10, 1995, a Sunday, Judge Gacott, Jr. issued an order denying admission of the certified true copies of the documents marked Exhibits "A", "B", "D", and "E" on the ground that they were not properly identified.<sup>[6]</sup>

On December 15, 1995, respondent judge issued an order giving the complainant up to 12:00 o'clock noon of the next day to submit his opposition to protestee's motion to dismiss. On the same day, December 15, 1995, the complainant sent in his opposition to the motion to dismiss, contending that subject motion to dismiss was frivolous, presented to unduly delay the disposition of the election case, and without any legal and factual basis.

On December 19, 1995, respondent judge, relying on the case of *Manchester et al. vs. Court of Appeals et. al.*,<sup>[7]</sup> issued the following Order dismissing the election case, to wit:

"This Court has no jurisdiction to hear and decide this case due to the deliberate non-payment by the protestant of the required or correct fee.

WHEREFORE, premises considered, finding the motion to dismiss filed by the protestee thru Counsel to be meritorious and well-founded, AS PRAYED FOR, the Court hereby orders this election protest dismissed, with cost against the protestant.

The motion for reconsideration of the Order dated December 10, 1995 is now moot and academic. Ergo, the same no longer merits consideration by this Court.

IT IS SO ORDERED."<sup>[8]</sup>  
(Underscoring supplied)

Theorizing that the said action of respondent judge constituted serious misconduct, inefficiency, and gross ignorance of the law, Alfredo B. Enojas Jr. instituted the administrative case under scrutiny, praying for the dismissal of respondent judge from the service.

On September 27, 1997, respondent judge submitted his Comment, contending that

the proceedings in subject election case were above board and regular. He explained that the complaint is an exaggeration concocted by Atty. Constante P. Pimentel, lawyer of the protestant, who was scolded and reprimanded by him (respondent judge) who got irked at his (Pimentel) grandstanding during court sessions. Respondent judge described Atty. Constante P. Pimentel as an old but disrespectful and arrogant lawyer although he does not bear him ill will, hatred and rancor.

As regards the present charges against him, respondent judge answered in general terms, stating that there is no law, rule or regulation requiring him or any other judge, for that matter, to be perfect in all his orders, judgments or decisions, for he is only a human being susceptible to innocent errors. It is the submission of respondent judge that in his pronouncements, orders, decrees and decisions, it is enough that he be guided by the yardstick of "moral certainty" - that whatever he does, performs or decides is right and legal. What is important, he pointed out, is that his acts, actions, deeds or decisions are never tainted with dishonesty, corruption or monetary consideration.

In seeking his exoneration from this case respondent judge theorized that there should be no more reason for the institution of the case as the same administrative complaint had been the subject of complainant's Appeal by Certiorari to the Commission on Elections, which gave due course thereto and decided the same for complainant. According to respondent judge, when the case was remanded to the trial court for further proceedings, he voluntarily inhibited himself therefrom and subject electoral protest was reraffled to Branch 50 presided over by Judge Nelia Y. Fernandez, who decided said election protest for the complainant, who then took his oath of office as municipal mayor of Roxas, Palawan.

Respondent judge reasoned out that he decided the said election protest in the honest belief that his action was correct, and that he was never motivated by dishonesty, fraud or corruption in issuing the Order under attack.

On September 23, 1998, this Court referred the matter to the Office of the Court Administrator (OCA) for evaluation, report and recommendation. In a letter dated March 31 1998, the OCA required respondent judge to manifest in writing if he was amenable to have the case resolved on the basis of the pleadings on record, without further proceedings.

On May 31, 1999, respondent judge responded that he was leaving it to the Court whether to pass upon the case on the basis of the pleadings already in or to conduct further proceedings. But respondent judge expressed the hope that the desistance earlier made by the complainant should be reason enough to dismiss the case. In the same breathe, however, respondent judge turned the tables around, sort of, and accused the complainant of attempting to bribe him Two Hundred Thousand (P200,000.00) Pesos, through a certain Herbert Bavaria, a "kumpare" of his. Respondent judge claims that the attempted bribe which he rejected was for a favorable ruling in the same election protest. As his reaction to the said rebuff, complainant resorted to the institution of the present administrative case; respondent judge maintained.

The Office of the Court Administrator recommended the imposition of a fine of Fifteen Thousand (P15,000.00) Pesos, in view of the fact that respondent judge had been previously reprimanded and fined Ten Thousand (P10,000.00) Pesos for gross

ignorance of the law.<sup>[9]</sup>

After a careful review of the records on hand, the Court discerns merit in the report and recommendation of the Office of the Court Administrator.

To begin with, withdrawal of a complaint or subsequent desistance by the complainant in an administrative case does not necessarily warrant its dismissal. Administrative actions cannot depend on the will or pleasure of the complainant who may, for reasons of his own, condone what may be detestable.<sup>[10]</sup> Neither can the Court be bound by the unilateral act of the complainant in a matter relating to its disciplinary power.<sup>[11]</sup> The Court does not dismiss administrative cases against members of the Bench merely on the basis of withdrawal of the charges.<sup>[12]</sup> Desistance cannot divest the Court of its jurisdiction to investigate and decide the complaint against the respondent.<sup>[13]</sup> To be sure, public interest is at stake in the conduct and actuations of officials and employees of the judiciary. And the program and efforts of this Court in improving the delivery of justice to the people should not be frustrated and put to naught by private arrangements between the parties.<sup>[14]</sup>

On the question of propriety of dismissal by respondent judge of subject election case, the root cause of the controversy sued upon, the Court is of the opinion, and so holds, that the respondent judge ignored applicable pronouncements by this Court on the matter of payment of docketing fees. Respondent judge based the assailed dismissal of subject election protest on the ruling in *Manchester Development corporation et al. vs. Court of Appeals, et al.*<sup>[15]</sup> - that a case is deemed commenced only upon the payment of the docketing fee, and the court acquires jurisdiction thereover only upon payment of the prescribed docketing fee. He erroneously cited and placed reliance on the Manchester case in dismissing the said election protest, disregarding pronouncements by the court enjoining the application of such ruling in election cases.

In *Sun Insurance Office, Ltd., et al. vs. Asuncion, et al.*,<sup>[16]</sup> the ruling in *Manchester* was modified in that it is not only the filing of the complaint or appropriate initiatory pleading but also the payment of the prescribed docketing fee, that vest jurisdiction in a trial court over the subject matter and/or nature of the action. However, where the filing of the initiatory pleading is not accompanied by payment of the docketing fee, the court may allow payment of such fee within a reasonable time but in no case beyond the prescriptive or reglementary period.<sup>[17]</sup>

Be that as it may, the Court has categorically said that the doctrine enunciated in *Manchester* and in later cases cannot be made to apply in election cases. Thus, in *Pahilan vs. Tabala et al.*<sup>[18]</sup> this Court held:

"Furthermore, there are strong and compelling reasons to rule that the doctrine we have established in *Manchester* and cases subsequent thereto cannot be made to apply to election cases.

As we have earlier stated, the cases cited are ordinary civil actions whereas election cases are not. The rules which apply to ordinary civil actions may not necessarily serve the purpose of election cases, especially if we consider the fact that election laws are to be accorded