

ELADIO D. PERFECTO, COMPLAINANT, VS. JUDGE ALMA CONSUELO DESALES-ESIDERA, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 20, CATARMAN, NORTHERN SAMAR, RESPONDENT.

A.M. No. RTJ-11-2270 [FORMERLY A.M. NO. OCA IPI NO. 10-3380-RTJ]. January 31, 2011

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Eladio D. Perfecto (complainant), in a Complaint[1] which was received at the Office of the Court Administrator (OCA) on March 5, 2010, charges Judge Alma Consuelo Esidera (respondent), Presiding Judge of the Regional Trial Court (RTC) of Northern Samar, Branch 20, of soliciting and receiving on January 6, 2010 at the Prosecutor's Office the amount of One Thousand (P1,000.00) from practitioner Atty. Albert Yruma (Atty. Yruma), and the same amount from Public Prosecutor Rosario Diaz (Prosecutor Diaz), purportedly to defray expenses for a religious celebration and barangay fiesta. To prove her charge, complainant attached the Affidavit[2] dated February 16, 2010 of Public Prosecutor Ruth Arlene Tan-Ching (Prosecutor Ching) who claimed to have witnessed the first incident, without respondent issuing any receipt. In the same Affidavit, Prosecutor Ching added that she "heard" that respondent also solicited the same amount from Prosecutor Diaz.

Complainant also questions the conduct of respondent in Special Proceedings No. C-360, "for Cancellation of Birth Registration of Alpha Acibar," in which she issued a January 5, 2010 Order directing the therein petitioner to publish said Order in a newspaper of general circulation, instead of in the Catarman Weekly Tribune (of which complainant is the publisher), the only accredited newspaper in the province.

Furthermore, complainant charges respondent with acts of impropriety â€œscolding her staff in open court and treating in an "inhuman and hostile" manner practitioners "who are not her friends." He adds that respondent even arrogantly treats public prosecutors assigned to her sala, citing instances of this charge in his complaint.

To the first charge, respondent explains that when she went to the Prosecutor's office, she was merely following up the pledge of Adelaida Taldo, a member of a Catholic charismatic group of which she (respondent) belongs, to donate a Sto. Niño image when Atty. Yruma, who had received a solicitation letter countersigned by Father Alwin Legaspi, the parish priest of San Jose, overheard her (respondent) and requested her to receive his donation of P1,000.00 through her.

Respondent brushes off the above-stated Affidavit of Prosecutor Ching who, she opines, is of "dubious personality" and has a "narcissistic personality disorder," the details of the bases of which she narrates in her Comment.[3]

Respecting the complaint against her Order of publication, respondent claims that the Catarman Weekly Tribune is "not in circulation." Respondent echoes her Comment in A.M. OCA IPI No. 10-3340-RTJ, a complaint previously filed by complainant bearing on his claim that all orders of the court should be published in Catarman Weekly Tribune, in which Comment she listed pending cases the hearing of which had to be reset for failure of the Catarman Weekly Tribune to publish her orders on time.

As for the charge of impropriety, respondent denies the instances thereof cited by complainant in his complaint and claims that she has been maintaining a professional relationship with her staff and the lawyers who appear in her court.

The OCA has come up with the following:

EVALUATION: There is merit in the allegation of impropriety against respondent Judge Esidera.

x x x x

The fact that she is not the principal author of the solicitation letter or that the solicitation is for a religious cause is immaterial. Respondent Judge Esidera should have known that going to the Prosecutor's Office to receive "donations" from a private lawyer and a public prosecutor does not bode well for the image of the judiciary. Canon 4 of the Code of Judicial Conduct for the Judiciary (A.M. No. 03-05-01-SC; date of effectivity: 1 June 2004) explicitly provides that "judges shall avoid impropriety and the appearance of impropriety in all of their activities."

x x x x

Soliciting donations from lawyers is not the only act of impropriety from respondent Judge Esidera. In a 27 May 2010 Comment, respondent Judge Esidera virtually gave Public Prosecutor Atty. Ruth Arlene Tan-Ching a verbal lashing for the affidavit the latter executed relative to the solicitation incident. To quote pertinent portions of the Comment of respondent Judge Esidera:

"The affidavit of Fiscal Ruth Arlene Ching should not be believed and accepted simply because she is a fiscal. Not all prosecutors are credible and have integrity and are in possession of their normal mental faculties. x x x Fiscal Ching is one whose personality is dubious."

"I get the impression that she (Prosecutor Ching) is suffering from some sort of personality disorder and should be subjected to neurological, psychiatric or psychological examination before she gets worse x x x Having read enough psychological examination reports of psychologists/psychiatrists submitted in annulment cases, it is my non-expert opinion that the character of Fiscal Ching falls under the category of narcissistic personality disorder."

"She was one of my students in Taxation in the UEP, College of Law, I was not a judge then. I gave her a '3' because when I checked her finals test booklet, her 'codigo' was still inserted in the examination booklet. Until now, that is one of the gossips she is spreading around."

x x x x

The use of acerbic words was uncalled for considering the status of respondent Judge Esidera. In Atty. Guanzon, et al. v. Judge Rufon (A.M. No. RTJ-07-2038; 19 October 2007), the Court found respondent Judge Rufon guilty of vulgar and unbecoming conduct for uttering discriminatory remarks against women lawyers and litigants.

"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," held the Court in the Guanzon case.

Anent the allegations of ignorance of the law and usurpation of authority against respondent Judge Esidera, for issuing a directive to the petitioner in a special proceedings case to cause the publication of her order in a newspaper of general publication, this Office finds the same devoid of merit.

