

**ATTY. GLORIA LASTIMOSA-DALAWAMPU, COMPLAINANT, VS.  
JUDGE RAPHAEL B. YRASTORZA, SR., REGIONAL TRIAL COURT OF  
CEBU CITY, BRANCH 14, RESPONDENT.**

*A.M. No. RTJ-03-1793. February 05, 2004*

Ponente: YNARES-SATIAGO, J.

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**YNARES-SATIAGO, J.:**

The administration of justice is primarily the joint responsibility of the judge and the lawyer. The judge expects the lawyer to properly perform his role in this task, in the same manner that the lawyer expects the judge to do his part. The people expect of them a sense of shared responsibility which is a crucial factor in the administration of justice.[1] Their relation should be based on mutual respect and on a deep appreciation by one of the duties of the other. Only in this manner can each minimize occasions for delinquency and help attain effectively the ends of justice.[2]

Atty. Gloria Lastimosa-Dalawampu filed a complaint for serious misconduct[3] against respondent Judge Raphael Yrastorza, Sr., the incumbent presiding judge of Branch 14 of the Regional Trial Court of Cebu City, with the Office of the Court Administrator.

The complaint alleged that on January 14, 2002, Atty. Lastimosa-Dalawampu appeared as counsel for the accused before the respondent judge in Criminal Case No. CBU-58947 entitled, “People of the Philippines versus Gina and Bob Villaver.” After her client, Bob Villaver, was arraigned, Atty. Lastimosa-Dalawampu moved for the re-setting of the pre-trial conference in view of absence of the trial prosecutor assigned to Branch 14. However, before she could finish her statement, respondent judge purportedly cut her off by saying, “If you cannot handle this case, Atty. Dalawampu, you better give this case to another lawyer.” When complainant answered that she can handle the case, respondent again cut her off saying, “Do not give me so many excuses, Atty. Dalawampu! I don’t care who you are!” When complainant was about to leave the courtroom, she heard respondent say, “I don’t care who you are. You can file one thousand administrative cases against me. I don’t care.”

According to the complainant, the foregoing incident was not the first time that she was berated by the respondent judge. On October 11, 2000, when she appeared as private prosecutor in Criminal Case CBU-49515, she was scolded by respondent judge for failure to file the pre-trial brief even if a pre-trial brief is not compulsory in criminal cases.

Complainant was unable to attend the pre-trial conference on October 12, 2000, but she prepared and filed the pre-trial brief and informed the public prosecutor, Rustico Paderanga, that she had to attend a hearing before the Sandiganbayan in Manila. Complainant’s client, Consuelo Aznar, was present during the pre-trial. Complainant did not advise her client to bring the original documents to be presented in the case because she stated in the pre-trial brief that the marking of exhibits will be done as the trial progresses and that photocopies of these documents already formed part of the record. This notwithstanding, respondent judge ordered Consuelo Aznar to produce the original documents in five minutes, or the case would be dismissed. Consuelo Aznar frantically got

the documents from her house, but the travel time from the court house to the house of Consuelo Aznar and back required at least 30 minutes.[4] Respondent judge's action towards Consuelo Aznar is oppressive.

In his Comment,[5] respondent judge claimed that complainant's allegations are pure exaggerations. His remark that complainant should let another lawyer handle her case if she was busy with her other cases was occasioned by complainant's failure to submit a pre-trial brief, and his other remark that he was not deterred by administrative cases against him was not necessarily to the complainant but to the public. Respondent explained that he did not mean to insult complainant or her clients as he only wanted to expedite the proceedings.[6]

In a Resolution[7] dated August 6, 2003, the Court referred the case to Associate Justice Marina Buzon of the Court of Appeals for investigation, report and recommendation.

Prior to the date of first hearing before the Investigating Justice, complainant filed a motion[8] to withdraw complaint, alleging that sometime in September 2003, she and the respondent judge have ironed out their differences in a Bench and Bar dialogue, and the pendency of her complaint against respondent judge poses a block to a harmonious relation between them.

Thereafter, complainant failed to appear during the investigation of the case. At the hearing on October 21, 2003, respondent judge filed a motion to dismiss[9] on the ground of lack of interest and failure to prosecute.

On November 6, 2003, Justice Buzon submitted her report to the Office of the Court Administrator recommending the dismissal of the administrative case against respondent judge due to the failure of the complainant to prove the allegations in her complaint.

Prefatorily, the Court must reiterate the rule that mere desistance on the part of the complainant does not warrant the dismissal of an administrative complaint against any member of the bench and the judiciary.[10] The Court's interest in the affairs of the judiciary is a paramount concern that knows no bounds.[11] Hence, instead of dismissing the charge as recommended, the Court, in the exercise of its power of administrative supervision,[12] resolves to reprimand respondent judge for his failure to exercise greater circumspection in dealing with the complainant.

Upon his assumption to office, a judge ceases to be an ordinary mortal. He becomes the visible representation of the law and, more importantly, of justice. He must be the embodiment of competence, integrity and independence.[13] A magistrate of the law must comport himself at all times in such manner that his conduct, official or otherwise, can bear the most searching scrutiny of the public that looks up to him as the epitome of integrity and justice.[14]

It appears that as Atty. Lastimosa-Dalawampu, the complainant in this case, was about to leave the sala of the respondent judge, the latter, after berating her in public, uttered, "I don't care who you are. You can file one thousand administrative complaints against me. I don't care!" Respondent, in his comment, admitted that he indeed made such an utterance although the same was not directed at the complainant but to the public. This notwithstanding, the utterance was definitely uncalled for.

