

JUDGE MONA LISA T. TABORA, PRESIDING JUDGE, REGIONAL TRIAL COURT, SAN FERNANDO CITY, LA UNION, BRANCH 26, COMPLAINANT, VS. (RET.) JUDGE ANTONIO A. CARBONELL, FORMER PRESIDING JUD...

A.M. No. RTJ-08-2145. June 18, 2010

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This administrative case arose from an Affidavit-Complaint dated 17 October 2006 filed by Caridad S. Tabisula (Tabisula) against Judge Mona Lisa T. Tabora (Judge Tabora), Presiding Judge, Regional Trial Court (RTC), San Fernando City, La Union, Branch 26, and Alfredo V. Lacsamana, Jr. (Lacsamana), Officer-in-Charge, Branch Clerk of Court (OIC-BCOC) of the same court. Tabisula charged Judge Tabora with (1) violation of Section 3(e)[1] of Republic Act No. 3019[2] (RA 3019) or the Anti-Graft and Corrupt Practices Act; (2) violation of Section 1, Canon 3[3] and Section 2, Canon 5[4] of A.M. No. 03-05-01-SC[5] or the New Code of Judicial Conduct; (3) violation of Republic Act No. 6713[6] (RA 6713) or the Code of Conduct and Ethical Standards for Public Officials and Employees; and (4) gross ignorance of the law, grave abuse of authority, oppression, serious neglect of duty and conduct prejudicial to the best interest of the service. Further, Tabisula charged Lacsamana with (1) violation of Sections 3(e)[7] and (f)[8] of RA 3019; (2) violation of Articles 226[9] and 315(3)(c)[10] of Act No. 3815[11] or the Revised Penal Code; and (3) violation of Sections 5(a),[12] (d),[13] and (e)[14] of RA 6713.

The Facts

In her Affidavit-Complaint dated 17 October 2006 submitted to the Office of the Court Administrator (OCA), Tabisula stated that she was the plaintiff in Civil Case No. 6840 entitled "Caridad S. Tabisula v. Rang-ay Rural Bank, Inc." for specific performance with accounting and damages. This case was raffled to the RTC of San Fernando City, La Union, Branch 26 presided by Judge Tabora. Tabisula narrated that due to the prolonged absence of Judge Tabora caused by a serious illness, Judge Antonio A. Carbonell (Judge Carbonell), now retired but then pairing/vice-executive judge of the RTC of San Fernando City, La Union, Branch 27, took over and heard the case from the beginning up to its termination.

Later, Tabisula found out that a decision had already been rendered by Judge Carbonell so she requested from Lacsamana a copy of the decision. However, despite several requests, Lacsamana allegedly refused to furnish Tabisula with a copy of the decision upon the instruction of Judge Tabora, who at that time had already reported back to work. Tabisula sent a Letter-Request dated 24 August 2006 addressed to the RTC asking Judge Tabora to direct Lacsamana to give a copy of the decision rendered by Judge Carbonell. However, instead of granting the request, Judge Tabora issued an Order dated 30 August 2006, informing Tabisula that an Order dated 8 August 2006 was issued by the RTC requiring the parties to submit their respective memorandum within 15 days from

receipt of the Order. Also, Judge Tabora informed Tabisula that even if the pairing judge was the one who heard the case from beginning to end, the prerogative of rendering the decision still rests entirely on the presiding judge.

On 18 September 2006, Judge Tabora rendered a decision in the case adverse to Tabisula. Tabisula then wrote a Letter dated 2 October 2006 to Judge Carbonell requesting for a copy of his decision. On 9 October 2006, Judge Carbonell replied to Tabisula's letter and attached a copy of his decision which favored Tabisula.

Tabisula then filed this case against Judge Tabora for maliciously and deliberately changing, altering and reversing a validly rendered decision of a court of equal and concurrent jurisdiction. Tabisula added that this has caused her undue injury since the defendant in Civil Case No. 6840, Rang-Ay Rural Bank Inc., represented by its President, Ives Q. Nisce, was allegedly a relative of Judge Tabora's husband.

Tabisula also charged Lacsamana for alleged manifest partiality, evident bad faith, and gross inexcusable negligence for refusing to furnish a copy of the decision rendered by Judge Carbonell despite several verbal and written demands.

