

**MARY JANE VALLENTOS JAMIN, COMPLAINANT, VS. JUDGE
MANUEL A. DE CASTRO, MCTC, JAGNA AND GARCIA-HERNANDEZ,
BOHOL, RESPONDENT.**

A.M. No. MTJ-05-1616 (Formerly OCA IPI No. 05-1781-MTJ). October 17, 2007

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PER CURIAM:

The instant administrative case stemmed from a complaint for rape filed by herein complainant Mary Jane Vallentos Jamin (Jamin, for short) against Judge Manuel A. de Castro of the Municipal Circuit Trial Court (MCTC) of Jagna and Garcia-Hernandez, Bohol.

In her affidavit-complaint[1] dated April 1, 2005 which she filed with the Bohol Provincial Prosecutor's Office and where it was docketed as I.S. No. 05-1625, complainant Jamin narrated the rape incident which allegedly occurred in the early evening of March 29, 2005 at the bodega of a videoke bar located at the public market of Guindulman, Bohol where she was then employed as a waitress. Her narration:

a) When I was changing my clothes in the bathroom of our videoke house, [respondent] Manuel de Castro followed me and opened the door of the bathroom without my permission;

b) After our supper, I was attending to said Manuel A. de Castro and his six companions as they were drinking After an hour more or less of serving them, this Manuel A. de Castro was acting like an uncivilized person He kissed and hugged us including my co-worker Agnes. Then he touched me in the different parts of my body against my will. I even threatened him to be policed when he showed lascivious acts but he continued doing lasciviousness by putting his hand on the delicate parts of my body I shouted for help and cried while he slowly brought me to the bodega of the videoke house but ... nobody helped me but instead they shouted in loud voices saying: " Sige dad-a na didto ug iyota". In english , Go ahead, bring that lady there and fuck her. I only know those people in faces. In the dark area of that bodega, that Judge Manuel A. De Castro successfully raped me as being a big man held my two hands in his one hand and the other hand undressed me. That man having superior strength and me a fragile woman, ..., I became helpless.

c) I became so weak of what that Judge Manuel A. de Castro has done to me, of inserting his penis to my vagina. xxx.

Agnes A. Ybañez, (Ybañez) a co-worker of complainant at the videoke bar, likewise executed before a public prosecutor a sworn AFFIDAVIT dated April 8, 2005.[2] In her corroborative affidavit, Ybanez stated, inter alia:

- That later, I noticed that Judge de Castro dragged Mary Jane [Jamin] towards the bodega and a certain Baby Olaer, a companion of Judge de Castro helped in pushing Mary Jane to go with him while Mary Jane refused and I told them not to force her if it is against her will and yet they continued with their act ... and when Mary Jane and Judge de Castro was (sic) inside the bodega, Baby Olaer closed and locked the door of the bodega;

- xxx;

- That, later, I noticed Judge de Castro came out from the bodega already sweating and his shirt was even wet

with his sweat and when Mary Jane came out, she confessed to me that she was forced by Judge de Castro to have sexual intercourse with her and the judge really succeeded in having carnal knowledge with her against her will;

In his counter-affidavit[3] dated April 21, 2005, respondent judge denied the charge of rape and described the filing thereof as a malicious attempt by some people who had been harassing him to destroy his reputation and image as a judge. While not denying his presence at the videoke bar on the night of March 29, 2005, respondent judge explained that he went to the place not to drink or sing, "but only to see the interior lay-out of the newly constructed bar" owned by his junior process server and the latter's wife. He admitted, however, having teased and hugged both Jamin and Ybañez, but in the spirit of fun.

To support his profession of innocence and the falsity of the charge, respondent judge likewise submitted an Affidavit of Retraction and Withdrawal[4] of complainant dated April 21, 2005 and a similar affidavit executed by Ybañez on the same date. Submitted likewise was the affidavit[5] dated April 21, 2005 of Cecile Bersabal who expressed her intention not to testify for Jamin, given the latter's disinterest in pursuing her case against the respondent judge.

