JOSELITO S. PASCUAL, COMPLAINANT, VS. JUDGE RODOLFO R. BONIFACIO, REGIONAL TRIAL COURT, BRANCH 151, PASIG CITY, RESPONDENT.

A.M. No. RTJ-01-1625. March 10, 2003

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Before us is the verified letter-complaint[1] of Joselito S. Pascual, dated October 19, 1999, charging Judge Rodolfo R. Bonifacio of the Regional Trial Court of Pasig City, Branch 151, with conduct unbecoming a judge. Specifically, complainant avers that respondent was seeking to influence him improperly in the settlement of a case pending before respondent's own court.

The complaint alleged that Judge Bonifacio took over the cases pending before the RTC of Pasig City, Branch 151, following the death of Judge Deogracias O. Felizardo in August 1998. Among these cases was Amelia Manas-Pascual v. Joselito S. Pascual, docketed as SP PROC JDRC Case No. 2913, a suit filed by complainant's wife to annul their marriage of 15 years standing. Complainant filed a counterclaim for legal separation. At the time Judge Bonifacio took over, SP PROC JDRC Case No. 2913 had already been submitted for decision.

Complainant averred that at around 9:00 p.m. of November 25, 1998, respondent came to see him at the Manila Hotel's Lobby Lounge, where complainant was then employed as a pianist. Judge Bonifacio told complainant that he wanted SP PROC JDRC Case No. 2913 settled. Respondent judge then suggested that complainant should agree to a 1/3:2/3 sharing of the conjugal assets between him and his two children by his estranged wife. Respondent further recommended that the Pascual's conjugal home in Ayala Alabang Village, Muntinlupa City should be sold and the share of the children given to them. Respondent then made it clear that complainant would not be given the administration of his children's 2/3 share from the proceeds of the sale.

According to complainant, he refused to heed respondent's proposal, as he believed that his counterclaim was meritorious and that he was entitled to a ½ share in the conjugal assets.

Complainant's conversation with respondent ended with the latter assuring him that he would inhibit himself from the case if complainant would file a motion to inhibit.

On December 3, 1998, complainant filed a motion to inhibit respondent judge, citing as his reason respondent's lack of "sufficient experience in hearing and resolving family disputes."[2]

On December 14, 1998, respondent denied said motion "for being untenable" as the "apprehensions of movant are unfounded and do not constitute legal grounds for inhibition."[3]

On January 7, 1999, complainant moved for reconsideration of the order dated December 14, 1998, this time citing as a more serious ground, his loss of confidence in respondent's impartiality as a judge, citing their conversation on November 25, 1998 at the Manila Hotel Lobby Lounge.[4] Complainant also pointed out that he had a sister-in-law who is a Bonifacio but was "not certain if there is a relationship between her and the presiding

judge, by consanguinity or affinity."[5]

On August 27, 1999, respondent denied the motion for reconsideration for the reason that the bases for inhibition cited by complainant were "untenable."[6]

Hence, the instant complaint.

In his comment on the complaint, respondent judge denied that he came to see complainant at the Manila Hotel Lobby Lounge on November 28, 1998 for the purpose of trying to settle SP PROC JDRC Case No. 2913. Respondent claimed that he was at said place during said time upon invitation of Judge Arsenio Magpale, presiding judge of the RTC of Quezon City, Branch 225 "for the purpose of finalizing the pairing arrangements as well as prizes for the annual golf tournament of the Philippine Judges Association at the Capitol Hills Golf Course in Quezon City."[7] Judge Magpale was accompanied by one Severino Menia. In the course of said meeting, complainant whom respondent had never met before but who appeared to be known to Menia, joined them. Complainant revealed he had an annulment case pending before respondent's sala. Complainant then started asking questions about marriage and family law, which Judge Magpale "politely answered." When it became apparent that complainant was trying to steer the conversation towards his own case, respondent allegedly advised him to just consult his lawyer. In support of his comment, respondent judge submitted Judge Magpale's affidavit to the effect that the two judges were introduced to complainant only on said date.

