

PERLITA AVANCENA, COMPLAINANT, VS. JUDGE RICARDO P. LIWANAG, MTC, SAN JOSE DEL MONTE, BULACAN, RESPONDENT.*A.M. No. MTJ-01-1383. July 17, 2003*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/123598aefa2f/>**PER CURIAM:**

In a Decision promulgated on March 5, 2003, we dismissed from service respondent Ricardo P. Liwanag, Presiding Judge of the Municipal Trial Court (MTC) of San Jose del Monte, Bulacan for violation of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, in connection with Criminal Cases Nos. 7258-97 and 7259-97 being heard by respondent. We also directed respondent to show cause why he should not be disbarred from the practice of law for conduct unbecoming of a member of the bar.

Respondent filed a Motion for Reconsideration and Compliance with the Show Cause Order. He laments his dismissal from service insisting that there is no sufficient evidence to sustain the findings of administrative guilt and liability. He points to circumstances which he believes had escaped our consideration, namely: (a) the alleged entrapment was not even alleged in the complaint and not supported by documentary evidence; (b) the delay in the promulgation of the decision was solely attributable to the multiple motions of the complainant intended to delay promulgation and not to give her time to raise the alleged grease money; (c) the testimony of complainant's counsel that respondent showed him and his client the decision convicting complainant was a mere afterthought as shown by the complete absence of said claim in the complaint itself; and (d) the manifest bias and partiality of the Investigating Judge.

The motion for reconsideration and his explanation why he should not be disbarred are bereft of merit for the following reasons:

(a) The fact that the entrapment operation and the assertion of the counsel for the complainant that respondent showed him and his client the decision convicting the latter in the criminal case were not alleged or mentioned in the complaint and came out only during the course of the investigation, do not render the testimony of the witnesses for the complainant unworthy of credit and appreciation. In administrative proceedings, technical rules of procedure and evidence are not strictly applied; administrative due process cannot be fully equated to due process in its strict judicial sense.^[1] Administrative due process does not even require an actual hearing. The essence thereof is simply an opportunity to be heard. In this administrative case, respondent was amply given the opportunity to rebut the evidence of the complainant.

(b) On the matter of the delay in a promulgation of the decision, the same cannot be attributed solely to the motions filed by complainant. The evidence of the complainant unearthed the nefarious scheme of respondent to delay the promulgation of the decision in order to give complainant more time to raise the money demanded by his deception.

(c) The administrative complaint cannot be said to be but a mere afterthought or a desperate attempt of a disgruntled litigant or an act of harassment. The administrative complaint had been the basis of an earlier motion for inhibition filed with respondent which he denied.

(d) While the evidence consisted principally of testimonies of complainant and her witnesses, such fact alone does not render them of less weight and credence. The Investigating Judge found the testimony of the complainant and her witnesses on the extortion attempt as more convincing than the denial of respondent. We find no cogent reason to disregard the same.

(e) In the absence of clear and convincing evidence, respondent's imputation of bias and partiality on the part of the Investigating Judge does not merit our consideration.

It needs to be stressed in this regard that in the instant proceeding, respondent is being held to account for serious misconduct or malfeasance in office in violation of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act. The quantum of proof required to establish respondent's misconduct in the administrative complaint is not proof beyond reasonable doubt but substantial evidence, which is that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[2] There exists substantial evidence of respondent's misconduct thus prompting us in the challenged decision to concur with the Investigating Judge in holding that complainant was able to muster the requisite quantum of evidence to prove her charge against respondent.

Judges must adhere to the highest tenets of judicial conduct. They must be the embodiment of competence, integrity and independence.[3] Like Caesar's wife, a judge must not only be pure but above suspicion.[4] The people's confidence in the judicial system is founded not only on the magnitude of legal knowledge and the diligence of the members of the bench, but also on the highest standard of integrity and moral uprightness they are expected to possess.[5] It is therefore paramount that a judge's personal behavior both in the performance of his duties and his daily life, be free from the appearance of impropriety as to be beyond reproach.[6] Respondent failed to live to the high standard of conduct required of members of the bench. Perforce, the penalty of dismissal from the service is the appropriate penalty under the circumstances.

On the matter of whether respondent should be disbarred from the practice of law for conduct unbecoming of a member of the bar, the lawyer's oath imposes upon every lawyer the duty to "do no falsehood, nor consent to the doing of any in court. . . without any mental reservation or purpose of evasion." (Section 3, Rule 138, Revised Rules of Court). The lawyer's oath is a source of his obligations and its violation is a ground for his suspension, disbarment or other disciplinary action (Legal Ethics, Ruben E. Agpalo, 1983 Edition, pp. 66-67). The Code of Professional Responsibility applies to lawyers in government service in the discharge of their official tasks (Canon 6). Just as the Code of Conduct and Ethical Standards for Public Officials bars public officials from soliciting gifts or anything of monetary value in the course of any transaction which may be affected by the functions of their office (Sec. 7, subpar. [d]), the Code of Professional Responsibility forbids a lawyer to engage in unlawful, dishonest, immoral or deceitful conduct (Rule 1.01, Code of Professional Responsibility). Thus, every lawyer must pursue "only the highest standards in the practice of his calling" (Court Administrator vs. Hermoso, 150 SCRA 269 [1987]; Bautista vs. Guevarra, 142 SCRA 632 [1986]). The practice of law is a privilege, and only those adjudged qualified are permitted to do so. (NBI vs. Reyes, 326 SCRA 109 [2000]). We stress here that the purpose of disbarment is not meant as a punishment depriving a lawyer of a source of livelihood but rather is intended to protect the administration of justice that those who exercise this function should be competent, honorable and reliable in order that the courts and clients may rightly repose confidence in them (Noriega vs. Sison, 125 SCRA 293 [1983]). Respondent's conduct falls short of the exacting standards demanded by the legal profession, such that his malfeasance in office merits the ultimate penalty, that of expulsion from the Bar.

WHEREFORE, the instant motion for reconsideration is DENIED with finality, there being no compelling reason to warrant a reconsideration of our Decision promulgated on March 5, 2003. Further, pursuant to A.M. No.

02-9-02-SC, respondent is DISBARRED from the practice of law for violation of the Anti-Graft and Corrupt Practices Law (R.A. No. 3019) or conduct unbecoming of a member of the bar.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Panganiban, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

Quisumbing, J., on leave.

Sandoval-Gutierrez, J., on official leave.

[1] Ocampo vs. Office of the Ombudsman, 322 SCRA 17 [2000]; Concerned Officials of the MWSS vs. Hon. Ombudsman Conrado Vasquez, 240 SCRA 502 [1995].

[2] Section 5, Rule 133 of the Revised Rules on Evidence.

[3] Rule 1.01, Code of Judicial Conduct.

[4] Palang vs. Zosa, 58 SCRA 776 (1974).

[5] Dava vs. De Asa, 292 SCRA 703 (1998).

[6] Yulo-Tuvilla vs. Balgos, 288 SCRA 358 (1998).

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