Complainant, in her affidavit of retraction and withdrawal, stated that the case was filed hastily upon the advice of some of her friends.

By a Ist Indorsement dated April 26, 2005, Bohol Provincial Prosecutor Toribio S. Quiwag forwarded the complaint to the Office of the Court Administrator (OCA), noting that only the Court can take proper administrative action against judges and court personnel.

Meanwhile, or on October 27, 2005, the Provincial Prosecutor of Bohol issued a Resolution[6] dismissing, without prejudice, the criminal aspect of Jamin's complaint against the respondent judge.

On November 8, 2005, the Court issued a Resolution[7] treating this matter as an administrative complaint against the respondent judge, and requiring the latter to submit his comment thereon within fifteen (15) days from notice.

In his Comment[8] dated December 19, 2005, the respondent judge, without refuting the allegations in the affidavit-complaint, nonetheless urged the dismissal of the complaint which he tagged as without leg to stand on, noting that the complainant and her witnesses had already executed affidavits of retraction, prompting even the Bohol Provincial Prosecutor's Office to dismiss the criminal complaint. Attached to the Comment, as Annex "5" thereof, is the complainant's Supplemental Affidavit[9] dated December 12, 2005 wherein she states that "it is not true that Judge De Castro raped me in the evening of March 29, 2005." And at this time around, complainant described what transpired on that fateful night, in the following wise:

xxx That in the evening of March 29, 2005, ...at about 8:00 o'clock ..., Judge de Castro entered our newly constructed Videoke Bar ... and while glancing on the interior design of the bar, he was offered a drink by one of [his] ... friends ... and the said Judge obliged; and after drinking the offered shot of wine, he went near our cashier Agnes Ybañez and teased her about her scant dress ..., then stole a kiss on her cheek I witnessed these happening while staying at the entrance of the bar letting salt water drip off from my wet body as I have just gone sea bathing. Then I entered the bar and upon passing them, Judge de Castro noticed me and turned his jokes on me by following me and kissing me on the ear from behind and attempted to enter the bathroom also while his friends were laughing and urging him to enter. I threatened Judge de Castro to have him arrested by the Police if he will not leave me alone, while still laughing, judge de Castro left and I heard him thanking his friends x x x (Word in bracket added.)

By Resolution of January 24, 2006, the Court en banc referred the case to the OCA for evaluation, report and recommendation. In another Resolution dated May 3, 2006,[10] the Court required the parties to manifest, within ten (10) days from notice, if they were willing to submit this case for resolution based on the pleadings already

filed. In his reply-letter of June 14, 2006, the respondent judge so manifested his willingness. Complainant would later acknowledge receipt of the resolution adverted to but has, to date, not filed the desired manifestation

Meanwhile, the OCA submitted a Report, styled as Memorandum[11] dated April 7, 2006. In it, the OCA, while expressing its inability to pin down the respondent judge for rape, nonetheless found the latter guilty of gross misconduct and immorality, acting as he did beyond the tolerable bounds of decency, morality and propriety. The report thus recommended that the respondent judge be dismissed from the service with the usual accessory penalties attached to dismissal. Disbarment, after due proceedings, was also recommended.

The OCA would later submit a supplemental Report[12] dated October 23, 2006 to inform the Court that the complainant personally came to the office of Senior Deputy Court Administrator Zenaida N. Elepaño to report, under oath, the threat made by the driver of Judge de Castro, a certain "Awe" Tubig, should she pursue the rape case against the respondent judge which may ultimately result in the denial of his retirement benefits. The OCA also informed the Court that the complainant, when asked, confirmed the veracity of the allegations in her affidavit-complaint filed against the respondent judge with the Bohol Provincial Prosecutor's Office.

Subsequent developments saw the complainant addressing a letter[13] to Senior Deputy Court Administrator Zenaida N. Elapaño. Therein, she stated her disinclination to pursue the case against the respondent judge for fear that the judge might get back at her and send her to prison.