In an undated Comment submitted to the OCA, Lacsamana clarified that his official designation is Sheriff IV and he was only designated as OIC-BCOC by Judge Tabora on 1 August 2006. Lacsamana explained that Judge Carbonell handed him a copy of his decision in Civil Case No. 6840 on 11 August 2006. However, that day being a Friday, Lacsamana was able to submit the decision to Judge Tabora only on the next working day, 14 August 2006. Judge Tabora informed him to just leave a copy of the decision at her table. From then on, Lacsamana had no more knowledge of what happened to the decision.

Lacsamana added that he was the one who received Tabisula's Letter dated 24 August 2006 addressed to Judge Tabora. Lacsamana reasoned that he was not the person in charge of releasing decisions, orders, and other documents relative to a pending case and it was not within his functions to release a decision without the presiding judge's authority.

Judge Tabora then filed her Comment dated 26 February 2007 with the OCA. Judge Tabora indicated that she underwent surgery on 15 May 2006 and was later diagnosed with a serious illness. Prior to her surgery, she conducted a hearing in Civil Case No. 6840 on 21 April 2006. However, the same had been reset due to the absence of Tabisula's counsel.

On 18 May 2006, Tabisula filed a Motion for the pairing judge to hear Civil Case No. 6840 on the basis of Judge Tabora's absence. On 26 May 2006, while Judge Tabora was on leave, Judge Carbonell proceeded to hear the testimony of the lone witness for the defendant in the case without first issuing an order granting the motion filed by Tabisula.

On 13 June 2006, Judge Tabora reported back to work. However, on 19 June 2006, Judge Carbonell still acted on the formal offer of evidence by the defendants and issued an Order submitting the case for resolution.

On 8 August 2006, in the course of her inventory of court records, Judge Tabora noticed that Civil Case No. 6840 had been submitted for decision on 19 June 2006 by Judge Carbonell. Since the 90-day period for rendering a decision was soon to expire, she immediately issued an Order dated 8 August 2006 directing the parties to submit their respective memorandum.

Three days later, on 11 August 2006, Judge Carbonell issued in Civil Case No. 6840 a decision which was received by Lacsamana. On 14 August 2006, Lacsamana turned over a copy of the decision to Judge Tabora.

After receipt of the decision, Judge Tabora immediately went to Judge Carbonell and informed him that she issued an Order dated 8 August 2006 requiring the parties to submit their respective memorandum. Judge

Carbonell immediately cut her off and told her to just recall her earlier order.

Judge Tabora then carefully studied the entire records of the case and found out that Judge Carbonell's decision was not in accordance with the facts of the case and the applicable law and appeared to have unjustly favored Tabisula.

Judge Tabora also wondered how Tabisula came to know of the unpromulgated decision of Judge Carbonell. Judge Carbonell's decision was never officially released to any of the parties and did not form part of the records of the case.

Judge Tabora pointed out that it was Judge Carbonell who directly furnished Tabisula with a copy of his decision a month after the decision of Judge Tabora had already been released to the parties. Also, Tabisula's insistence for the release of Judge Carbonell's decision made her determined to exercise her judicial independence since such decision would result in a miscarriage of justice.

Judge Tabora also clarified that the defendant in Civil Case No. 6840 was a bank, a corporate entity with a distinct personality. She was not disqualified from sitting in the case since under Section 1, Rule 137[15] of the Rules of Court her husband's relation with the bank's representative was remote or way beyond the 6[th] degree. Thus, the relationship has absolutely no bearing on the outcome of the case. Judge Tabora prayed that the complaint be dismissed for lack of merit.

On 14 August 2007, the OCA submitted its Report finding no sufficient and factual legal basis to hold Judge Tabora and Lacsamana liable for any of the charges filed by Tabisula. The OCA stated that Judge Tabora, in rendering her own decision in Civil Case No. 6840, was well within her power to decide the case since she had full authority over all cases pending in her official station. As for Lacsamana, the OCA found that he could not be faulted for his failure to comply with Tabisula's request since he was only obeying the lawful order of Judge Tabora, his superior. Also, Judge Carbonell's decision in Civil Case No. 6840 was not even promulgated and did not form part of the official records of the case. Thus, there was no "prior existing valid decision."

The OCA also found that there is a need to scrutinize the actuations of Judge Carbonell since he overstepped the bounds of his authority as pairing judge for Branch 26 and has shown unusual interest in the disposition of Civil Case No. 6840.

