

NORA C. PEREZ AND ENGRACIA G. RONQUILLO, COMPLAINANTS, VS. JUDGE JOVEN COSTALES, RTC, BRANCH 45, URDANETA CITY, PANGASINAN, RESPONDENT.

A.M. NO. RTJ-04-1876 (FORMERLY OCA I.P.I. NO. 04-1944). February 23, 2005

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

This is an administrative complaint filed by Nora C. Perez and Engracia G. Ronquillo, professors of the Don Mariano Marcos Memorial State University, South La Union Campus (DMMMSU-SLUC), against Judge Joven Costales of the Regional Trial Court (RTC) of Urdaneta City (Branch 45), charging him of violating Canons 2 and 3, and Rules 2.04 and 3.12 of the Code of Judicial Conduct, and for Harassment.

Complainants Perez and Ronquillo are two of the four professors accused by respondent Judge's wife, Perla F. Costales, of the crime of Estafa, docketed as Criminal Case No. 2722-BG pending before RTC-Branch 33, Bauang, La Union. Ronquillo is also an accused in a case for violation of Batas Pambansa Blg. 22 filed by Perla F. Costales, docketed as Criminal Case No. 4338. The following are the acts complained of against respondent Judge:

- 1) On June 24, 2002, respondent Judge was with his wife during the hearing of Criminal Case No. 4338 (B.P. Blg. 22 case);
- 2) On October 15, 2002, respondent Judge testified in behalf of the prosecution in Criminal Case No. 2722-BG (Estafa case);
- 3) Respondent Judge pressured and made follow-ups on the case with the public prosecutor;
- 4) Respondent Judge wrote a letter dated October 10, 2003, addressed to the President of the Don Mariano Marcos Memorial State University, quoted as follows:[1]
I wish to call your attention regarding your four (4) professors, namely: ENGRACIA G. RONQUILLO, MERCEDES V. TAVAS, CLARITA S. VALDEZ and NORA C. PEREZ, all of DMMMSU, South La Union Campus, Agoo, La Union, who were convicted with the crime of ESTAFA/SWINDLING on July 22, 2003, a xerox copy of the Decision is hereto attached and marked as Annex "A".

A motion for reconsideration of the decision was filed by the accused thru their counsel but was denied, Annex "B". Thru counsel, the 4 accused appealed the decision to the Court of Appeals, Annex "C".

Prof. Ronquillo is also charged with Violation of Batas Pambansa Bilang 22 (or the Bouncing Checks Law) which case is pending trial before the Municipal Trial Court of Naguilian, Annex "D" and Annex "E".

Incidentally, the complainant in these cases is my wife PERLA F. COSTALES.

....

It is unfortunate that you have 4 professors who are supposed to be the molders of the mind of the youth and

paragon of virtue, yet they have been convicted of a crime involving moral turpitude, which is worst than other crimes. What if the Court of Appeals affirms their conviction which is imprisonment from 4 to 20 years at the Women's Correccional, Manila.

We heard that the 4 professors are intending to apply for early retirement because of this. We have no objection provided they have to pay first their money obligations to my wife.

We pity the professors that is why we held in abeyance the filing of administrative cases against them.

We are not to be blamed for this but the 4 professors themselves. We are only exercising our rights under our laws.

May I know what course of action you would undertake considering that these 4 professors of your well-known and prestigious university where innumerable graduates have shown excellence in their chose endeavors, have been convicted with a crime involving moral turpitude?

Thank you.

Very truly yours,

(Signed)

JUDGE JOVEN F. COSTALES

Husband of the Complainant

Perla F. Costales

Required by the Office of the Court Administrator (OCA) to comment on the complaint,[2] respondent Judge denied the allegations. According to respondent Judge, there was no hearing held on June 24, 2002 in Criminal Case No. 4338 (B.P. Blg. 22 case), and granting that there was any hearing in which he attended, he was there in his private capacity as he was a witness for his wife, although he was not presented anymore. Respondent Judge stated that he filed a leave of absence and did not use his official time to attend the hearings of the case. Respondent Judge also believed that there was no impropriety in his act of writing a letter to the university officials. It was done with the consent of his wife, and he did not use his position to influence the officials. He merely asked what course of action has been taken against the four professors involved. Respondent Judge also denied that he pressured the public prosecutor and if ever he went to the prosecutor's office, it was on leave of absence.[3]

Per recommendation of the OCA, the case was re-docketed as a regular administrative matter,[4] with the parties manifesting their willingness to submit the case for resolution based on the pleadings filed.[5]

In its Evaluation, the OCA found that respondent Judge should be reprimanded for having written the university officials, thus:

3. Finally regarding the third alleged act of impropriety, that is, writing the university's administrative officials inquiring as to what actions have been taken or would be taken against the complainant, we find enough basis for the charges of violation of the Code of Judicial Conduct. Respondent ought to have known that such a letter from one occupying the position of judge will not be treated as a mere ordinary inquiry. Respondent should have realized that his letter can be regarded as tending to influence the outcome of the investigation being conducted by the university about the matter. Said act of respondent is a clear violation of Rule 2.04, Canon 2 of the Code of Judicial Conduct which provides that "A judge shall refrain from influencing in any manner the outcome of litigation or dispute pending before another court or administrative agency". Respondent in making the said letter had abandoned his duty that "A judge should be embodiment of competence, integrity, and

independence”. That respondent opted to write the letter himself instead of his wife indicates improper use of his judgeship.[6]

With regard to the other alleged acts of impropriety, it was the OCA’s finding that respondent Judge cannot be held administratively liable therefor for the following reasons:

... In the present case, respondent’s participation in the criminal cases filed by his wife was limited to being a witness. As can be deduced from the above-cited case, a member of the judiciary is not prohibited from being a witness to a case. Note should be taken that respondent did not give an opinion nor participated (sic) in any proceeding that could slant the evaluation and resolution of the case in favor of the party he identifies himself with.

There is no clear act of impropriety or appearance of impropriety that can be imputed to the respondent. Respondent’s act of assisting his wife in his private capacity, being privy to the transactions, does not necessarily signify that he is using his authority in influencing the outcome of any proceeding or investigation.

2. As to the second alleged act of impropriety, the act of the judge in going to the prosecutor’s office, which respondent did not deny in his comment contending that the criminal case was regularly filed and prosecuted, we find his presence in the said office insufficient basis for an administrative sanction. There was no showing that the prosecutor’s office was pressured into having the said criminal cases prosecuted in court. Nor was it shown that the respondent’s presence was intended to influence the action of the prosecutor’s office on the matter.[7]

The Court adopts the findings and recommendation of the OCA.

Canon 2 of the Code of Judicial Conduct decrees that a judge should avoid impropriety and the appearance of impropriety in all activities. Specifically, Rule 2.01 mandates that a judge should so behave at all times as to promote public confidence in the impartiality of the judiciary. This includes a judge’s behavior in the performance of his judicial duties, outside of it, and in his private capacity.[8]

The Court cannot find fault in respondent Judge’s appearance as a witness in Criminal Case No. 2722-BG (Estafa case). He had personal knowledge of the events that led to the filing of the case, and he cannot be blamed for protecting his wife’s interests. He did not utilize official time and resources in doing so. There is nothing on record, aside from complainants’ bare allegations, that respondent used his judicial position to influence the proceedings before the trial court or the outcome of the case. Likewise, respondent Judge’s presence in the office of the prosecutor, by itself, is not sufficient evidence to conclude that he exercised any influence or pressure on the public prosecutor.

However, in writing to the administrative officials of the DMMMSU-SLUC, respondent judge obviously sought to influence or put pressure on them with regard to the actions to be taken against the four professors. His wife could have written the letter herself, as she is the complainant in the criminal cases against the four professors. Instead, it was respondent judge who did, and he even used and stated his judicial position in his letter, thereby insinuating that it should not be ignored or trifled with. It cannot be gainsaid that respondent Judge is aware that his judicial position alone could exert influence or authority over the university officials, and he took advantage of such authority.

The Code of Judicial Ethics mandates that the conduct of a judge must be free of a whiff of impropriety not only with respect to his performance of his judicial duties, but also to his behavior outside his sala and as a private individual. x x x. The Code dictates that a judge, in order to promote public confidence in the integrity and impartiality of the judiciary must behave with propriety at all times. (Castillo v. Calanog, Jr., 199 SCRA 75, 83 [1991]) “[O]ne who occupies a position of such grave responsibility in the administration of justice must conduct himself in a manner befitting the dignity of such exalted office. A judge’s private as well as

official conduct must at all times be free from all appearances of impropriety, and be beyond reproach.” (Dysico v. Dacumos, 262 SCRA 275, 283 [1996]). In the case at hand, the respondent judge has failed to conduct himself in the manner prescribed by the provisions of Canon 2 of the Code of Judicial Conduct which Canon 2 directs the avoidance of impropriety and the appearance of impropriety in all activities. (Arcenio v. Pagorogon, 224 SCRA 247, 255 [1993])[9]

WHEREFORE, for violating Canon 2 of the Code of Judicial Conduct, respondent Judge Joven F. Costales of the Regional Trial Court of Urdaneta City (Branch 45) is REPRIMANDED with warning that a repetition of similar acts will be dealt with more severely.

SO ORDERED.

Puno, (Chairman), Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 5-6.

[2] Id., p. 77.

[3] Id., pp. 83-97.

[4] Id., p. 141.

[5] Id., pp. 142-143, 157.

[6] Id., pp. 138-139.

[7] Id., p. 138.

[8] Garcia v. Valdez, 292 SCRA 463, 467 (1998).

[9] Ibid.

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