

CONCERNED EMPLOYEES OF THE RTC OF DAGUPAN CITY, COMPLAINANTS, VS. JUDGE ERNA FALLORAN-ALIPOSA, IN HER CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 41, DAGUPAN CITY,...

A.M. No. RTJ-99-1446. March 09, 2000

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PER CURIAM:

A letter dated March 26, 1999 was sent to the Chief Justice by the Concerned Court Employees of Dagupan City requesting for the re-assignment of Judge Silverio Q. Castillo and Judge Erna Falloran-Aliposa, allegedly two of the most corrupt Judges of Dagupan City whose acts of corruption range from appropriating exhibits and misappropriating funds of the City Government of Dagupan.[1] On April 15, 1999, the Chief justice indorsed said letter to Senior Deputy Court Administrator Reynaldo L. Suarez and directed the latter to conduct a discreet investigation on the alleged acts of corruption of the judges mentioned.

On June 4, 1999, Deputy Court Administrator Suarez conducted an investigation at the Integrated Bar of the Philippines Building in Dagupan City. Only the employees of Judge Erna Falloran-Aliposa gave their statements during the investigation, as the employees of Judge Castillo were not available for interview at that time and date. They, however, gave the assurance that they will file the appropriate administrative complaint against judge Castillo in due time.

Five employees of the Regional Trial Court of Dagupan City, Branch 41, namely: 1.] Gloria Ydia, Legal Researcher and Officer-in-Charge of the Office of the Branch Clerk of Court; 2.] Ever Mejia, Court Interpreter; 3.] Melinda Macaraeg, Court Stenographer; 4.] Evelyn Daroy, Court Stenographer; and 5.] Rosyla del Castillo, Clerk III, gave their sworn statements concerning the alleged corrupt practices of their Presiding judge, judge Erna Falloran-Aliposa.[2]

Ms. Gloria Ydia, Legal Researcher and Officer-in-Charge, imputed the following alleged corrupt practices of judge Aliposa:

- 1.] Vouchers in the amount of P62,000.00 for the payment by city government of office supplies and equipment, such as four (4) electric fans, as well as for the repair of typewriters, air conditioner, were prepared by respondent, but the supplies were not received by their office and the repair of typewriters and air conditioner were covered by fictitious receipts.
- 2.] Respondent judge demanded a percentage before allowing the withdrawal of cash bonds, as per information relayed to them by the litigants who were called by respondent in her chambers, and by the Cashier Erlinda Capitle.
- 3.] Respondent Judge called for party-litigants who were asked to go to the office as early as 6:00 a.m. and who gave her shrimps, crabs, mangoes, boneless bangus, carabeef and the like, which she brought to her house in Pasay City on Fridays.

4.] Most cases are reviewed not on the merits but on the basis of the litigants' ability to pay. Highest bidders were often the winners. Among these successful litigants were the spouses Andal who, after going to respondent Judge's chambers, obtained a favorable judgment.

5.] More often than not respondent judge's illegal transactions are done in her office since parties-litigants are allowed to freely enter her chambers. She sees to it that no members of her staff are present.

6.] On the scheduled dialogue of the Chief Justice with the judges of Region I, respondent Judge instructed her staff to solicit P500.00 from the practicing lawyers to shoulder the expenses of the breakfast of the visitors. Accordingly, some lawyers appeared in her court and gave said amounts to her.

7.] In one instance, respondent Judge, for a consideration, ordered the correction of an erroneously spelled name of an adopted child in the dispositive portion of the decision of the petition for adoption.

Ms. Ever Mejia, Court Interpreter, alleged that -

1.] Respondent Judge Aliposa acts as the commissioner in all ex parte proceedings because of the fees which she collects. Depending upon the party's capabilities to pay, the commissioner's fees range from P1,500.00 to P2,000.00. All must be paid in cash and handed to her before she conducts the proceedings. No money, no ex parte proceedings. Ex parte proceedings of at least three (3) to four (4) cases must be scheduled every week. She calls rich litigants every now and then to deliver anything for her depending on their capacity, e.g., from the Indian owner of Maya Emporium, she demanded a cassette recorder as well as clothes and clothing material from the Chinese owner of 'Ong King Kiam', who had cases in her court. In the case of *Apolonia Air Philippines v. Spouses Claro Andal*, defendants gave her the sum of P22,000.00 and won.