The OCA recommended that:

- (1) that the instant complaint be **DISMISSED** as against respondents Judge Mona Lisa T. Tabora and OIC Branch Clerk of Court Alfredo V. Lacsamana for lack of merit;
- (2) that the **COMMENT** of respondent Judge be considered as a complaint against Judge Antonio A. Carbonell, and that Judge Carbonell be furnished with a copy of such comment and, be in turn **REQUIRED** to **COMMENT** thereon.

In a Resolution dated 1 October 2007, the Court resolved to (1) dismiss the administrative complaint against Judge Tabora and Lacsamana for lack of merit; and (2) consider the Comment dated 26 February 2007 of Judge Tabora as a complaint against Judge Carbonell and require Judge Carbonell to file his Comment within 10 days from notice.

In his Comment dated 29 October 2007, Judge Carbonell admitted the facts of the case as stated by Judge Tabora in her Comment dated 26 February 2007 from the time he took over Civil Case No. 6840 until he submitted his decision to OIC-BCOC Lacsamana. However, he disagreed with Judge Tabora's contention that the decision he rendered in Civil Case No. 6840 was not validly promulgated and released to the parties. Judge Carbonell

maintained that the act of filing the decision with the clerk of court already constituted a rendition of judgment or promulgation and not its pronouncement in open court or release to the parties.

Judge Carbonell added that he was not aware of what subsequently transpired after he turned over the records of the case but admitted that after receipt of the letter-request of Tabisula asking for a copy of his decision, he immediately responded by furnishing Tabisula with a copy.

Judge Carbonell further stated that the instant administrative matter does not involve him. The dispute was originally between Tabisula against Judge Tabora and Lacsamana. The only issue between him and Judge Tabora was a divergence of legal opinion.

Thereafter, Tabisula filed a Motion for Reconsideration dated 27 November 2007 on the Court's Resolution dated 1 October 2007. Tabisula stated that the Court erred in dismissing the complaint she filed against Judge Tabora and Lacsamana.

In a Letter dated 5 March 2008, Lacsamana and seven other employees of the RTC of San Fernando City, La Union, Branch 26, wrote the OCA and narrated their negative experience toward a co-employee, Olympia Elena O. Dacanay-Queddeng (Queddeng), Legal Researcher II of the same court. In the same letter, they also gave their support in an unrelated administrative complaint filed by Judge Tabora against Queddeng.

In a Resolution dated 25 June 2008, the Court referred the case to the OCA for evaluation, report and recommendation.

The OCA's Report and Recommendation

On 18 September 2008, the OCA submitted its Report finding Judge Carbonell guilty of simple misconduct for violating Section 2, Canon 3 of the New Code of Judicial Conduct. The OCA reiterated that Judge Carbonell overstepped the bounds of his authority as pairing judge of Branch 26 when he prepared the decision in Civil Case No. 6840 and furnished Tabisula with a copy of such decision. As a result, Judge Carbonell created the impression that he had taken a special interest in the case.

The OCA recommended that:

- (1) the Motion for Reconsideration dated November 27, 2007 of Mrs. Caridad S. Tabisula on the Resolution dated October 1, 2007, be DENIED for lack of merit;
- (2) this case be RE-DOCKETED as a regular administrative matter and Judge Antonio A. Carbonell be FINED in the amount of Ten Thousand Pesos (P10,000.00) to be deducted from the retirement benefits that he may receive; and
- (3) the Letter dated March 5, 2008 of Alfredo Lacsamana, Jr., Court Sheriff, and seven (7) other employees of RTC, Branch 26, San Fernando City, La Union, against Mrs. Olympia Dacanay-Queddeng, Legal Researcher, same court, be DETACHED from the records of this administrative matter and the same be included in A.M. No. P-07-2371 (Office of the Court Administrator vs. Ms. Olympia Elena D. Queddeng, Court Legal Researcher II, RTC, Branch 26, San Fernando, La Union).

The Court's Ruling

The Court finds the report of the OCA well-taken.

The authority of a pairing judge to take cognizance of matters of another branch in case the presiding judge is absent can be found in two circulars issued by the Court: (1) Circular No. 7[16] effective 23 September 1974 and (2) Circular No. 19-98[17] effective 18 February 1998.

Judge Carbonell, as the pairing judge of the RTC of San Fernando City, La Union, Branch 26, assumed cognizance of Civil Case No. 6840 upon Judge Tabora's leave of absence in May 2006 due to a serious illness. Judge Carbonell fulfilled his duties by conducting hearings in the said case from May until June 2006. On 13 June 2006, Judge Tabora reported back to work as presiding judge of Branch 26. However, even though Judge Carbonell knew that Judge Tabora had already re-assumed her duties, he still issued an Order submitting the case for resolution on 19 June 2006 and even submitted a written decision to OIC-BCOC Lacsamana on 11 August 2006.

