PEDRO C. ABESA, COMPLAINANT, VS. JUDGE JOSE P. NACIONAL, MUNICIPAL TRIAL COURT, BRANCH 1, NAGA CITY, RESPONDENT.

A.M. NO. MTJ-05-1605 (FORMERLY OCA IPI NO. 05-1690-MTJ). June 08, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is an administrative complaint[1] dated February 4, 2005 filed by Pedro C. Abesa (complainant) against Judge Jose P. Nacional (respondent), Presiding Judge, Municipal Trial Court (MTC) of Naga City, Branch 1, for Conduct Unbecoming of a Judge.

Complainant alleges that: he is the father of the late Pedro Cornelio Jade Abesa who died in a vehicular accident on December 6, 1999; he filed a criminal complaint for reckless imprudence resulting to homicide against Hipolito Arlante, the driver of the vehicle which sideswiped his son;the case was raffled to Branch 1 of the MTC, Naga City, presided by respondent; after conducting an ocular inspection concerning the case on January 14, 2005, in the presence of counsels and parties,respondent directed complainant to see him at his chamber on January 19, 2005; complainant together with his wife went to the chamber of respondent and found out that they were the only ones being summoned; respondent discussed the merits of the reckless imprudence case they filed and told them that the evidence adduced by the prosecution is weak and is not sufficient to prove the guilt of the accused beyond reasonable doubt, thus, implying the acquittal of the accused; respondent even tried to impress upon the complainant that it was his son who was at fault; he (complainant) was surprised at respondent's actuations and of his effort to convince him (complainant) to settle the case with the accused and the latter's employer in spite of the absence of the latter; in so doing, respondent acted as the emissary, representative, and counsel of the accused and the latter's employer thereby demonstrating his bias and partiality in favor of the defense; the conduct demonstrated by respondent inside his chamber in trying to prejudice the outcome of the reckless imprudence case and in trying to convince the complainant to settle a case in the absence of the adverse party is a conduct unbecoming of a judge; such conduct is reprehensible and tends to diminish the trust and confidence of the litigants to the judicial system.

Complainant asked respondent to inhibit himself from acting further on the case in the interest of justice and fairness.[2]

In his comment[3] dated April 7, 2005, respondent avers that he told complainant and his wife that he also lost a son in a vehicular accident and knew too well how complainant felt losing their own son in the same manner; that when the ocular inspection was conducted, both the prosecution and the defense have already rested their case and he was then in the process of evaluating the evidences and testimonies presented preparatory to making a judgment on the case, hence, it is not right for complainant to claim that respondent had prejudged the case against his son; that he told complainant that if he had to convict the accused, the law requires that the conviction must be one that is beyond reasonable doubt.

Respondent further states that complainant filed a civil action for damages in the Regional Trial Court (RTC)

involving the same incident and he (respondent) knows fully well that complainant's chances of winning in the said case precisely depends on the outcome of the criminal case pending in his sala; that, if he is to acquit the accused, complainant may not get any compensation or civil indemnity whatsoever in the RTC; that it is on this probability that he asked retired RTC Judge Pedro Cruz (Atty. Cruz), counsel for the company that accused was working for, whether they could extend financial help to the family of the victim, whatever may be the outcome of the case pending before his sala to which Atty. Cruz replied that he is willing to persuade his client about it; that this is the reason why he (respondent) called complainant and his wife to a conference in his chamber.

Respondent emphasizes that he had been in the judiciary for 23 years and had never been accused of corruption or incompetence; that complainant was lying when he said that he (respondent) exerted effort to convince him to settle the case with the accused because all that he (respondent) did was to carefully explain his evaluation of the prosecution evidence and complainant's dilemma if the accused is acquitted in the criminal case; and that he had no reason to be interested in forcing complainant to settle the case as he did not know any of the parties.

Respondent asseverates that if his trying to help complainant demonstrated a wrong impression to them, then he is very sorry and regrets that he tried to help complainant; that after receiving a motion for his inhibition filed by City Prosecutor Carlos Cortes, Jr., he immediately granted the motion and sent the records of the case to the Office of the Clerk of Court (OCC) for re-raffle.

In his letter-reply[4] dated May 12, 2005, complainant asserts that respondent, in his comment, had already admitted in substance the commission of the act complained of - that of calling complainant and his wife to respondent's chambers and discussing the merits of complainant's case pending before respondent's sala without the presence of their counsel and of the adverse party, betraying his partiality and violating his duty to be an honest and impartial judge.