2.] In the case of Vice-Mayor Teodoro Manaois, respondent Judge demanded P80,000.00. After the said amount was delivered to her, the Vice Mayor won in the said case.

3.] When the pictures taken during the IBP Oath-taking, right after the dialogue with the Chief justice, were developed, judge Aliposa instructed Mejia to look for the photographer to get the pictures taken so she would monopolize the sale thereof. These pictures, if bought from the photographer cost P25.00 but judge Aliposa sold them for P50.00 instructing her staff to do the selling of the photographs. They, however, have no knowledge as to whether the photographer was actually paid for them.

4.] Judge Aliposa is very suspicious. She does not want her staff to talk to lawyers and litigants. If she catches any one talking with them, she immediately suspects that said person is 'selling' the case.

5.] The telephone which was provided by the local government is being used personally by respondent Judge. Even during extreme emergencies respondent Judge would not allow her staff to use it and the same is padlocked inside her room.

6.] The private complainant in the case of *People v. Luis Montilla* is always inside the chambers of respondent judge.

7.] Respondent judge prohibited lawyers and litigants from entering her chambers except when they had something to give her.

8.] Respondent Judge reports for work at 11:00 a.m. on Mondays and would leave at 10:00 a.m. during Fridays.

9.] Respondent Judge asked for an allocation of P64,000.00 from the 1998 City Budget. Under the budget, she declared that their typewriters and air conditioners needed repairs. No repairs were, however, made as they defrayed the repair of the typewriters. The office supplies given by the local government never reached their office and was converted by respondent Judge into cash. They buy their own supplies.

Ms. Melinda Macaraeg, Court Stenographer III, averred that:

- 1.] Respondent instructed her to ask the party, before the ex-parte presentation of evidence, whether he had money, and then respondent collected P1,500.00 from the party, i.e., P1,000.00 for her and P500.00 for the stenographer, but respondent only gave P200.00 to P300.00 to the stenographer, and if the party had no money, respondent would postpone the ex-parte presentation of evidence;
- 2.] In the case of PCI v. Alex Viray, there was no stenographer who took down the proceedings during the ex-parte presentation of evidence and when said case was appealed by defendant, respondent required the stenographers to prepare the transcript of stenographic notes, which they refused because they did not take down notes, but Flory Fabia, another stenographer, prepare the transcript of stenographic notes which were merely patterned after a similar replevin case; and
- 3.] Respondent had the telephone installed inside her chambers and did not allow the members of her staff to use the same; that respondent made it appear that all her calls were official, which she charged against the funds of the city government.

Ms. Rosyla del Castillo,. Clerk III (in charge of criminal cases), charged that:

- 1.] Respondent would talk to the person following up motions for withdrawal of cash bonds or reduction of bail bonds before acting on the same;
- 2.] Respondent instructed her to remove an Order in two cases and she replaced it with another one;
- 3.] Respondent instructed her, on two occasions, to tell the parties following up the dismissal of a case and reduction of bail bond to give money for ice cream;
- 4.] Respondent antedated some orders which took her a Long time to prepare; and
- 5.] Respondent would not issue orders in favor of a party unless something is given to her.

Ms. Evelyn Daroy, Court Stenographer III, stated that:

- 1.] Respondent asked her to antedate a decision in a case which the former was not able to render within three (3) months;
- 2.] Respondent asked her to tell Flory Fabia, another court stenographer, to collect her (stenographer's) attorney's fees from a lawyer; and
- 3.] Respondent asked them to solicit gifts, in cash or in kind, from lawyers on the occasion of her birthday.

Owing to the seriousness of the charges, the gravity of which Deputy Court Administrator Suarez averred he never encountered in his long years of service with the office of the Court Administrator (OCA), he recommended that: 1.] respondent judge be required to comment on the statements of the five (5) employees of the RTC, Branch 41, Dagupan City; 2.] the case be immediately referred to an Associate Justice of the Court of Appeals for investigation, report and recommendation; and 3.] respondent Judge be immediately suspended pending the investigation of the case to prevent any retaliatory acts against the court personnel.