Clearly, Judge Carbonell fell short of the exacting standards set in Section 2, Canon 3[18] of the New Code of Judicial Conduct which states:

CANON 3

IMPARTIALITY

Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.

x x x x

SEC. 2. Judges shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary. (Emphasis supplied)

Lower court judges play a pivotal role in the promotion of the people's faith in the judiciary. They are front-liners who give human face to the judicial branch at the grassroots level in their interaction with litigants and those who do business with the courts. Thus, the admonition that judges must avoid not only impropriety but also the appearance of impropriety is more sternly applied to them.[19]

As correctly observed by the OCA, Judge Carbonell should have sought the conformity of Judge Tabora in rendering his own decision to the case as a matter of judicial courtesy and respect. Judge Carbonell tried justifying his act by reasoning that the act of filing a decision with the clerk of court already constituted a rendition of judgment or promulgation. We find this explanation unsatisfactory. Judge Carbonell had no authority to render a decision on the subject civil case. As clearly laid down in Circular No. 19-98, the pairing judge shall take cognizance of all cases until the assumption to duty of the regular judge. Since Judge Tabora was already present and performing her functions in court, it was improper for Judge Carbonell to have rendered a decision in Civil Case No. 6840 without the approval of the regular presiding judge.

Also, Judge Carbonell should have extended the same judicial deference in referring the letter of Tabisula requesting for a copy of his decision to Branch 26 for appropriate action. Instead, Judge Carbonell directly furnished Tabisula with a copy knowing fully well that she was the plaintiff in the subject case. Judge Carbonell not only disregarded the functions of the clerk of court as custodian of court records but also undermined the integrity and confidentiality of the court.

For violating Section 2, Canon 3 of the New Code of Judicial Conduct, we find Judge Carbonell guilty of simple misconduct. Simple misconduct has been defined as an unacceptable behavior that transgresses the established rules of conduct for public officers.[20] We adhere to the OCA's recommendation of a fine of P10,000.00 to be deducted from Judge Carbonell's retirement benefits which have been withheld pursuant to the Court's Resolution dated 24 September 2008, which granted the payment of his disability retirement benefits subject to the withholding of P200,000.00 pending final resolution of the administrative cases against him.

Further, we adopt the other recommendations of the OCA in its Report dated 18 September 2008. We deny for

lack of merit the Motion for Reconsideration dated 27 November 2007 filed by Tabisula on this Court's Resolution dated 1 October 2007. We also direct the OCA to detach from the records of this administrative matter the Letter dated 5 March 2008 of Lacsamana and seven other employees of the RTC of San Fernando City, La Union, Branch 26, against Queddeng, Legal Researcher of the same court. The Letter is to be included in A.M. No. P-07-2371 entitled "Office of the Court Administrator v. Ms. Olympia Elena D. Queddeng, Court Legal Researcher II, RTC, Branch 26, San Fernando, La Union."

WHEREFORE, we deny the Motion for Reconsideration dated 27 November 2007 filed by Caridad S. Tabisula for lack of merit. We find respondent Judge Antonio A. Carbonell, former Presiding Judge, Regional Trial Court, San Fernando City, La Union, Branch 27, GUILTY of simple misconduct and FINE him P10,000.00, to be deducted from his retirement benefits which have been withheld pursuant to the Court's Resolution dated 24 September 2008.

We DIRECT the Office of the Court Administrator to detach from the records of this administrative matter the Letter dated 5 March 2008 of Alfredo Lacsamana, Jr. and seven other employees of the Regional Trial Court, San Fernando City, La Union, Branch 26, against Olympia Dacanay-Queddeng, Legal Researcher of the same court and include the Letter in A.M. No. P-07-2371 entitled "Office of the Court Administrator v. Ms. Olympia Elena D. Queddeng, Court Legal Researcher II, RTC, Branch 26, San Fernando, La Union."

SO ORDERED.

Nachura, Leonardo-De Castro,[*]Peralta, and Abad, JJ., concur.

[*] Designated additional member per Raffle dated 6 January 2010.

[1] Sec. 3. Corrupt practices of public officers. - In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

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(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

[2] Took effect on 17 August 1960.

[3] CANON 3 IMPARTIALITY - Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.

