

EN BANC

[A.M. No. RTJ-97-1375, October 16, 1997]

**ATTY. ROMULO B. MACALINTAL, COMPLAINANT, VS. JUDGE
ANGELITO C. TEH, REGIONAL TRIAL COURT, BRANCH 87,
ROSARIO, BATANGAS, RESPONDENT.
D E C I S I O N**

PER CURIAM:

In a letter, dated 01 April 1996, Atty. Romulo B. Macalintal related to the Court the actuations of Judge Angelito C. Teh, Executive Judge and the Presiding Judge of the Regional Trial Court, Branch 87, Rosario, Batangas, relative to Election Case No. R-95-001.

It would appear that Judge Teh issued a resolution adverse to the client of Atty. Macalintal in the aforementioned election case. Atty. Macalintal questioned the resolution, via a petition for certiorari, before the Commission on Elections ("COMELEC"). While the case was pending at the COMELEC, Judge Teh actively participated in the proceedings by filing his comment on the petition and, still later, an urgent manifestation. Complainant lawyer forthwith filed a motion to prevent respondent Judge from further acting on Election Case No. R-95-001. Instead of acting on the motion for inhibition, Judge Teh hired his own lawyer and filed his answer before his own court, with the prayer:

"1. That Judgment be rendered dismissing the Motion for Inhibition for lack of sufficient factual and legal basis;

"2. Ordering the movant to pay the undersigned respondent in the amount of P100,000.00 as attorney's fees and expenses for litigation;

"3. Cost of this suit.

"Respondent respectfully prays for such other reliefs and remedies as may be deemed just and equitable in the premises."^[1]

In its resolution of 19 August 1996, the Court required respondent to comment on the letter-complaint.

In his comment, dated 20 September 1996, respondent Judge admitted that he had filed his own pleadings with the COMELEC out of respect and in deference to the order of 16 November 1995 of the COMELEC En Banc requiring respondents to comment on the petition. The urgent manifestation he filed was meant to rectify the assertion of complainant that he had erroneously cited Section 8, Rule 35, of the Omnibus Election Code. Attached to his comment before this Court was his

resolution, dated 31 July 1996, where respondent Judge, ruling on the motion for inhibition, held:

"WHEREFORE, in view of all the foregoing considerations, this Court hereby rendered this resolution on the pending incidents to wit:

"1. The protestee's unverified Motion to Dismiss and Motion to Strike Out Opposition are hereby DENIED for lack of sufficient legal and factual basis;

"2. The Motion for Inhibition is likewise DENIED for lack of sufficient legal and factual basis;

"3. And for compelling the respondent Judge to engage the services of counsel who prepared the Answer to the Motion for Inhibition, the Protestee's counsel, Atty. Romulo B. Macalintal is hereby ordered to pay P100,000.00 as Attorney's Fees and litigation expenses incident to his Motion for Inhibition.

"SO ORDERED."^[2]

In its resolution, dated 12 March 1997, the Court resolved to:

"(a) DIRECT Judge Angelito Teh to ACT on the motion for inhibition in accordance with the procedure prescribed in Section 2, Rule 137 of the Rules of Court;

"(b) TREAT the letter dated April 1, 1996 of complainant as an administrative complaint against Judge Angelito Teh and docket accordingly;

"(c) CONSIDER the comment dated September 20, 1996 of Judge Teh filed in compliance with the resolution of August 19, 1996 as comment on the complaint; and

"(d) require the parties to MANIFEST within fifteen (15) days from notice hereof whether they are willing to submit this case for resolution on the basis of the pleadings already filed herein."^[3]

In his manifestation, dated 29 April 1997, respondent Judge expressed his willingness to submit the case for resolution on the basis of his comment which he repleaded and reproduced. He also made his observation that the complaint of Atty. Macalintal had not been under oath.

In his compliance, dated 24 April 1997, complainant informed the Court that his letter of 01 April 1996 was not intended as an administrative complaint but that he was leaving the matter of treating it as such to the discretion of this Court in the

exercise of its administrative control and supervision over the members of the judiciary. He likewise manifested his willingness to submit the case for resolution on the basis of the pleadings already filed. He, in passing, informed the Court that the resolution of 31 July 1996 issued by respondent judge was found by the COMELEC to be "irrational."

While Rule 140 of the Rules of Court requires that complaints against Judges should be sworn to, the Court deems it proper to dispense with the requirement since the letter of Atty. Macalintal, upon the recommendation of the Office of the Court Administrator, has heretofore been treated as an administrative complaint and considering, further, that respondent Judge, in his comment, practically admitted all pertinent allegations of complainant. Under the doctrine of *res ipsa loquitur*, the Court may impose its authority upon erring judges whose actuations, on their face, would show gross incompetence, ignorance of the law or misconduct.^[4]

Section 5, Rule 65, of the Rules of Court^[5] provides:

"Sec. 5. Defendants and costs in certain cases. - When the petition filed related to the acts or omissions of a court or judge, the petitioner shall join, as parties defendant with such court or judge, the person or persons interested in sustaining the proceedings in the court; and it shall be the duty of such person or persons to appear and defend, both in his or their own behalf and in behalf of the court or judge affected by the proceedings, and costs awarded in such proceedings in favor of the petitioner shall be against the person or persons in interest only, and not against the court or judge."

Evidently, the active participation of respondent judge, being merely a nominal or formal party^[6] in the certiorari proceedings, is not called for. In *Turqueza vs. Hernando*,^[7] the Court has explained:

"x x x (U)nder Section 5 of Rule 65 of the Rules of Court, a judge whose order is challenged in an appellate court does not have to file any answer or take active part in the proceeding unless expressly directed by order of this Court. It is the duty of the private respondent to appear and defend, both in his/her behalf and in behalf of the Court or judge whose order or decision is at issue. The judge should maintain a detached attitude from the case and should not waste his time by taking an active part in a proceeding which relates to official actuations in a case but should apply himself to his principal task of hearing and adjudicating the cases in his court. He is merely a nominal party to the case and has no personal interest nor personality therein."^[8]

Respondent's folly did not stop there. When complainant filed a motion for respondent's inhibition in Election Case No. R-95-001, the latter, instead of acting thereon in accordance with Section 2, Rule 137, of the Rules of Court, hired his own