In a Resolution dated June 22, 1999[3] the Court En Banc adopted the Deputy Court Administrator's recommendations and referred the matter to Appellate Court Associate Justice Marina Buzon for investigation. Report and recommendation thereon within ninety (90) days from receipt thereof.[4]

The Investigating Justice, acting accordingly, conducted the investigation and thereafter submitted her report and recommendation. In her Report dated January 12, 2000, Justice Buzon stated that:

In their memorandum, complainants confined their discussion on the alleged corrupt practices of respondent in

demanding money from Leo Tandoc in connection with the case of his brother and from Atty. Mario Cera after the ex-parte presentation of evidence and who likewise gave P500.00 for the snacks of judges during the dialogue with the Chief Justice, as well as respondent's claim that the telephone calls of her son, Jason, were official in order to be able to charge the same against the funds of the city government.

1.....Leo Tandoc testified that on August 3, 1993, respondent demanded P5,000.00 from him in order that his brother, Orlando, a detention prisoner, would not stay longer in jail, and that he gave the money to respondent the following day. It appears that a demurrer to evidence was filed by the counsel of Orlando Tandoc, who was prosecuted for theft, in view of the insufficiency of the evidence against him. In an order dated August 3, 1998, respondent dismissed the case against Orlando Tandoc on the ground that the evidence of the prosecution was insufficient to sustain a conviction. However, said Order did not contain a directive to the Jail Warden to release Orlando Tandoc from detention, unless he is being held for another lawful cause. Upon clarificatory questions by the undersigned Investigator, respondent admitted that she does not state in the order granting demurrer to evidence that the accused, who is a detention prisoner, be released unless held in confinement for another lawful cause, and that the defense counsel has to file a motion for the release of the accused. It is elementary that upon acquittal of a detention prisoner or the dismissal of the case against him by way of demurrer to evidence, he is entitled to be released from detention in connection with said particular case, considering that there is no more reason to deprive him of his liberty. A judge need not wait for a motion to be filed by the defense counsel praying for the release of the detention prisoner, especially considering that an order granting demurrer to evidence is not promulgated in open court and it might take some time before the defense counsel could receive a copy thereof through the mails. Notwithstanding a judgment of acquittal or dismissal of the criminal case, the Jail Warden will not release a detention prisoner without an order of release from the court which ordered the latter's detention. In view thereof, the order directing the release from detention of an accused upon his acquittal or dismissal of the case against him is usually included in the dispositive portion of the decision or order, a copy of which is furnished the Jail Warden.

The admission by respondent that it is not her policy to incorporate in the order granting demurrer to evidence and dismissing the case against the accused, who is a detention prisoner, that the latter be released unless held for another lawful cause, and that she only issued the order of release upon the filing of a motion to that effect does not speak well of respondent who has been a judge since 1992 and is also a professor handling Criminal Law Review. The fact that respondent delayed the issuance of the order of release of Orlando Tandoc supports the claim of Leo Tandoc that she demanded money from him, which he was forced to give, in order that his brother, Orlando, would not stay longer in jail.

On the other hand, the inconsistencies pointed out by respondent in the testimony of Leo Tandoc and the allegations in his affidavit as to when he learned of the Order dated August 3, 1998, i.e., whether before or after Flory Fabia informed him that respondent wanted to see him, and as to whether he was alone or with Flory Fabia when he went to branch 41 on August 3, 1998, are insubstantial and do not affect his credibility. It must be remembered that Leo Tandoc executed his affidavit and gave his testimony one year after the incident complained of. Moreover, respondent did not present Flory Fabia as a witness to refute Leo Tandoc's testimony that she told him to see respondent and accompanied him to respondent's chambers.

Anent respondent's claim that no one among the complainants testified that they saw Leo Tandoc enter her chambers on August 3, and 4, 1998, suffice it to say that respondent has not shown that complainants already knew Leo Tandoc at that time or that they were aware of the purpose of his visit.

