

SECOND DIVISION

[A.M. No. RTJ-99-1505, October 29, 1999]

ARSENIA T. BERGONIA, COMPLAINANT, VS. JUDGE ALICIA B. GONZALEZ-DECANO, RESPONDENT.

D E C I S I O N

BUENA, J.:

In an affidavit-complaint, Ms. Arsenia T. Bergonia charges Judge Alicia B. Gonzalez-Decano, RTC, Branch 48, Urdaneta City, Pangasinan, with bias and partiality and conduct unbecoming of a judge and violation of Canon 3, Rule 3.04 of the Canons of Judicial Conduct.

Complainant is the defendant in Civil Case No. U-6061 entitled "Gretchen V. Parayno, represented by her Attorney-in-Fact, Dr. Rodolfo E. Parayno, vs. Arsenia Bergonia," for Recovery of Possession and Ownership with Damages, which was heard and tried by respondent Judge.

On October 15, 1996, after due trial, respondent rendered a judgment in the said civil case in favor of the plaintiff and against the defendant, ordering the latter to vacate the property in question.^[1]

Aggrieved by the Decision, complainant appealed the same to the Court of appeals which dismissed the appeal in a Resolution dated June 25, 1998, for failure of the appellant (herein complainant) to file the necessary appellant's brief despite extensions given to her. On July 21, 1998, plaintiff through counsel filed a Motion for Execution and Demolition. The trial court set the hearing on the motion on August 4, 1998.

Complainant alleges in her complaint that during the said scheduled hearing, respondent herein humiliated her by saying in open court, "*Bakit hindi ka pa umalis?*" (referring to the property subject matter of the civil case), "*Naiintindihan mo ba itong nakasulat dito?*" (referring to the motion for execution and demolition), to which complainant answered, "Mayroon po akong abogado" and proceeded to wait for her counsel. When complainant's counsel arrived, he requested that he be given ten (10) days within which to file an opposition to the motion for execution and demolition, but was granted only five (5) days. This motion for execution and demolition was denied by respondent Judge in an order dated August 18, 1998.

Complainant further alleges that on several occasions, whenever her counsel is late for the hearings, respondent will say in open court, "*Siguro, hindi mo binabayaran ang abogado mo?*"

Complainant claims that the actuations of respondent constitute conduct unbecoming of a judge and are a clear case of bias and partiality in favor of the plaintiff, Gretchen V. Parayno, who is the daughter of the incumbent mayor of

Urdaneta City, Pangasinan and is represented by her mayor-father, as attorney-in-fact, in this case.

On March 16, 1999, Senior Deputy Court Administrator Reynaldo L. Suarez required the respondent Judge Decano to comment on the complaint.

In her Comment dated April 7, 1999, respondent alleged among others that: 1.) she is an applicant for the position of Associate Justice of the Court of Appeals, by reason of which, her name was published in newspapers of general circulation for the purpose of informing the public; that some disgruntled lawyers made use of the complainant to file this petty administrative case against her for lack of any legitimate cause to pin her down, and to malign her reputation in an attempt to poison the Judicial and Bar Council; and 2.) she denies the allegation of complainant that she showed bias and partiality when, in a jesting manner, she told the latter only once on August 4, 1998 and "NOT on several occasions" as alleged in the complaint, that perhaps her lawyer is not around because he is not being paid for his services; that Atty. Merrera, counsel for the defense, came late on that day; and that comments such as these are made by some judges too, in a joking manner, but they are not uttered to show any bias or prejudice against any litigant.

On April 19, 1999, complainant filed a Motion with Leave of Court to File Reply, containing the following allegations:

1. Complainant was never influenced by anybody in the filing of this administrative complaint against Judge Alicia Gonzalez-Decano. Complainant's counsel on record never had a hand in the filing of this case. In fact, disbarment proceedings against said counsel had been initiated by complainant, on account of his negligence which resulted in the dismissal of complainant's appeal in the Court of Appeals.

2. Complainant has no knowledge or information that respondent Judge is an applicant to the Court of Appeals. Complainant believes that she has a legitimate cause in filing this administrative case against respondent.

3. Respondent admitted in her Comment that on August 4, 1998, she told complainant that the latter's lawyer is not around because she does not pay him, but that this was said "in a joking manner." This is a lie. Respondent was so serious at that time and "galit na galit." Besides, the court is not a venue for jokes. Serious issues are being discussed in court. Respondent's manner of saying those statements caused humiliation and anxiety to complainant because there were a lot of people present on that day in court.

4. On another occasion, respondent even told complainant, "Umalis ka na sa loteng ito! Bakit, hindi mo ba naiintindihan yung order ng Court of Appeals na talo ka?" This conduct of respondent clearly tarnishes the integrity of the judiciary.

5. The filing of this administrative complaint is not, as alleged by respondent in her comment, motivated by the fact that complainant "could not get the terms she wanted from the Court of Appeals," and so "her ire turned towards" the respondent. In filing this administrative case, complainant is, among others, questioning the propriety of the