In his reply, complainant refuted both respondent's comment as well as Judge Magpale's statement in his affidavit that it was only after introduction that he came to know that both respondent and Judge Magpale were members of the judiciary. Complainant asserted that he and Judge Magpale had known each other well before their meeting on November 25, 1998, and had in fact, met several times before said date. In support of his declaration, complainant submitted an affidavit of Dr. Manuel Agulto.

On September 21, 2000, complainant filed a supplement to reply, inviting attention to the silence of respondent and Judge Magpale regarding Dr. Agulto's affidavit, which called for a response.

On January 24, 2001, the Office of the Court Administrator (OCA) recommended that the case be referred to a Justice of the Court of Appeals for investigation, report, and recommendation.

On March 14, 2001, we referred this matter to Justice Conchita Carpio Morales[8] of the Court of Appeals for appropriate investigation, report, and recommendation.

On June 26, 2001, complainant's counsel manifested that complainant was no longer interested in pursuing the case as he was now working abroad and could not attend to it. Said counsel then submitted a computer printout of an e-mail letter[9] from complainant to him in support of said manifestation.

Respondent prayed for the dismissal of the complaint for complainant's failure to prove his allegations.

On August 22, 2002, Justice Morales submitted her report, finding that respondent had violated Canon 2[10] of the Code of Judicial Conduct. The investigating Justice found that respondent's "attempt at convincing complainant to agree to settling the annulment case under his (respondent's) proposed terms dents his impartiality and erodes the public confidence in him as in fact it was on such account that complainant filed a Motion to Inhibit him."[11] The report also noted that despite the filing of the administrative complaint against him on October 22, 1999, respondent still decided SP PROC JDRC Case No. 2913 on December 10, 1999 against complainant, which "reflects his lack of delicadeza and only served to confirm complainant's charge of his lack of impartiality."[12] The report then went on to recommend that "for breach of the Canons of Judicial Conduct, respondent be meted the penalty of FINE of thirty thousand pesos (P30,000.00)."[13]

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We find relevant for resolution the following: (1) the effect of complainant's desistance; and (2) the propriety of the investigator's findings and recommendation.

On the first issue, complainant's desistance in the instant case does not mean that the charge is without merit. The withdrawal of the complaint or complainant's loss of interest will not necessarily cause the dismissal of an administrative case against a judge. For to condition an administrative action upon the will of the complainant, who for one reason or another, condones a detestable act, would be to strip this Court of its power to supervise and discipline erring members of the judiciary.[14]

On the second issue, we agree with the findings of the investigator. In the instant case the respondent does not deny meeting complainant at the Manila Hotel on November 25, 1998. In respondent's order dated August 27, 1999, denying complainant's motion for reconsideration, complainant's allegation that respondent tried to persuade him to agree to respondent's proposed sharing of the Pascual's conjugal assets was summarily written off as "untenable" without any explanation whatsoever. Further it took seven (7) months for respondent to rule on complainant's motion for reconsideration, yet in that span of time, he could not come up with either a factual or legal basis to show why complainant's allegation was "untenable." As the investigator correctly points out, respondent's failure to amplify his "untenable" ruling gives merit to complainant's contention that respondent, in effect, admitted his "improper conduct."

Upon assumption of office, a judge becomes the visible representation of the law and of justice. Membership in the judiciary circumscribes one's personal conduct and imposes upon him a number of inhibitions, whose faithful observance is the price one has to pay for holding such an exalted position.[15] Thus, a magistrate of the law must comport himself at all times in such a manner that his conduct, official or otherwise, can withstand the most searching public scrutiny, for the ethical principles and sense of propriety of a judge are essential to the preservation of the people's faith in the judicial system.[16] This Court does not require of judges that they measure up to the standards of conduct of the saints and martyrs, but we do expect them to be like Caesar's wife in all their activities. Hence, we require them to abide strictly by the Code of Judicial Conduct.[17]

