

**EUGENIO K. CHAN, COMPLAINANT, V. JUDGE JOSE S. MAJADUCON,
REGIONAL TRIAL COURT, GENERAL SANTOS CITY, BRANCH 23,
RESPONDENT.**

A.M. No. RTJ-02-1697 [formerly AM OCA IPI No. 01-1153-RTJ]. October 15, 2003

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

These are complaints for non-feasance, impropriety, partiality, and inefficiency filed against respondent Jose S. Majaducon, former [1] Presiding Judge, Regional Trial Court, Branch 23, General Santos City.

The Facts

In an undated letter, a "concerned citizen" charged respondent Judge Jose S. Majaducon ("respondent judge") with "not wearing [a] black robe during court sessions" and with being habitually tardy. [2]

In another complaint, dated 3 November 2000, complainant Eugenio K. Chan ("complainant") charged respondent judge with committing "acts of improprieties [and] irregularities." Complainant alleged that respondent judge —

- xxx starts his hearings at 10:00 o'clock in the morning and 2:30-3:00 o'clock in the afternoon.
- xxx does not wear his robe despite the requirement of the Supreme Court xxx;
- xxx entertains lawyer[s] in his sala despite the absence of the opposing lawyer[s];
- xxx continued to hear cases despite obvious appearance of impartiality [sic]. He insist [sic] to hear the case despite the fact that her [sic] daughter being [sic] involved in the defendant bank;
- xxx was already reprimanded by the Honorable Supreme Court and he is a subject of adverse write ups in the newspapers;
- xxx does not prepare or study the cases. He reads the cases during the hearing time. [3]

The Court required respondent judge to submit his Comment on the complaints. In his Indorsement dated 5 February 2001, respondent judge controverts the allegations against him as follows:

- On his refusal to wear the judicial robe during court sessions. Respondent judge states that upon his doctor's advice, he stopped wearing the judge's robe during court sessions because doing so allegedly triggers and aggravates his hypertension. He promised to resume wearing the robe once his blood pressure had stabilized.
- On conducting hearings behind schedule. Respondent judge admits that he takes breaks from court sessions at 10 a.m. and 3:30 p.m. to take merienda or attend to personal needs. However, respondent judge claims that he starts the hearings in his court on time and that his sessions sometimes even last for more than eight hours in a day.

According to respondent judge, if ever his hearings started late, it was either because he had to attend to other equally pressing matters such as signing/revising Orders/Resolutions or because the litigants and/or their counsels were late.

- On entertaining counsels/litigants in his chambers. Respondent admits entertaining litigants and their counsels with pending cases in his sala as his "chamber's two doors are always open." He claims, however, that he never discusses with his visitors the merits of their cases and that he has never been "influenced" by them.

- On "studying" cases during hearings. Respondent judge explains that while he does consult the records of cases during hearings, it is only to verify contested matters. He states that this is necessary, as he cannot memorize all the details of cases, especially the voluminous ones that he had inherited from the previous judge.

Respondent judge claims that complainant, who had sought his inhibition from a case, [4] may have wanted to get back at him (respondent judge) for his refusal to inhibit himself. Respondent judge also suspects that complainant's counsel, a certain Atty. Fontanilla, is the "concerned citizen" who filed the anonymous complaint against him. [5]

On 30 January 2001, complainant withdrew his complaint against respondent judge, stating that he had "realized that [respondent judge] is only rightly doing his job." [6]

On 16 May 2001, respondent judge informed the Court that since February 2001, he had resumed wearing the judicial robe as his blood pressure had stabilized. [7]

In his Memorandum of 27 February 2003, respondent judge reiterated the reasons for his earlier refusal to wear the judicial robe during court sessions.

The OCA's Report and Recommendation

In its Report of 11 March 2002 ("Report"), the Office of the Court Administrator ("OCA") found respondent judge liable for violation of Administrative Circular No. 25 and Rule 1.01 of the Code of Judicial Conduct. However, the OCA recommends the dismissal of the other charges against respondent judge for lack of merit. The OCA recommends that respondent judge be fined P5,000. The Report reads:

Complainant herein accuses respondent Judge of starting the hearings late at 10:00 o'clock in the morning and 2:30-3:00 o'clock in the afternoon. In his comment, respondent Judge denies the same contending that he conducts hearings [for] four (4) hours, mornings and afternoons. In view of the absence of proof in support of the accusation against him, respondent Judge enjoys the presumption of regularity in the performance of duty.

As regards the non-wearing of a black robe during trials, respondent Judge should be reminded of Administrative Circular No. 25 dated 9 June 19[8]9 Re: Use of Black Robes by Trial Judges xxx.

