

ATTY. ANTONIO D. SELUDO, COMPLAINANT, VS. JUDGE ANTONIO J. FINEZA, REGIONAL TRIAL COURT, BRANCH 131, CALOOCAN CITY, RESPONDENT.

A.M. No. RTJ-04-1864 (formerly OCA IPI No. 03-1819-RTJ). December 16, 2004

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Besides possessing the requisite learning in the law, a magistrate must exhibit that hallmark judicial temperament of utmost sobriety[1] and self-restraint which are indispensable qualities of every judge.[2] A judge should be the last person to be perceived as petty, sharp-tongued tyrant. Sadly, respondent judge failed to live up to such standards of judicial conduct.

In a complaint[3] dated July 24, 2003 filed with the Office of the Court Administrator (OCA), Atty. Antonio D. Seludo charged Judge Antonio J. Fineza of the Regional Trial Court of Caloocan City, Branch 131, with violation of Canon 2, Rule 2.01 of the Code of Judicial Conduct.

In his complaint, Atty. Antonio D. Seludo alleged inter alia that on June 28, 2003, respondent judge filed with the same court (Branch 128), a complaint for revocation of notarial commission against him (complainant), docketed as Revocation of Commission No. C-001-(2003).

During the hearing on July 8, 2003, respondent judge uttered “vulgar and insulting words” against complainant, thus:

“Court:

Do you have anything to say Atty. Seludo?

Atty. Seludo:

Yes, Your Honor. May we know also, under what authority is the complainant appearing in this case, Your Honor? Is he going to prosecute this case?

Court:

He is appearing for himself as petitioner.

Atty. Seludo:

Under what authority, Your Honor?

Judge Fineza:

If the respondent knows how to read English, he would find in the petition itself that under the rule, we are obligated to bring to the court any anomaly or dishonesty or dereliction in the performance of a duty of a Court Officer. And may I point out and make it on record that this time, despite the fact of respondent’s answer, last paragraph of page 1 states and I quote; I think page 2, and I read: ‘That the undersigned has taken steps to

prevent a recurrence of the lapses in the notarial registry.' An informal inquiry made by this Judge this afternoon from the Office of the Clerk of Court, the reply was that the respondent has not filed any notarial report for the year 2003, x x x.

Court:

You want to put that on record?

Judge Fineza:

Not only to put on record . . . , and courtesy calls that when someone is speaking, a courtesy should require. May I ask the Judge to remind him . . .

Court:

Let him finish first, Atty. Seludo.

Atty. Seludo:

Yes, Your Honor.

Judge Fineza: (continuation)

Before the Executive Judge or Investigating Judge finally inhibits himself, he should order the Office of the Clerk of Court to issue a certification to the effect that for the year 2003, no notarial report has been made by the respondent which is a ground for cancellation of his notarial commission. That's why I raised this, so that while the case is pending, he should be suspended from the practice of . . . and may I ask that he be declared in contempt for laughing?

Court:

Judge Fineza, will you please stay calm.

Judge Fineza: (to respondent)

'Putang-ina mo eh!'

Court:

Please be just civil with each other, Judge Fineza.

Judge Fineza:

Why is he laughing? Let it be put on record that he has a moronic attitude. That's why he was laughing.

Court:

Judge Fineza, are you making an additional manifestation or additional charge against the respondent because of the information that you got now from the Office of the Clerk of Court?

Judge Fineza:

No, Your Honor. It is in accordance with my petition, that during the pendency of this case, the respondent should be suspended.

Court:

He should be suspended because of the non-compliance?

Judge Fineza:

Yes, Your Honor. He promised in his answer, that he has remedied the situation.

x x x

Atty. Seludo:

Yes, Your Honor. I just want that all the manifestations of the complainant be put on record, Your Honor.

Judge Fineza:

If Your Honor please, I don't know if this guy is really stupid. This is a court proceeding and everything that is being taken is recorded. If you want to use that for libel, you cannot. This is a Court proceeding, we should have privileged communication.

Court:

Judge Fineza, will you please refrain from calling the other person, who is a brother in profession?

Judge Fineza:

I'm just telling the truth, Your Honor.

Court:

But I would like to ask you to use temperate words. You are brother lawyers. If you have nothing more to say, I would like to adjourn this preliminary conference. I will indorse all the records to the 1st Vice Executive Judge who will notify you of the schedule for the continuation of the investigation.

continuation . . .

We will prepare the minutes and we will let you sign, Judge Fineza.

Judge Fineza:

Where is the minutes? This is not the prescribed form for minutes, Your Honor? Okay.

Court:

I have not yet adjourned, Judge Fineza? I hope you will be more civil to everybody here just like anybody who is civil with you.

Judge Fineza:

Okay, okay. My apologies, Your Honor.

Court:

Accepted.

Judge Fineza:

And now you adjourn?

Court:

You are requesting for that? I will give you copy so that you can be satisfied. What do you say, Atty. Basa? You are the collaborating counsel. Probably, you are being more civil with us.

