

SECOND DIVISION

[A.M. No. RTJ-95-1332, February 24, 1998]

TERESITA O. ZAMUDIO, COMPLAINANT, VS. JUDGE JOSE S. PEÑAS, JR., RESPONDENT.

[A.M. NO. RTJ-98-1398. FEBRUARY 24, 1998]

BENJAMIN R. AREJOLA, COMPLAINANT, VS. JUDGE JOSE S. PEÑAS, JR., RESPONDENT.

D E C I S I O N

REGALADO, J.:

These two administrative matters concern former Judge Jose S. Peñas, Jr. of the Regional Trial Court of Iriga City, Branch 34. Although respondent retired from the service on December 10, 1996, the charges were instituted when he was still the presiding judge of said court.^[1]

On August 9, 1994, Teresita O. Zamudio filed a complaint in the Office of the Ombudsman alleging that respondent is guilty of neglecting to support her two illegitimate daughters whom he sired several years before he was appointed to the judiciary.^[2] The complaint was referred to the Office of the Court Administrator where it was docketed as Administrative Matter No. RTJ-95-1332, and which this Court later assigned to Associate Justice Eubolo G. Verzola of the Court of Appeals for investigation, report and recommendation.^[3]

On July 31, 1995, the Court received a complaint from one Benjamin R. Arejola, a party in a civil case then pending before respondent.^[4] Arejola charged respondent with dereliction of judicial duty, grave misconduct, oppression, and conduct unbecoming a judge. The case was accepted for informal preliminary investigation and initially identified as Administrative Matter No. OCA IPI-95-74-RTJ. The corresponding action in the two aforesaid cases then proceeded separately. After all the proceedings involved had been completed and the requisite reports with recommendations were duly submitted, with the second administrative matter having been given its present docket number, both cases were consolidated for judgment by the Court.

The circumstances which eventuated in A.M. No. RTJ-95-1332 date back to the year 1968 when Zamudio, then a naive fifteen year-old, met respondent who was in his forties, a practicing lawyer and a married man. Respondent was the counsel of Zamudio's mother in a criminal case that was ultimately dismissed. Upon her mother's pleas, respondent extended financial support to Zamudio for several years thereafter, enabling her to pursue her schooling.

An illicit affair developed between Zamudio and respondent resulting in the birth of two daughters, namely, Regina who was born on August 30, 1972, and Cherry who was born on August 14, 1979. Although the couple did not live together, respondent kept

Zamudio as his mistress and habitually gave to her financial support for his daughters, paying for their lodging and school expenses.

On February 5, 1987, respondent was appointed to the judiciary.^[5] His relationship with Zamudio had fizzled out by then although he continued to support his daughters. Later, however, he altogether stopped sending money for their support, thereby prompting Zamudio to initiate the instant administrative case to obtain relief for their sustenance and other necessities.

On June 26, 1996, Zamudio filed a motion in the Court of Appeals to withdraw the case which was still pending there.^[6] The parties had allegedly arrived at a compromise agreement based on a financial settlement.^[7] On August 8, 1996, however, complainant withdrew her said motion of desistance because respondent failed to comply with his undertakings in that compromise agreement.^[8]

In his answer thereafter filed in the same appellate court on August 26, 1996, respondent neither admitted nor denied any sexual relation with Zamudio and the allegation that he fathered her daughters.^[9] He did admit, however, that he really entered into a compromise agreement with Zamudio which is why she withdrew the case, but he later realized that he could not afford to pay the amounts agreed upon, thus causing Zamudio to proceed with the same.

Nevertheless, respondent made it clear that he did not mean to deprive Regina and Cherry Zamudio of participation in his retirement benefits. He asserted that he intended to have them avail themselves of their shares thereof after “assessing his needs principally for his own livelihood, sufficient to prevent him from becoming a pauper.”^[10]

Upon termination of the investigation and hearings, a report was submitted by the investigating Justice to this Court, and the case was referred to the Office of the Court Administrator for recommendation.