Section 1. Judges shall perform their judicial duties without favor, bias or prejudice.

[4] CANON 5 EQUALITY - Ensuring equality of treatment to all before the courts is essential to the due performance of the judicial office.

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Section 2. Judges shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice towards any person or group on irrelevant grounds.

[5] Took effect on 1 June 2004.

[6] An Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees, to Uphold the Time-Honored Principle of Public Office Being a Public Trust, Granting Incentives and Rewards for Exemplary Service, Enumerating Prohibited Acts and Transactions and Providing Penalties for Violations Thereof and For Other Purposes. Approved on 20 February 1989.

[7] Supra note 1.

[8] (f) Neglecting or refusing, after due demand or request, without sufficient justification, to act within a reasonable time on any matter pending before him for the purpose of obtaining, directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage, or for the purpose of favoring his own interest or giving undue advantage in favor of or discriminating against any other interested party.

[9] ART. 226. Removal, concealment or destruction of documents. - Any public officer who shall remove, destroy or conceal documents or papers officially entrusted to him, shall suffer:

1. The penalty of prision mayor and a fine not exceeding 1,000 pesos, whenever serious damage shall have been caused thereby to a third party or to the public interest.

2. The penalty of prision correccional in its minimum and medium period and a fine not exceeding 1,000 pesos, whenever the damage caused to a third party or to the public interests shall not have been serious.

In either case, the additional penalty of temporary special disqualification in its maximum period to perpetual special disqualification shall be imposed.

[10] ART. 315. Swindling (estafa). - Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:

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3. Through any of the following fraudulent means:

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(c) By removing, concealing, or destroying, in whole or in part, any court record, office files, document, or any other papers.

[11] Took effect on 1 January 1932.

[12] Section 5. Duties of Public Officials and Employees. - In the performance of their duties, all public officials and employees are under obligation to:

(a) Act promptly on letters and requests. - All public officials and employees shall, within fifteen (15) working days from receipt thereof, respond to letters, telegrams or other means of communications sent by the public. The reply must contain the action taken on the request.

[13] (d) Act immediately on the public's personal transactions. - All public officials and employees must attend to anyone who wants to avail himself of the services of their offices and must, at all times, act promptly and expeditiously.

[14] (e) Make documents accessible to the public. - All public documents must be made accessible to, and readily available for inspection by, the public within reasonable working hours.

[15] SECTION 1. Disqualification of judges. - No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either

party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been an executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

A judge may in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above. (Emphasis supplied)

[16] CIRCULAR NO. 7

TO: ALL DISTRICT JUDGES OF THE COURTS OF FIRST INSTANCE

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VIII. PAIRING SYSTEM

A pairing system shall be established whereby every branch shall be considered as paired with another branch. In the event of vacancy in any branch, or of the absence or disability of the judge thereof, all incidental or interlocutory matters pertaining to it may be acted upon by the judge of the other branch paired with it. xxx

[17] CIRCULAR NO. 19-98

TO: ALL JUDGES OF THE REGIONAL TRIAL COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS AND MUNICIPAL CIRCUIT TRIAL COURTS

SUBJECT: EXPANDED AUTHORITY OF PAIRING COURTS

In the interest of efficient administration of justice, the authority of the pairing judge under Circular No. 7 dated September 23, 1974, [Pairing System for Multiple-Sala Stations] to act on incidental or interlocutory matters and those urgent matters requiring immediate action on cases pertaining to the paired court, shall henceforth be expanded to include all other matters. Thus, whenever a vacancy occurs by reason of resignation, dismissal, suspension, retirement, death, or prolonged absence of the presiding judge in a multi-sala station, the judge of the paired court shall take cognizance of all the cases thereat as acting judge therein until the appointment and assumption to duty of the regular judge or the designation of an acting presiding judge or the return of the regular incumbent judge, or until further orders from this Court.

For this purpose, the provisions of Circular No. 7 dated September 23, 1974 inconsistent with this Circular, are hereby amended.

[18] A.M. No. 03-05-01-SC. Effective 1 June 2004.

[19] *Borromeo-Garcia v. Judge Pagayatan*, A.M. No. RTJ-08-2127, 25 September 2008, 566 SCRA 320, citing *Chan v. Majaducon*, 459 Phil. 754 (2003).

[20] *Spouses Bautista v. Sula*, A.M. No. P-04-1920, 17 August 2007, 530 SCRA 406, citing *Castelo v. Florendo*, 459 Phil. 581 (2003).

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