Atty. Basa:

May we just ask for the adjournment of the session, Your Honor.

Judge Fineza:

You will give me the minutes now?

Court:

We will provide you including with the copy of the Order of the Court inhibiting itself.”[4]

In his comment[5] dated September 8, 2003, respondent judge admitted that he uttered derogatory words during the proceeding held on July 8, 2003. He, however, explained that he has been suffering from a heart ailment and diabetes since November, 2002, causing him considerable anxiety and pain. This must be the reason why he could not control his outburst. Besides, the incident was precipitated by the conduct of the complainant and the Executive Judge. Complainant was unkind and impolite to him. He kept on interrupting him. In fact, after his oral manifestation, complainant began to laugh and ridicule him. Moreover, when he (respondent) asked the Executive Judge to cite complainant in contempt of court, the latter stood up with clenched fists and acted in a menacing manner.

Respondent further admitted in his answer that he is aware that there is no justification for his use of improper language, and for this, he is sincerely contrite and penitent. But as a member of the bench for over twenty years, he expected the complainant to respect him, to treat him with politeness, dignity and courtesy, and to give him his due as a magistrate.

On January 9, 2004, complainant filed a Motion to Withdraw Complaint[6] on the ground that he is no longer interested in pursuing the case since respondent has retired from the judiciary.[7]

In his Report and Recommendation,[8] Court Administrator Presbitero Velasco made the following evaluation:

“EVALUATION: We will dwell first on the issue of desistance of complainant to pursue instant complaint. The settled rule is that the complainant’s withdrawal of his complaint, or desistance from pursuing the same, does not necessarily warrant the dismissal of the administrative case. The outcome of an administrative action cannot depend on the will or pleasure of the complainant who, for reasons of his own, may condone what may be detestable. Certainly, complainant’s desistance cannot divest this Court of its jurisdiction, under Section 6, Article VIII of the Constitution, to investigate and decide complaints against erring employees of the judiciary. Otherwise stated, such unilateral act does not bind this Court on a matter relating to its disciplinary power.

As to the fact that respondent has already retired from the service, the Court has pointed out in several cases that the retirement of a judge or any judicial officer from the service does not preclude the finding of any administrative liability to which he shall still be answerable. The Court retains its jurisdiction either to pronounce the respondent official innocent of the charges or declare him guilty thereof.

Proceeding thereon with the issues, we find ourselves in accord with complainant’s observation that respondent has indeed consciously ignored to heed the Court’s advice and warning when he was admonished for using intemperate language in A.M. No. P-01-1522. A careful scrutiny of the transcripts taken on that unfateful day reveals that respondent has precisely uttered the following vitriolic language against complainant:

- a) ‘Putang ina mo!’
- b) ‘If respondent knows how to read English.’
- c) ‘Let it be put on record, that he has a moronic attitude.’

d) 'If Your Honor please, I don't know if this guy is really stupid.'

As shown by the records, respondent's attention was called several times by the Investigating Executive Judge to stay calm and be civil. In fact, his attitude was generally antagonistic not only to complainant but also to the Executive Judge who dared to question his motives/oppose his view. Such, is a glaring display of haughtiness and arrogance of respondent. His disgraceful behavior reflected adversely on the good image of the judiciary and fell short of the standards expected of a magistrate of the law. His justifications of "provocation" (which we found none), discourtesy of complainant and the various illnesses he professed to be suffering should not be viewed to exculpate him from liability. As a member of the bench he should have adhered to that standard of behavior expected of all those who don the judicial robe. His choice of words, aside from being inflammatory and uncalled for, betrays a lack of judicial decorum. The respect and dignity of the court has to be upheld hence, respondent should not have acted with anger and shouted at complainant who must have suffered embarrassment in front of many people. He should have maintained his composure for patience and courtesy are marks of culture and good-breeding.

The Code of Judicial Ethics mandates that a judge must be free of a whiff of impropriety not only with respect to his performance of official duties, but also to his behavior outside his sala and as a private individual. The Code dictates that a judge must behave with propriety at all times.

Because respondent has already retired from the service, dismissal or suspension is no longer feasible as a penalty for the present charges. Therefore, we opine that a fine is appropriate under the circumstances. Violation of the Code of Judicial Conduct is classified as a serious charge under Rule 140 of the Rules of Court, the penalty of which is either dismissal, suspension for 3 to 6 months without salary and benefits or a fine of not less than P20,000.00 but not more than P40,000.00. Considering that this is not the first offense of similar nature committed by respondent, we believe a penalty of P20,000.00 is commensurate, to the acts complained of, which amount should be taken from his retirement benefits."

Court Administrator Velasco recommended that (1) the instant administrative case be re-docketed as an administrative matter; and that (2) respondent judge be fined in the amount of P20,000.00 for violation of the Code of Judicial Conduct, the amount to be deducted from his retirement benefits.