Meanwhile, A.M. No. RTJ-98-1398 was raffled to and handled by the Second Division of this Court. This administrative matter stemmed from Civil Case No. 270, an original action for mandamus instituted by Arejola as one of the petitioners in Branch 34 of the Regional Trial Court of Iriga City of which respondent was the presiding judge.^[11] The case concerned a dispute over the closure of a public road ordered by the then city mayor and city market superintendent who were sued as the respondents therein.

Apparently, said respondents ordered the closure of Camposano Road, a public thoroughfare in San Francisco, Iriga City, so that it could be used as an extension of the city market. Petitioners therein filed a petition for mandamus with damages and injunction, praying for a writ of preliminary mandatory injunction and temporary restraining order (TRO) in opposition to the closure. Arejola, by reason of his being a co-petitioner in that case, initiated the instant administrative matter against herein respondent.

Arejola alleges that respondent exhibited partiality in favor of the respondent officials in that special civil action, as shown by the fact that respondent allegedly proceeded with the case without calling the court to order; conducted a hearing for twenty minutes without a court stenographer to record the proceedings; insisted that petitioners file an opposition to respondents’ motion to dismiss; disregarded the omnibus motion filed by petitioners; acted as judge and counsel for respondents; and remarked that “upon the

take-over of the new administration, who is now your respondents (sic)" and "*walang personalan ito,*" or words to that effect.

Respondent allegedly further gave political color to the petition; allowed the TRO to lapse without being implemented; insisted on the hearing of the injunction aspect in the first week of June, over therein petitioners' objection and after the lapse of the twenty-day period of the TRO; showed an attitude of being beholden to therein respondents; and allowed the appearance and admitted the arguments of the respondent city mayor who is neither a lawyer nor was represented by one.^[12]

Arejola had earlier moved for the inhibition of respondent as the presiding judge in that case, but to no avail.

In a resolution dated November 15, 1995, this Court ordered respondent to comment on the complaint,^[13] but he failed to do so. Thus, on March 20, 1996, the Court required respondent to show cause why he should not be disciplinarily dealt with or held in contempt for failing to comply with the previous order to file his comment.^[14] Respondent defied the order and the case was referred to the Office of the Court Administrator for investigation, report and recommendation.

Up to this date, or over two years after being ordered by this Court to file his comment in A.M. No. RTJ-98-1398, respondent has neither filed such comment nor submitted any explanation for his non-compliance with the order.

The Office of the Court Administrator duly submitted its recommendations to the Court for both A.M. Nos. RTJ-95-1332 and RTJ-98-1398. Being well presented and logically arrived at, the Court approves the same but with some modifications.

In A.M. No. RTJ-95-1332, it is undisputed that Regina and Cherry Zamudio are the illegitimate children of respondent and that the latter begot them under scandalous circumstances. Their mother, Teresita O. Zamudio, was a minor when respondent commenced his immoral liaison with her. He maintained their extramarital affair for many years, abhorrently robbing Teresita of her youth and taking advantage of her vulnerability. Ironically, her then hapless situation obviously merited and required the protection of a guardian which should have been respondent's mode of conduct and attitude towards her.

We agree with the investigating magistrate, Justice Verzola, that the instant case highlights a weakness in the process of selection and appointment to the judiciary at the time respondent was appointed, and that had the recommending authority or the appointing power been aware of respondent's character flaws, it was unlikely that he would have been appointed as a judge.

During the pendency of this case, respondent reached the compulsory age of retirement from the government service. Consequently, the penalty of either suspension from the service or dismissal therefrom can no longer be imposed on him, and the complaint against him *as a judge* should be dismissed.

Also, the fact that his dishonorable conduct occurred several years before his appointment to the judiciary may be appreciated as a mitigation of his failing to fully achieve the moral standards required of a judge. His retirement from the judiciary and entitlement to the corresponding benefits and other privileges earned by virtue of his service may accordingly be considered and duly effected.