Complainant maintains that even assuming that respondent's intention was to help, as a judge for 23years, he must know that calling a litigant into his chambers without the presence of counsel and the adverse party would look very much suspicious as it was for him (complainant); that respondent should have known better than to discuss the merits of a case with a litigant alone in his chambers, more so if his purpose was to warn complainant in advance of the outcome of the case; and that he (complainant) should have known that such conduct, even to a person of unsuspecting mind, would look highly questionable and irregular.

Complainant went further to say that respondent was clearly and unequivocally lawyering for the accused when respondent talked to him and his wife in his chambers; that respondent was telling them of the probable outcome of the case because respondent wanted them to agree to a very unfair settlement being offered to them in the civil case for damages they filed in relation to the criminal case pending before respondent's sala; that respondent told them that they should settle because he was going to acquit the accused and that he was trying to use the probable acquittal as a leverage in trying to persuade them into settling; that respondent's bias became even more manifest when he mentioned the amount which the accused and the other defendants in the civil case are willing to pay as settlement.

Complainant then questioned how respondent knew the amount the other parties are willing to give as settlement if he was not in prior conference with the accused and the other defendant. Complainant claims that respondent admitted as much when he said that he spoke to Atty. Cruz, a former judge in Naga City about settling the case; and that, several days before complainant and his wife were called into respondent's chambers, complainant's wife actually overheard Atty. Cruz saying that he will speak with respondent about dismissing the criminal case.

Complainant argues that after 23 years in magisterial robe, the respondent must know that even if he acquits the accused based on reasonable doubt, there is still a high probability that complainant will secure civil indemnity in

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a separate civil case. Hence, respondent's claim that he was merely acting out of pity was misplaced - nothing but a lame excuse for his improper conduct. Complainant insists that respondent has exceeded the boundaries of propriety and regularity with his conduct in this matter; that he (respondent) acceded to complainant's motion for inhibition, far from showing his innocence, is in fact, a tacit admission that respondent has pre-judged the case; and that respondent exhibited utmost partiality and dishonesty, not only blatantly tried to subvert justice, he also grossly violated his duty to protect the integrity of the judiciary.

In his letter-rejoinder[5] dated May 25, 2005, respondent admits that when he called complainant and his wife to a conference on January 19, 2005 to brief them on his evaluation of the evidence, which he does not ordinarily do, he did not invite the lawyers and the accused for the simple reason that he did not want to tell complainant and his wife in the presence of the accused that their position was weak; that conviction in criminal case requires proof beyond reasonable doubt and in his evaluation of the prosecution evidence, it did not pass that test; that definitely, his intention in calling the complainant and his wife for a conference was to enlighten them on their options based on his findings; that, if it is true, as complainant suspects, that he was an emissary or that he was lawyering for the accused, he would not have bothered to call complainant for a conference because all that he could have done was just to render judgment on the case based on his evaluation of the evidence - and leave the parties alone.

Respondent denied that he was forcing a settlement on complainant as the accused never came to him offering for any settlement; that in fact, when he had the chance to talk to retired Judge Pedro Cruz (who sometimes appear in his sala) knowing that Atty. Cruz is the counsel for Benito Commercial (where accused is working) and he asked Atty. Cruz if the latter's client could extend financial help to the family of complainant whatever maybe the outcome of the criminal case in his sala, Atty. Cruz readily said yes, provided the civil case pending before the RTC is settled amicably at a reasonable amount.

Respondent ended by saying that he has nothing to gain in the said case, financial or otherwise;that to his mind, complainant's sense of justice is only confined to the fact that he lost a son and the accused must suffer for it, regardless of any circumstance; that perhaps, complainant is not aware that cases are decided based on evidence and the rule of law - not on emotions.

In the Resolution of September 5, 2005, the Court required the parties to manifest within 10 days from notice, if they are willing to submit the case for resolution based on the pleadings filed.

In a letter dated October 5, 2005, respondent submitted the case for resolution based on the pleadings already filed.[6]

In his letter of October 20, 2005, complainant avers that he is submitting the case for resolution based on the pleadings filed,[7] attaching thereto the RTC decision dated August 15, 2005 rendered in Criminal Case No. 86302 convicting the accused.[8]

In its Memorandum, the Office of the Court Administrator (OCA) submitted its evaluation and recommendation, to wit:

> EVALUATION: At issue in the instant administrative case is the act of respondent judge of summoning complainant and his wife to his chambers to discuss the merits of Criminal Case No. 86302, in which herein complainant, Mr. Abesa, is the private complainant, without the presence of both the latter's counsel and the adverse party.
>
> The question to be resolved then, is whether or not the aforementioned act of respondent judge constitutes conduct unbecoming of a judge, making him administratively liable.
>
> The 2002 Revised Manual for Clerks of Court specifically cautions judges "to avoid in-chamber sessions and