The findings and recommendation of the OCA in its Report, as supplemented, are well taken, the affidavits of retraction adverted to earlier, notwithstanding. Substantial evidence, circumstantial and testimonial, obtain to hold the respondent judge liable for gross misconduct and immorality.

The Court notes, to start off, that respondent did not ascribe to the complainant, then trying to earn a living waiting on tables and, night after night, putting up with the boorishness of drunks, any plausible motive for her to accuse him of rape, except to vaguely point to some people as instigating the charge for the purpose of harassing him. He failed, however, to show why, how and by whom the harassment was done. Notably, respondent did not categorically deny, let alone traverse, the serious allegations of the complainant and her witness, Ybanez. He simply claimed in his Comment[14] that the criminal complaint for rape against him, upon which the administrative aspect thereof was based, had been dismissed by the Prosecutor's Office of Bohol.

And lest it be overlooked, respondent did not present an affidavit of any individual or any of his friends who were with him at the bar attesting to his innocence, or refuting the allegations against him. His junior process server and the latter's wife who owned the videoke bar - who, in the natural order of things, would side with him - did not make any declaration, much less execute a sworn statement to vouch for his innocence.

As it were, the respondent judge, by submitting, as Annex "5" of his Comment,[15] complainant's Supplemental Affidavit,[16] is presumed to have admitted the allegations in said supplemental affidavit. Among the allegations is that he was at the videoke bar in the evening of March 29, 2005 where he made sexual advances and committed what amounted to lascivious acts not only as against complainant but also against Ybañez in full view of other drinking individuals in a public place. In particular, he is deemed to have admitted teasing Ybanez about her "scant dress," kissing Ybanez on the cheek and the complainant behind the ear, to the delight of his friends. Also deemed admitted by the respondent judge was his attempt to enter the bathroom while complainant was inside it, with his friends egging him on, but was foiled when the complainant threatened to have him arrested by the police if he would not leave her alone. These peccadilloes, apart from the morality aspect of the acts, in themselves translate into a violation of the Code of Judicial Conduct as they reflect upon the respondent judge's utter disregard of public opinion of the reputation of the judiciary which he represents.

Time and again, the Court has adhered to the exacting standards of morality and decency which every member of the judiciary is expected to observe.[17] As a dispenser of justice, a magistrate is judged not only by his official acts but also by his private morals, to the extent that such private morals are externalized.[18] He should not only possess proficiency in law but should likewise possess moral integrity, for the people look up to him as a virtuous and upright man. We said so in a slew of cases, notably in *Castillo v. Calanog*,[19] thus:

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. There is no dichotomy of morality; a public official is also judged by his private morals. 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 ... a judge's official life can not simply be detached or separated from his personal existence. Thus:

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.

A judge should personify integrity and exemplify honest public service. The personal behavior of a judge, both in the performance of his official duties and in private life should be above suspicion.

Respondent judge has made much of the affidavit of retraction and withdrawal[20] of complainant upon which the Prosecutor's Office of Bohol predicated its dismissal of the underlying complaint for rape. It should be stressed, however, that recantation is viewed with suspicion. For a recantation is exceedingly unreliable inasmuch as it is easily secured from a poor and ignorant witness, usually through intimidation or for monetary consideration.[21] And going by the social standing and economic status of the complainant, and as the records tend to indicate, the mix of both factors seem to explain why complainant affixed her signature to the recanting affidavit.

At any rate, the Court is not bound by the unilateral act of the complainant in a matter related to its disciplinary power. As we stated in *Molina v. Paz*: [22]

xxx The Court does not dismiss administrative cases against members of the Bench merely on the basis of withdrawal of the charges. Desistance cannot divest the Court of its jurisdiction to investigate and decide the complaint against respondent judge. Public interest is at stake in the conduct and actuations of officials and employees of the judiciary. The program and efforts of the Court in improving the delivery of justice ... should not be frustrated and put to naught by private arrangements between the parties.