Based on the aforecited circular, trial judges are enjoined to wear the black robe during court sessions. In the instant case, prudence dictates that respondent Judge should have informed the [C]ourt, through the Office of the Court Administrator, of his health problems and requested exemption from said circular. Admittedly, he took it upon himself to dispense with the wearing of a black robe due to hypertension. Although his reason may be considered in his favor, it could not entirely exculpate him from administrative responsibility for clear violation of the circular.

As to the charge that respondent entertains lawyers in his sala despite [the] absence of the opposing lawyer, respondent candidly admits the same by saying that for purposes of transparency he allows lawyers and litigants to freely enter his chambers to ask about their cases without however discussing the merits thereof. This is [a] highly xxx improper practice. In-chambers sessions without the presence of the other party and his counsel must be avoided (*Capuno vs. Jaramillo*, 243 SCRA 213). The prohibition is to maintain impartiality.

Judges should not only be impartial but should appear impartial (Fernandez vs. Presbitero, 79 SCRA 60). The court should administer justice free from suspicion of bias and prejudice; otherwise, parties-litigants might lose confidence in the judiciary and destroy its nobleness and decorum (Nestle Phils., Inc. vs. Sanchez, 154 SCRA 542).

The charge that respondent continues to hear cases despite obvious appearance of partiality must fail as complainant failed to specify the cases being alluded to and in what manner respondent appeared to be partial.

Finally, as to the charge that respondent does not prepare for or study the cases and merely reads the cases during trial, we find his explanation thereon satisfactory because referral to court records are at times unavoidable.

In sum, respondent is found to have violated Circular No. 25 xxx, but the fact that he had been suffering from hypertension shall be taken in his favor. He is also found to have violated Rule 1.02 of the Code of Judicial Conduct for his act of allowing in-chamber sessions without the presence of the other party and his counsel. [8]

The Ruling of the Court

Except for the recommended penalty, the Court finds the Report well taken.

On Respondent Judge's Refusal to Wear the Mandated Judicial Robe

Circular No. 25 dated 9 June 1989, ("Circular No. 25") provides:

Pursuant to Sections 5 and 6, Article [VIII] of the Constitution and in order to heighten public consciousness on the solemnity of judicial proceedings, it is hereby directed that beginning Tuesday, August 1, 1989, all Presiding Judges of all Trial Courts shall wear black robes during sessions of their respective Courts.

Respondent judge admits violating Circular No. 25. Nevertheless, he seeks exculpation from administrative liability for his non-compliance because of his illness. Respondent judge's plea is futile.

The wearing of robes by judges during official proceedings, which harks back to the 14[th] century, [9] is not an idle ceremony. Such practice serves the dual purpose of "heighten[ing] public consciousness on the solemnity of judicial proceedings," as Circular No. 25 states, and of impressing upon the judge the exacting obligations of his office. As well put by an eminent jurist of another jurisdiction:

[J]udges [are] xxx clothed in robes, not only, that they who witness the administration of justice should be properly advised that the function performed is one different from, and higher, than that which a man discharges as a citizen in the ordinary walks of life; but also, in order to impress the judge himself with the constant consciousness that he is a high priest in the temple of justice and is surrounded with obligations of a sacred character that he cannot escape and that require his utmost care, attention and self-suppression. [10]

Consequently, a judge must take care not only to remain true to the high ideals of competence and integrity his robe represents, but also that he wears one in the first place.

While circumstances, such as the medical condition claimed by respondent judge, may exempt one from complying with Circular No. 25, he must first secure the Court's permission for such exemption. He cannot simply excuse himself, like respondent judge, from complying with the requirement. Neither does the fact that respondent judge, if he is to be believed, has resumed wearing the robe exculpate him from liability. Such does not alter the fact that at the time the complaints in the present case were filed, respondent judge was openly violating Circular No. 25. Respondent judge's medical condition and his subsequent compliance serve only to mitigate his liability.

On Respondent Judge's Practice of Entertaining Lawyers and Litigants with Pending Cases in his Sala

The Code of Judicial Conduct ("Code") provides:

Rule 1.01. — A judge should be the embodiment of competence, integrity and independence.

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.