In our Resolution[9] dated June 21, 2004, we required the parties to manifest whether they are submitting the case for resolution on the basis of the pleadings and records filed.

On August 12, 2004, respondent submitted a Manifestation[10] requesting a formal hearing of this case. In our Resolution dated September 20, 2004, [11] we denied his request for lack of merit.

For his part, complainant, in his Manifestation dated August 12, 2004,[12] stated that he is submitting the matter to our sound discretion.

Canon 2, Rule 2.01 and Canon 3, Rule 3.04 of the Code of Judicial Conduct provide:

"Canon 2

A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES.

Rule 2.01. – A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.

x x x

Canon 3

A JUDGE SHOULD PERFORM OFFICIAL DUTIES HONESTLY, AND WITH IMPARTIALITY AND DILIGENCE ADJUDICATIVE RESPONSIBILITIES

x x x

Rule 3.04. A judge should be patient, attentive, and courteous to lawyers, especially the inexperienced, to litigants, witnesses, and others appearing before the court. A judge should avoid unconsciously falling into the attitude of mind that the litigants are made for the courts, instead of the courts for the litigants.”

In ascribing the words "moronic attitude," "stupid", "if he knows how to read English" and “putang ina mo” to complainant during the proceeding before the Executive Judge, respondent displayed a conduct so unbecoming of a magistrate. The remarks uttered are patently defamatory and outrageous. That respondent was suffering from heart ailment and diabetes is not an excuse. He could have asked the assistance of a lawyer to represent him in prosecuting the case. As correctly observed by the Court Administrator, his disgraceful behavior tainted the good image of the judiciary he is expected to uphold at all times.

We have admonished judges to observe judicial decorum which requires that they must at all times be temperate in their language,[13] refraining from inflammatory or excessive rhetoric[14] or from resorting "to the language of vilification." [15] In the same vein, in *Fidel vs. Caraos*, [16] we held that although, respondent judge may attribute his intemperate language to human frailty, his noble position in the bench nevertheless demands from him courteous speech in and out of the court. Judges are demanded to be always temperate, patient and courteous both in conduct and in language.

Respondent judge's behavior is incompatible with judicial temperament expected of him. He was discourteous, not only to complainant, but also to the trial judge. His actuation constitutes palpable violation of Canon 2, Rule 2.01, and Canon 3, Rule 3.04 of the Code of Judicial Conduct.

This is not respondent's first offense. In A.M. No. P-01-1522, [17] we reprimanded him for failing to exercise prudence and restraint in his language. Obviously, he has not reformed.

We thus find respondent judge guilty of gross misconduct constituting violation of the Code of Judicial Conduct. Under Rule 140 of the Revised Rules of Court, as amended, this administrative offense is considered serious, [18] punishable under Section 8, paragraph 1(3), and Section 11, paragraph A(3), thus:

“Sec. 8. Serious charges. – Serious charges include:

- Bribery, direct or indirect;
- Dishonesty and violations of the Anti-Graft and Corrupt Practices Law (R.A. No. 3019);
- Gross misconduct constituting violations of the Code of Judicial Conduct;
- Knowingly rendering an unjust judgment or order as determined by a competent court in an appropriate proceeding;
- Conviction of a crime involving moral turpitude;

x x x.”

“Sec.11. Sanctions.- A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:

- Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. Provided, however, That the forfeiture of benefits shall in no case include accrued

leave credits;

- Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or

- A fine of more than P20,000.00 but not exceeding P40,000.00.”

WHEREFORE, respondent Judge Antonio J. Fineza is hereby found GUILTY of gross violation of the Code of Judicial Conduct. He is ordered to pay a FINE of TWENTY ONE THOUSAND PESOS (P21,000.00) to be deducted from his retirement benefits.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Carpio-Morales, Azcuna, Tinga, and Chico-Nazario, JJ., concur.

Corona, and Callejo, Sr., JJ., on leave.

Garcia, J., no part.

[1] Martinez vs. Pahimulin, 116 SCRA 136 [1982].

[2] Ferrer vs. Maramba, 290 SCRA 44 [1998].

[3] Rollo at 1-4.

[4] Transcript of Stenographic Notes, Rollo at 8-14.

[5] Id. at 17-21.

[6] Id. at 40.

[7] Id. at 32. Respondent filed his application for disability retirement effective January 15, 2004, Rollo at 30 and 45.

[8] Id. at 45-47.

[9] Id. at 48.

[10] Id. at 50-51.

[11] Id. at 56.

[12] Id. at 58-59.

[13] Commissioner Rufus B. Rodriguez vs. Judge Rodolfo R. Bonifacio, RTC, Branch 151, Pasig City, A.M. No. RTJ-99-1510, November 6, 2000, citing Turqueza vs. Hernando, 97 SCRA 483 [1980].

[14] Id., citing Royeca vs. Animas, 71 SCRA 1.

[15] Id.

[16] 394 SCRA 47 [2002].

[17] 385 SCRA 339 [2002].

[18] Section 9, paragraph 4.

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