On the whole, all roads logically lead to the conclusion that the respondent judge has indeed failed to behave in such a way that will promote confidence and respect for the judiciary. He deported himself in a manner most unbecoming a judge as a model of moral uprightness. We need not repeat the narration of the lustful acts committed by him, in order to conclude that he is indeed unworthy to remain in office. The audacity under which the same were committed and the seeming impunity with which they were perpetrated shock one's sense of morality.

Gross misconduct and immorality, under Section 8 (3) (8), Rule 140 of the Rules of Court, are classified as serious offenses punishable by any of the sanctions enumerated in Section 11 of the same Rule, to wit:

SEC.11. Sanctions. - A. If the respondent is guilty of a serious charge any of the following sanctions may be imposed:

- Dismissal from service, forfeiture of all or part of the benefits as the Court may determine and disqualification from reinstatement or appointment to any public office, including government or controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;
- Suspension from office with salary and other benefits for more than three (3) but not exceeding six (6)

months; or

- A fine of more than P20,000.00 but not exceeding P40,000.00.

As a final consideration, the Court invites attention to A.M. No. 02-9-02-SC[23] prescribing that if an administrative case against a judge involves an offense which likewise constitutes a ground for the disciplinary action of members of the Bar for violation of the Lawyer's Oath, the Code of Professional Responsibility, and/or the Canons of Professional Ethics, the administrative case shall also be considered a disciplinary action against the respondent judge as a member of the Bar. Thus, the respondent judge should also be required to show cause why he should not likewise be suspended, disbarred or otherwise proceeded against, as a member of the Bar.

WHEREFORE, as recommended by the Office of the Court Administrator, respondent Judge MANUEL A. DE CASTRO of the Municipal Circuit Trial Court of Jagna and Garcia-Hernandez, Bohol, is hereby DISMISSED from the service, with forfeiture of all retirement benefits, except accrued leave credits, and with prejudice to re-employment in any branch, agency or instrumentality of the government, including government-owned or controlled corporations. He shall forthwith CEASE and DESIST from performing any official act or function appurtenant to his office upon service on him of this Decision. Lastly, respondent Judge is REQUIRED to SHOW CAUSE why he should not be disbarred as a member of the Philippine Bar.

SO ORDERED.

Puno, C.J., Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Tinga, Chico-Nazario, Garcia, Velasco, Jr., Nachura, and Reyes, JJ., concur.
Ynares-Santiago, and Azcuna, JJ., on official leave.

[1] Rollo, p. 10

[2] Id. at 8-9.

[3] Id. at 16-17.

[4] Id. at 14.

[5] Id. at 20.

[6] Supra note 1 at 42-43.

[7] Id. at 34.

[8] Id. at 36-37.

[9] Id. at 44-45.

[10] Id. at 59.

[11] Id. at 48-58.

[12] Id. at 65.

[13] Dated March 5, 2007; id. at 113.

[14] Supra note 8.

[15] Supra note 8.

[16] Supra note 9.

[17] Sicat v. Alcantara, Adm. No. R.-6-RN, May 11, 1988, 161 SCRA 284.

[18] Junio v. Rivera, A.M.No. MTJ-91-565, 225 SCRA 284.

[19] Adm. Matter No. RTJ-90-447, 199 SCRA 75.

[20] Supra note 4.

[21] People v. Ramirez, Jr., G.R. Nos. 150079-80, June 10, 2004, 431 SCRA 666.

[22] A.M. RTJ No. 01-1638, December 8, 2003, 417 SCRA 174, citing cases.

[23] Re: Automatic Conversion of Some Administrative Cases Against Justices of the Court of Appeals and the Sandiganbayan; Judges of Regular and Special Courts; and Court Officials who are Lawyers as Disciplinary Proceedings Against Them Both as such Officials and as Members of the Philippine Bar. September 17, 2002.

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