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 the 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. [11] The admonition in Canon 2 that judges must not only "avoid impropriety [but also] the appearance of impropriety" is more sternly applied to them. [12] 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. [13]

Instead of taking heed of this ethical prohibition, respondent judge readily admitted transgressing it. Worse, he reveals his ignorance of the prohibition's purpose by claiming that his in-chamber dealings are above-board as nothing illegal or improper transpires during those meetings. Respondent judge should have realized that his very conduct of entertaining litigants and their counsels in his chamber without the presence of the adverse party or his counsel constitutes an impropriety. While judges are not expected to shun the world, neither are they supposed to make themselves freely accessible under such circumstances as to invite suspicions of impropriety if not bias. Respondent judge should have borne in mind — and all those in the bench who are similarly disposed as him are reminded — that:

[N]o position is more demanding as regards xxx uprightness of any individual than a seat on the Bench xxx. Occupying as he does an exalted position in the administration of justice, a judge must pay a high price for the honor bestowed upon him. Thus, the judge must comport himself at all times in such a manner that his conduct, xxx can bear the most searching scrutiny of the public that looks up to him as the epitome of integrity and justice. In insulating the Bench from unwarranted criticism, thus preserving our democratic way of life, it is essential that judges, like Caesar's wife, should be above suspicion. [14]

On the Other Charges Against Respondent Judge

The Court subscribes to the OCA's finding that complainant failed to substantiate the other charges against respondent judge. Mere allegation that respondent judge was habitually tardy or had shown partiality in a case, without more, does not suffice to hold respondent judge administratively liable. On the other hand, there is nothing improper in consulting case records during hearings to clarify contested matters. It is usual for judges to do so, especially for lower court judges who, in addition to their heavy caseloads, have to conduct marathon hearings and thus need to consult the records of each case more frequently.

On the Appropriate Penalty to be Imposed Against Respondent Judge

The OCA recommends that respondent judge be fined P5,000. However, in *Gallo v. Judge Cordero*, [15] the Court imposed a fine of P10,000 on a judge for impropriety in meeting with a litigant in his office and for other irregular conduct. Under the circumstances, the Court deems it appropriate to impose similarly a fine of P10,000 on respondent judge.

Neither complainant's desistance nor respondent judge's retirement precludes the Court from holding respondent judge liable and imposing on him the penalty of P10,000 fine. A complainant's desistance from an administrative complaint against a member of the bench will not, by itself, warrant the dismissal of the case. [16] This is especially true in the instances where, as in the present case, the respondent judge admits some if not all of the material allegations in the complaint. [17] Similarly, the Court is not ousted of its jurisdiction over an administrative case by the mere fact that the respondent public official had ceased to be in office during the pendency of his case. [18]

WHEREFORE, we find respondent Jose S. Majaducon, former Presiding Judge, Regional Trial Court, Branch 23, General Santos City guilty of violating Circular No. 25 dated 9 June 1989, Rules 1.01 and 2.01 and Canon 2 of the Code of Judicial Conduct. Respondent Jose S. Majaducon is ordered to pay a fine of P10,000, the same to be deducted from whatever retirement benefits he is entitled.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, and Azcuna, JJ., concur.
Ynares-Santiago, J., on leave.

[1] During the pendency of the instant case, respondent judge compulsorily retired from service on 24 February 2002.

[2] Rollo, p. 1.

[3] Ibid., p. 2.

[4] Civil Case No. 6595 entitled "Eugenio and Salve Chan v. Bank of the Philippine Islands."

[5] Rollo, pp. 4-7.

[6] Ibid., p. 8.

[7] Ibid., p. 11.

[8] Report, pp. 3-4.

[9] 19 ENCYCLOPEDIA BRITANNICA Robes 387 (1969).

[10] W. H. TAFT, An Appreciation of General Grant in PRESENT DAY PROBLEMS 63 (1908) from M. MCNAMARA, 2,000 CLASSIC LEGAL QUOTATIONS 277 (1992).

[11] Dawa v. Judge De Asa, 354 Phil. 708 (1998); Junio v. Rivera, Jr., A.M. No. MTJ-91-565, 30 August 1993, 225 SCRA 688.

[12] Dela Cruz v. Bersamira, A.M. No. RTJ-00-1567, 24 July 2000, 336 SCRA 353; Rallos v. Judge Lee Gako, Jr., 385 Phil. 4 (2000).

[13] Contreras v. Solis, A.M. No. RTJ-94-1266, 21 August 1996, 260 SCRA 572; Gallo v. Judge Cordero, 315 Phil. 210 (1995); Capuno v. Jaramillo, Jr., A.M. No. RTJ-93-944, 20 July 1994, 234 SCRA 212.

[14] Vedaña v. Judge Valencia, 356 Phil. 317 (1998).

[15] 315 Phil. 210 (1995).

[16] Briones v. Caniya, A.M. No. P-93-796, 22 September 1996, 248 SCRA 504; Imbing v. Tiongson, A.M. No.

MTJ-91-595, 7 February 1994, 229 SCRA 690.

[17] Dela Cruz v. Curso, A.M. No. MTJ-89-515, 7 April 1993, 221 SCRA 66; Soyangco v. Maglalang, A.M. No. RTJ-90-570, 19 April 1991, 196 SCRA 5.

[18] Perez v. Abiera, A.C. No. 223-J, 11 June 1975, 64 SCRA 302.

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