> to observe prudence at all times in their conduct to the end that they do not only act impartially and with propriety but also perceived to be impartial and proper" (Chapter VI, Letter E, 1.2.2.3).
>
> Respondent Judge Nacional may have been motivated by noble intentions in trying to persuade complainant and his wife to settle their case. However, the Code of Judicial Conduct mandates that a judge should avoid impropriety and the appearance of impropriety in all activities (Canon 2) and should behave at all times so as to promote public confidence in the integrity and impartiality of the judiciary (Rule 2.01).
>
> It is in this light that the Court frowns upon the holding by trial court judges of in-chamber meetings with litigants or their counsels without the presence of the adverse party.
>
> Instead of taking heed of this ethical prohibition, respondent judge readily admitted transgressing it. Respondent judge should have realized that his very conduct of summoning complainant to his chamber without the presence of their counsel and of the party constitutes an impropriety.
>
> In addition to the foregoing, it is improper and highly ethical for Judge Nacional to suggest to a litigant what to do to resolve his case for such would generate the suspicion that the judge is in collusion with one party. A litigant in a case is entitled to no less than the cold neutrality of an impartial judge. Judges are not only required to be impartial, but also to appear to be so, for appearance is an essential manifestation of reality. Hence, not only must a judge render a just decision, he is also duty bound to render it in a manner completely free from suspicion as to its fairness and its integrity. Respondent's conduct in the instant case inevitably invites doubts about respondent's probity and integrity (Pascual vs. Bonifacio, A.M. No. RTJ-01-1625, 10 March2003).
>
> The Court cannot emphasize enough the pivotal role lower court judges play in the promotion of the people's faith in the judiciary. Unlike the appellate court justices, they are so-called "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. The admonition in Canon 2 that judges must not only "avoid impropriety [but also] the appearance of impropriety" is more sternly applied to them (Chan vs. Majaducon, etc. A.M. No. RTJ-02-1697, 15 October 2003).
>
> In pending or prospective litigations before them, judges should be scrupulously careful to avoid anything that may tend to awaken the suspicion that their personal, social or sundry relations could influence their objectivity. Not only must judges possess proficiency in law, they must also act and behave in such manner that would assure litigants and their counsel of the judges' competence, integrity and independence (Molina vs. Paz, etc., A.M. No. RTJ-01-1638, 8 December 2003).
>
> RECOMMENDATIONS: Respectfully submitted for the consideration of the Honorable Court is our recommendation that Judge Jose P. Nacional, MTCC, [sic] Br. 1, Naga City be FOUND GUILTY of Conduct Prejudicial to the Best Interest of the Service and accordingly ADMONISHED with a WARNING that a repetition of the same or similar act in the future shall be dealt with more severely.[9]

We agree with the evaluation and recommendation of the OCA except that respondent should be reprimanded and not simply admonished.

The Code of Judicial Conduct provides:

> CANON 2 - A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES.
>
> Rule 2.01. - A judge should behave at all times so as to promote public confidence in the integrity and impartiality of the judiciary.

Respondent disregarded the Code of Judicial Conduct when he readily admitted in no uncertain terms that he met

with the complainant and his wife and discussed the merits of the case pending before his sala without the presence of counsel and the adverse party; and that he discussed with Atty.Cruz the possibility of extending financial help to the family of complainant, whatever may be the outcome of the criminal case in his (respondent's) sala. Complainant had sufficient basis for his perception that respondent acted as the emissary, representative and counsel of the accused.

Assuming arguendo that respondent was moved out of pity for the complainant, having also lost his (respondent's) own son in a vehicular accident, respondent should have known better than to ask Atty. Cruz, the counsel for the company that accused was working for, to extend financial help to the family of the victim. It is no longer respondent's concern whether the victim's family shall receive any compensation or civil indemnity in the civil action for damages pending before the RTC. As respondent categorically stated, justice is based on truth and the rule of law and not on emotions.

As complainant pointed out, in respondent's 23 years in the judiciary, he (respondent) must know that even if he acquits the accused based on reasonable doubt, there is still a probability that complainant will secure civil indemnity in the separate civil case. Hence, respondent's claim that he was merely acting out of pity does not justify his improper conduct.

