

ELENA R. ALCARAZ, COMPLAINANT, VS. JUDGE FRANCISCO S. LINDO, METROPOLITAN TRIAL COURT OF MALABON, BRANCH 55, RESPONDENT.*A.M. No. MTJ-04-1539. April 14, 2004*

Ponente: YNARES-SATIAGO, J.

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Judges are the visible representations of law and justice. They ought to be embodiments of competence, integrity and independence. In particular, judges are frontline officers in the administration of justice. It is therefore essential that they live up to the high standards demanded by the Code of Judicial Conduct. To be able to render substantial justice and to maintain public confidence in the legal system, they are expected to exhibit more than just a cursory acquaintance with statutes and procedural rules. Judicial competence requires no less.[1]

Complainant Elena Alcaraz was one of the defendants in Civil Case No. 1782-98, an action for sum of money entitled, “Maria Aurora C. Santos, Plaintiff versus Rufina Eligio, Elena Alcaraz & her husband, Raustino C. Alcaraz, and Conchita Ocampo & her husband, Rodolfo Ocampo, Defendants.” The case was filed on January 9, 1998 before the Metropolitan Trial Court of Malabon and raffled to Branch 55, presided by respondent Judge Francisco S. Lindo. Plaintiff therein, Atty. Ma. Aurora C. Santos, sought the collection of the unpaid obligation of defendants under the promissory note they executed in her favor.[2]

Defendant Eligio filed a motion to dismiss the complaint,[3] which was denied by respondent judge in an Order dated February 13, 1998.[4]

On June 5, 1998, respondent judge, acting on an Omnibus Motion filed by plaintiff,[5] issued an Order declaring the Alcaraz spouses and the Ocampo spouses in default for failure to file their respective answers.[6] Subsequently, defendant Eligio was likewise declared in default for failure to file answer. Accordingly, plaintiff Santos was allowed to present her evidence ex-parte.[7]

On October 15, 1998, judgment by default was rendered against defendants, ordering them, jointly and severally, to pay the unpaid obligation under the promissory note with interest and penalty thereon, attorney’s fees and liquidated damages.[8]

On February 19, 1999, defendant Elena Alcaraz filed a Motion for Annulment of Decision.[9] The Motion was denied by respondent judge in an Order dated June 22, 1999.[10]

Hence, on July 22, 1999, Elena Alcaraz instituted the instant petition for disbarment against respondent judge. She alleged that she was not furnished a copy of the Order dated June 5, 1998 declaring her and the other defendants in default, or of the Order declaring the other defendant, Rufina Eligio, in default; that respondent judge, in rendering the judgment by default, did not diligently ascertain the facts; and that respondent judge committed abuse of discretion when he denied complainant’s Motion for Annulment of Decision on the basis only of the arguments in the opposition filed by plaintiff Santos.

When required to comment, respondent judge alleged that complainant's Motion for Annulment of Decision was not properly verified and was not accompanied by an affidavit showing fraud, accident, mistake and excusable negligence; that notwithstanding these defects, he took cognizance of the Motion, set it for hearing and resolved the same; that he denied the Motion because the allegations therein were false. He reminded complainant that she still had three days to appeal the decision, but no appeal was filed. He further averred that his judgment was rendered based on substantial evidence and the monetary awards therein were in accordance with the contracts between the parties.[11]

In her Reply,[12] complainant asserted that she was not furnished copies of the following pleadings and court orders:

- (a) The Motion to Dismiss filed by defendant Eligio;
- (b) The Order denying the said motion;
- (c) The Omnibus Motion of the plaintiff praying that the defendants (except Rufina Eligio) be declared in default;
- (d) The Order declaring four of the defendants, including the complainant, in default;
- (e) The Motion to declare Eligio in default;
- (f) The documentary exhibits of the plaintiff consisting of the promissory notes, summary of payments and the demand letter;
- (g) The withdrawal of the appearance of Atty. Mario M. Villegas as counsel for the defendants;
- (h) The Order granting the said withdrawal and directing the defendants to hire the services of a new counsel; and
- (i) The Motion to Admit Opposition with the Opposition attached filed by the plaintiff to oppose the Motion for Annulment of Decision.