It appears now that respondent has failed to live up to those rigorous standards. Whether or not he purposely went to the Manila Hotel on November 25, 1998 to meet complainant or only had a chance meeting with him, his act of trying to convince complainant to agree to his proposal is an act of impropriety. It is improper and highly unethical for a judge 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.[18] Judges are not only required to be impartial, but also to appear to be so, for appearance is an essential manifestation of reality.[19] 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.[20] Respondent's conduct in the instant case inevitably invites doubts about respondent's probity and integrity. It gives ground for a valid reproach. In the judiciary, moral integrity is more than a cardinal virtue, it is a necessity.[21] Moreover, a judge's lack of impartiality or the mere appearance of bias would cause resentment if the party who refused the judge's proposal subsequently lost his case. It would give rise to suspicion that the judgment was "fixed" beforehand. Such circumstance tarnishes the image of the judiciary and brings to it public contempt, disrepute, and ridicule. Thus, we are constrained to rule that respondent violated Rule 2.01 of the Code of Judicial Conduct.[22] His misconduct is not excused but rather made more glaring by the fact that the controversy involving complainant was pending in his own sala.

It is recommended by the designated investigator, Justice Morales, that a fine of P30,000.00 be imposed on respondent. Considering that the specific violation of the Code of Judicial Conduct was proved, we are in agreement on the imposition of a fine. But we also note that this is the first case against respondent, which could

be taken into account in the imposition of the penalty by way of mitigation, together with other circumstances of this case. A minimum fine of P10,000 appears to us sufficient.

WHEREFORE, respondent Judge Rodolfo R. Bonifacio, presiding judge of the Regional Trial Court of Pasig City, Branch 151 is found GUILTY of violating the Code of Judicial Conduct and is ordered to pay a fine of TEN THOUSAND PESOS (P10,000.00), with a STERN WARNING that a repetition of the same or similar acts in the future will be dealt with more severely. Let a copy of this Resolution be attached to the personnel records of respondent.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Austria-Martinez and Callejo, Sr., JJ., concur.

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[1] Rollo, pp. 1-6.

[2] Id. at 55.

[3] Id. at 57.

[4] Id. at 58.

[5] Id. at 59.

[6] Id. at 61.

[7] Id. at 66.

[8] Now a member of this Court.

[9] Rollo, p. 147.

[10] CANON 2 – A judge should avoid impropriety and the appearance of impropriety in all activities.

[11] Supra, note 9 at 207.

[12] Ibid.

[13] Id. at 208.

[14] Anguluan v. Taguba, A.M. No. 1402-MTJ, 14 September 1979, 93 SCRA 179, 185.

[15] Campilan v. Judge Fernando Campilan, Jr., A.M. No. MTJ-96-1100 (Formerly OMB-VIS 95-0311), 24 April 2002, p. 2, citing Marcelino v. Singson, Jr., A.M. No. MTJ-94-962, 24 April 1995, 243 SCRA 685, 689.

[16] Lim v. Judge Demetrio D. Calimag, Jr., A.M. No. RTJ-99-1517 (Formerly OCA IPI No. 99-861-RTJ), 26 February 2002, p. 6, citing Alfonso v. Juanson, A.M. No. RTJ-92-904, 7 December 1993, 228 SCRA 239, 255.

[17] Office of the Court Administrator v. Judge Marcelino L. Sayo, Jr., A.M. No. RTJ-00-1587, 7 May 2002, p. 1.

[18] Gutierrez v. Santos, 112 Phil. 184, 189 (1961).

[19] SPO1 Eduardo Cañeda, et al. v. Hon. Quintin B. Alaan, A.M. No. MTJ-01-1376, 23 January 2002, p. 7.

[20] Tan, Jr. v. Gallardo, Nos. L-41213-14, 5 October 1976, 73 SCRA 306, 315.

[21] Dy Teban Hardware & Auto Supply Co. v. Tapucar, A.M. No. 1720, 31 January 1981, 102 SCRA 492, 504.

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

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