Respondent had exceeded the boundaries of propriety and regularity. Respondent should have known fully well that in every litigation, the manner and attitude of a judge are crucial to everyone concerned.[10] It is not for him to indulge or even to give the appearance of catering to the at-times human failing of yielding to first impressions.[11] He is to refrain from reaching hasty conclusions or prejudging matters.[12] It would be deplorable if he lays himself open to the suspicion of reacting to feelings rather than to facts, of being imprisoned in the net of his own sympathies and predilections.[13] His language, both written and spoken, must be guarded and measured, lest the best intentions be misconstrued. He should avoid such action as would subject him to suspicion of interest in a case in his court.[14] It is of utmost importance that a judge must preserve the trust and confidence reposed in him by the parties as an impartial, unbiased and dispassionate dispenser of justice. When he conducts himself in a manner that gives rise, fairly or unfairly, to perceptions of bias, such faith and confidence are eroded. His decisions, whether right or wrong, will always be under suspicion of irregularity.[15]

In the case of Adan v. Abucejo-Luzano[16] we held that no matter how noble her intentions may have been, it was improper for respondent therein to meet the accused privately without the presence of complainant. Conversely, it is improper for herein respondent to meet with the complainant and his wife to discuss the merits of the case without the presence of the accused and his counsel no matter how noble his intentions may have been.

We now come to the claim of respondent that in his 23 years in the judiciary, he had never been accused of corruption or incompetence. This averment is contradicted by a Court Resolution of November 12, 2001 in A.M. No. MTJ-98-1170[17] which admonished herein respondent to be more circumspect in the performance of his duty. Another administrative case, OCA IPI No. 05-1703-MTJ,[18] charging respondent with gross inefficiency, gross ignorance of the law, dereliction of duty and violation of judicial conduct, is still pending before the Court.

In this light, length of service is not a magic word that once invoked will automatically be considered as a mitigating circumstance in favor of the party invoking it. When an officer or employee is disciplined, the object sought is not the punishment of such officer or employee but the improvement of the public service and the preservation of the public's faith and confidence in the government.[19]In Gallo v. Judge Cordero,[20] we imposed a fine ofP10,000 on the respondent municipal judge not only for impropriety in meeting with a litigant in his office but also for gross ignorance of the law and procedure regarding the disposition of the criminal complaint before him.[21] In the present case,respondent is not charged with gross ignorance of the law and

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procedure; neither has it been shown that he acted with malice or evil intent. Thus, under the circumstances, the Court deems it appropriate to reprimand respondent with a stern warning that the repetition of the same or similar act in the future shall be dealt with more severely.

WHEREFORE, Jose P. Nacional, Presiding Judge, Municipal Trial Court of Naga City, Branch 1, is found GUILTY of conduct prejudicial to the best interest of the service and REPRIMANDED therefor. He is STERNLY WARNED that a repetition of the same or similar acts shall be dealt with more severely.

SO ORDERED.

Panganiban, C.J., (Chairperson), Callejo, Sr., and Chico-Nazario, JJ., concur.
Ynares-Santiago, J., on leave.

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[1]Rollo, pp. 1-2.

[2]Id. at 4-5.

[3]Id. at 9-10.

[4]Id. at 18-19.

[5]Id. at 11-12.

[6]Id. at 230.

[7]Id. at 34-36.

[8]Id. at 37-47.

[9]Id. at 27-28.

[10]Castillo v. Juan, G.R. Nos. L-39516-17,January 28, 1975, 62 SCRA 124, 127.

[11]Id.

[12]Id.

[13]Id.

[14]Jugueta v. Boncaros, A.M. No. 440-CFI,September 30, 1974, 60 SCRA 27, 30.

[15]Ty v. Banco Filipino Savings & MortgageBank, G.R. Nos. 149797-98, February 13, 2004, 422 SCRA 649, 659.

[16]A.M. No. MTJ-00-1298, August 3, 2000, 337SCRA 158, 161.

[17]Rudy Prado v. Judge Jose P. Nacional, forgross ignorance of the law (for issuing a warrant of arrest without the requisite examination ofwitnesses); dereliction of duty (for denying bail); partiality and oppression (for issuing warrantof arrest without first requiring accused to file counter-affidavits); and incompetence for issuingwarrants of arrest (without any finding that the same is needed in order not to frustrate the endsof justice).

[18]Entitled Danilo Mariano v. Judge Jose P.Nacional.[19]Civil Service Commission v. Cortez, G.R.No. 155732, June 3, 2004, 430 SCRA 593, 604.

[20]315 Phil. 210 (1995).[21]Id. at 219.

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