The tenor of respondent's statement can easily instill in the minds of those who heard them that as a judge he is above the law. Such a remark creates an impression on the public that whatever administrative case they will file against respondent or against any judge will only be a futile exercise. Statements such as those made by respondent judge erode the public's confidence in the integrity of the judiciary. Respondent's unwarranted statement is a clear derogation of his duty to be faithful to the law[15] which he swore to uphold as a member of the judiciary.

Furthermore, respondent's unfounded act of insulting the complainant in open court and cutting her off in mid-sentence while she was still explaining her side exhibited a manifest disregard by respondent of his duty[16] to be patient, attentive, and courteous to lawyers. A judge should conduct proceedings in court with fitting dignity and decorum.[17] Respondent cannot justify his action by a desire to hasten the proceedings before him. In *Ruiz v. Bringas*,[18] it was ruled:

The duty to maintain respect for the dignity of the court applies to members of the bar and bench alike. A judge should be courteous both in his conduct and in his language especially to those appearing before him. He can hold counsels to a proper appreciation of their duties to the court, their clients and the public without being petty, arbitrary, overbearing, or tyrannical. He should refrain from conduct that demeans his office and remember that courtesy begets courtesy. Above all he must conduct himself in such a manner that he gives no reason for reproach.

A judge's duty to observe courtesy to those who appear before him is not limited to lawyers. The said duty also includes being courteous to litigants and witnesses. Respondent's conduct towards Consuelo Aznar leaves a lot to be desired. As stated in the complaint, respondent ordered Consuelo Aznar to go back to her house to get the original documents in five minutes or he would dismiss the case.[19] Respondent did not offer any explanation to this charge against him. Respondent's act in this instance smacks of judicial tyranny. A judge anywhere should be the last person to be perceived as a petty tyrant holding imperious sway over his domain. Thus, the role of a judge in relation to those who appear before his court must be one of temperance, patience and courtesy.[20]

Judges are strictly mandated to abide by the law, the Code of Judicial Conduct and existing administrative policies in order to maintain the faith of our people in the administration of justice.[21] Any act which falls short of the exacting standard for public office, especially on the part of those expected to preserve the image of the judiciary, shall not be countenanced.[22]

WHEREFORE, respondent Judge Raphael B. Yrastorza is hereby REPRIMANDED for discourtesy against complainant. He is further warned that a repetition of this or similar acts will be dealt with more severely.

**SO ORDERED.**

Davide, Jr., C.J., (Chairman), Panganiban, and Carpio, JJ., concur.

Azcuna, J., on official leave.

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[1] *Romero v. Valle*, A.M. No. R-192-RTJ, 9 January 1987, 147 SCRA 197, citing *Lugue v. Kayanan*, L-26826, 29 August 1969, 29 SCRA 165.

[2] Agpalo, *Legal Ethics*, 1997 edition, p. 436.

[3] Rollo, p. 1; The complaint was received by the Office of the Court Administrator on October 4, 2002.

[4] Rollo, p. 4.

[5] *Id.*, at 27, dated December 26, 2002. Received by the Supreme Court on January 14, 2003 and forwarded to the Office of the Court Administrator on January 21, 2003.

[6] *Id.*, at 30.

[7] *Id.*, at 65.

[8] *Id.*, at 70, dated October 8, 2003 and was received by the Office of Associate Justice Buzon on October 15,

2003.

[9] *Id.*, at 76.

[10] *De Joya v. Judge Diaz*, A.M. No. MTJ-02-1450, 23 September 2003.

[11] *Marcelino v. Judge Singson, Jr.*, A.M. No. MTJ-94-962, 24 April 1995, 243 SCRA 685.

[12] Section 6, Article VIII, 1987 Constitution: The Supreme Court shall have administrative supervision over all courts and the personnel thereof.

[13] *Office of the Court Administrator v. Gines*, A.M. No. RTJ-98-802, 5 July 1993, 224 SCRA 261.

[14] *Lachica v. Flordeliza*, A.M. No. MTJ-94-921, 5 March 1996, 254 SCRA 278.

[15] Code of Judicial Conduct, Canon 1: A judge shall uphold the integrity and independence of the judiciary and Rule 1.01: A judge should be the embodiment of competence, integrity and independence.

[16] Code of Judicial Conduct, Rule 3.04: A judge should be patient, attentive, and courteous to lawyers, especially to litigants, witnesses and others appearing before the court. A judge should avoid unconsciously falling into the attitude of mind that the litigants are made for the court, instead of the courts for the litigants.

[17] Canon 35, Canons of Judicial Ethics.

[18] A.M. No. MTJ-00-1266, 6 April 2000, 330 SCRA 62.

[19] *Rollo*, p. 4.

[20] *Cañas v. Castigador*, G.R. No. 139844, 15 December 2000, 348 SCRA 425.

[21] *Magarang v. Jarding, Sr.*, A.M. No. RTJ-99-1448, 6 April 2000, 330 SCRA 79.

[22] *Loyao, Jr. v. Armecin*, A.M. No. P-99-1329, 1 August 2000, 337 SCRA 37.

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