Complainant Perfecto had made a similar allegation in OCA I.P.I. No. 10-3340-RTJ, insisting that all orders from the courts of Northern Samar should only be published in the Catarman Weekly Tribune, the only accredited

newspaper in the area.

x x x x

[T]hat Catarman Weekly Tribune is the only accredited newspaper of general publication in Catarman does not bar the publication of judicial orders and notices in a newspaper of national circulation. A judicial notice/order may be published in a newspaper of national circulation and said newspaper does not even have to be accredited.

Section 1 of A.M. No. 01-1-07-SC thus provides:

SECTION 1. Scope of application. "These Guidelines apply only in cases where judicial or legal notices are to be published in newspapers or periodicals that are of general circulation in a particular province or city.

Publication of notices for national dissemination may be published in newspapers or periodicals with national circulation without need of accreditation.

Adopting the comments she made in OCA I.P.I. No. 10-3340-RTJ to the instant case, respondent Judge Esidera claims that she only arrived at the decision to direct the publication of her orders in a newspaper of national circulation after repeated failure of the Catarman Weekly Tribune to meet the publication requirements in other pending cases in the court. Respondent Judge Esidera even presented a list of cases where the hearings therein had to be reset because of the failure of the Catarman Weekly Tribune to publish the pertinent orders on time.

Moreover, the petitioner in the subject special proceedings case where respondent Judge Esidera issued the directive did not contest the order calling for the publication of the court's order in a newspaper of national circulation.[4] (emphasis and underscoring supplied)

Thus, the OCA RECOMMENDS that respondent be faulted for Impropriety and Unbecoming Conduct for which a fine in the amount of Five Thousand Pesos (P5,000.00) should be imposed, with a warning that a repetition of the same or similar act shall be dealt with more severely.

While the Court finds the Evaluation and Recommendation of the OCA that respondent be charged with Impropriety and Unbecoming Conduct to be well-taken, it deems the recommendation for the imposition of a fine in the amount of P5,000.00 to be insufficient as would impress upon her the gravity of the indictment. Respondent's improprieties as manifested in, among other things, her lack of discretion and the vicious attack upon the person of Prosecutor Ching as characterized by her use of uncalled for offensive language prompts this Court to raise the fine to Ten Thousand Pesos (P10,000.00).[5]

Specifically with respect to respondent's alleged solicitation from Prosecutor Diaz, albeit Prosecutor Ching merely claimed to have "heard" of it, respondent did not deny it categorically as she merely, as reflected above, brushed off Prosecutor's Ching's Affidavit as coming from one with a "dubious personality" and possessed of a "narcissistic personality disorder." With respect to the alleged solicitation from Prosecutor Diaz, respondent never disclaimed or disavowed the same.

Respondent's admission of having received the sum of P1,000.00 from Atty. Yruma - albeit allegedly as a mere accommodation to the latter, and her failure to disclaim the same act with respect to Prosecutor Diaz, only confirms her lack of understanding of the notion of propriety under which judges must be measured.

In his Annotation on Judges Fraternizing with Lawyers and Litigants,[6] Jorge C. Coquia[7] commented on the Spirit and Philosophy of Canon 2 on Impropriety of Judges, viz:

In Castillo vs. Calanog, Jr., 199 SCRA 75 (1991), the Supreme Court said that 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 official duties, but also to his behavior outside his sala and as a private individual. There is no dichotomy of morality. A public official is also judged by his private morality being the subject of constant public scrutiny. A judge should freely and willingly accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen. (emphasis and underscoring supplied)

Respondent's act of proceeding to the Prosecutor's Office under the guise of soliciting for a religious cause betrays not only her lack of maturity as a judge but also a lack of understanding of her vital role as an impartial dispenser of justice, held in high esteem and respect by the local community, which must be preserved at all times. It spawns the impression that she was using her office to unduly influence or pressure Atty. Yruma, a private lawyer appearing before her sala, and Prosecutor Diaz into donating money through her charismatic group for religious purposes.

To stress how the law frowns upon even any appearance of impropriety in a magistrate's activities, it has often been held that a judge must be like Caesar's wife - above suspicion and beyond reproach.[8] Respondent's act discloses a deficiency in prudence and discretion that a member of the judiciary must exercise in the performance of his official functions and of his activities as a private individual.

It is never trite to caution respondent to be prudent and circumspect in both speech and action, keeping in mind that her conduct in and outside the courtroom is always under constant observation.[9]

WHEREFORE, Judge Alma Consuelo Desales-Esidera is, for Impropriety and Unbecoming Conduct, ORDERED to pay a fine of Ten Thousand Pesos (P10,000.00) and WARNED that a repetition of the same or similar act shall be dealt with more severely.

SO ORDERED.

Brion, Bersamin, Villarama, Jr., and Sereno, JJ. , concur.

[1] Rollo, pp. 1-7.

[2] Id. at 8-9.

[3] Id. at 59-65.

[4] Dated December 3, 2010, id. at 289-291.

[5] Rule 140 of the Rules of Court provides:

Section 11. Sanctions - x x x

C. If the respondent is guilty of a light charge, any of the following sanctions shall be imposed:

1. A fine of not less than P1,000.00 but not exceeding P10,000.00 and/or;

x x x x x

[6] 411 SCRA 9, 11 (2003).

[7] Member of the Board of Editorial Consultants, Supreme Court Reports Annotated (SCRA).

[8] In Re: Judge Benjamin H. Virrey, Adm. Matter No. 90-7-1159-MTC, October 15, 1991, 202 SCRA 628, 634.

[9] Legaspi v. Garrete, Adm. Matter No. MTJ-92-713, March 27, 1995, 242 SCRA 679,686.

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