The case was referred to the Office of the Court Administrator for evaluation, report and recommendation. On March 28, 2000, Court Administrator Alfredo L. Benipayo recommended that respondent judge be fined in the amount of P3,000.00 for failure to comply with Rule 9, Sections 3 (a) and 3(b) of the 1997 Rules of Civil Procedure, with a warning that the repetition of the same offense shall merit a stiffer penalty.[13]

We agree with the recommendation that respondent judge be fined except as to the amount of fine to be imposed. For failure to comply with Rule 9, Sections 3 (a) and 3(b) of the 1997 Rules of Civil Procedure, respondent judge should be fined in the amount of P5,000.00.

Rule 9, Section 3 (a) of the 1997 Rules of Civil Procedure provides that:

- (a) Effect of order of default.— A party in default shall be entitled to notice of subsequent proceedings but shall not take part in the trial.

It is evident from the foregoing rule that even when a defendant is already declared in default, he is entitled to notice of subsequent proceedings.[14] Complainant's assertion that she was not furnished, not only with the order of default, but the subsequent orders of the respondent judge in Civil Case No. 1782-98, and the respondent's failure to controvert this allegations, leaves us with no other conclusion other than that respondent judge was remiss in his duty to observe the Rules.

In his Comment, respondent judge merely averred that complainant was served summons, that she filed her

answer, that the plaintiff filed a motion to declare them in default, and that he issued the order declaring four of the defendants in default on June 5, 1998. He said nothing about furnishing complainant with copies of the order of default and of the subsequent orders. Silence is admission if there was a chance to deny, especially if it constitutes one of the principal charges against the respondent.[15]

Respondent's failure to comply with the elementary dictates of procedural rules constitutes a violation of the Code of Judicial Conduct. The Code is explicit in its mandate that:

A judge shall be faithful to the law and maintain professional competence.[16]

Competence is the mark of a good judge. Having accepted the exalted position of a judge, whereby he judges his own fellowmen, the judge owes it to the public who depend on him, and to the dignity of the court he sits in, to be proficient in the law.[17]

Anent the correctness of respondent Judge's decision and denial of complainant's Motion for Annulment of Decision, being essentially judicial in character, the proper action that complainant should have taken was an appeal to the Regional Trial Court. An administrative complaint is not the appropriate remedy for every act of a judge deemed aberrant or irregular where a judicial remedy exists and is available.[18]

We reiterate that judges are duty bound to be faithful to the law and to maintain professional competence at all times. Their role in the administration of justice requires a continuous study of the law, lest public confidence in the judiciary be eroded by incompetence and irresponsible conduct.[19]

WHEREFORE, Respondent Judge Francisco S. Lindo is found to have violated Rule 3.01 of the Code of Judicial Conduct and is FINED FIVE THOUSAND PESOS (P5,000.00), and is warned that a repetition of this or similar acts will be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Panganiban, Carpio, and Azcuna, JJ., concur.

[1] *Francisca P. Pascual v. Judge Eduardo U. Jovellanos*, A.M. No. MTJ-02-1429, 4 October 2002, 390 SCRA 333.

[2] *Rollo*, pp. 50-56.

[3] *Id.*, p. 59.

[4] *Id.*, p. 60.

[5] *Id.*, pp. 61-65.

[6] *Id.*, p. 66.

[7] *Id.*, p. 71.

[8] *Id.*, pp. 79-81.

[9] *Id.*, pp. 91-94.

[10] *Id.*, p. 121.

[11] *Id.*, pp. 45-49.

[12] Id., pp. 157-162.

[13] Id., pp. 365-368.

[14] Gubat, The 1997 Rules of Civil Procedure Annotated, 2000 edition, p. 136.

[15] Perez v. Suller, A.M. No. MTJ-94-936, 6 November 1995, 249 SCRA 665.

[16] Rule 3.01, Code of Judicial Conduct.

[17] Pineda, Legal and Judicial Ethics, 1994 edition, p. 349, citing Malcolm, Legal and Judicial Ethics.

[18] Santos v. Orlino, A.M. No. RTJ-94-1418, 25 September 1998, 296 SCRA 101.

[19] Evelio Pena, et al. v. Judge Orlando A. Martizano, A.M. No. MTJ-02-1451, 30 May 2003.

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