2. Atty. Mario Cera affirmed that on March 25, 1999, he was approached by Gloria Ydia who told him that she was instructed by respondent to solicit money for the snacks for the dialogue of RTC Judges of Region I. He gave P500.00 to Gloria Ydia and the latter entered the chambers of respondent. Gloria Ydia testified that she handed to respondent the P500.00 given to her by Atty. Cera and that she likewise approached Attys. Albino Gonzales and Fernando Cabrera and informed them that she was asked by respondent to solicit money from lawyers for the snacks of judges from Region I who would attend the dialogue with the Chief justice on March

26, 1999, after which said lawyers proceeded to the chambers of respondent. Attys. Gonzales and Cabrera did not testify to refute said allegations to Gloria Ydia. Thus, the affidavit of Atty. Gonzales denying that he gave something for the dialogue with the Chief Justice was denied admission as evidence for being hearsay.

Atty. Cera further stated that after he presented evidence ex-parte before respondent in her chambers in the case of Rural Bank of San Jacinto, Inc. vs. Armando Chan, respondent told him to give her P1,500.00, which he did, and that the stenographer did not demand anything from him and he thought that the amount of P1,500.00, included the fees for the transcript of stenographic notes.

Respondent naturally denied the allegations of Atty. Cera and tried to discredit him by claiming that he is a biased witness as both he and Gloria Ydia are from Mangaldan, Pangasinan and that Atty. Cera is close to Judge Sison, whom respondent claims has special relations with Gloria Ydia. Respondent likewise presented witnesses, namely, Attys. Godofredo Manipud, Ramon Mendoza and Leslie Interior, who declared that they did not pay commissioner's fees to respondent after the ex-parte presentation of their evidence. It is interesting to note, however, that Atty. Manipud testified that after the ex-parte presentation of his evidence before respondent, he asked the latter what was his obligation. Atty. Interior likewise stated that after the ex-parte presentation of her evidence before respondent, she asked the latter if she had to pay something. The undersigned cannot help but wonder why said lawyers had to ask respondent whether they had any obligation to pay anything when they ought to know that judges are not supposed to receive anything from the parties in the performance of their duties in the administration of justice. For his part, Atty. Mendoza testified that he presented evidence ex-parte before respondent only once and that he was not charged commissioner's fee because the proceeding was done in open court. He likewise denied having given any contribution relative to the visit of the Chief Justice. Moreover, Atty. Manipud admitted that his daughter had a case before respondent, who awarded in favor of his daughter the custody of her child who is over seven (7) years old, despite the latter's preference to stay with his father. Atty. Interior admitted that she was asked by respondent to execute an affidavit stating that the latter did not demand or receive money in ex-parte proceedings involving BPI.

The acts of respondent in demanding and receiving money from Leo Tandoc as a condition for the release from detention of his brother, Orlando, although the case against the latter had already been dismissed, and also from Atty. Cera after the reception of the latter's evidence ex-parte constitute serious misconduct in office. A judge should always be a symbol of rectitude and propriety, comporting himself in a manner that will raise no doubt whatsoever about his honesty. It is this kind of gross and flaunting misconduct, no matter how nominal the amount involved on the part of those who are charged with the responsibility of administering the law and rendering justice quickly, which erodes the respect for law and the courts.

Furthermore, the undersigned has noted irregularities in the proceedings in the following cases involving ex-parte presentation of evidence, as borne out by the records brought by complainants, to wit:

a) Civil Case No. 97-01545-D

On August 5, 1998, respondent rendered, a decision wherein it is stated that at the ex-parte hearing, plaintiff's witness testified and identified the promissory note, chattel mortgage and demand letter, marked as Exhibits "A", "B" and "C", respectively. However, the formal offer of exhibits was received by the court only on August 18, 1998 and the documents attached thereto do not appear to have been marked as Exhibits "A", "B" and "C".

b) Civil Case No. 97-01963-D

The decision is dated August 11, 1998 whereas the formal offer of exhibits was received by the court only on August 18, 1998, without any exhibit attached thereto.

c) Civil Case No. 95-02306-D

The decision is dated September 14, 1998 whereas the offer of evidence was received by the court only on September 16, 1998 with only the promissory note, allegedly marked as Exhibit "A", attached thereto but the same was not so marked.

d) Civil Case No. 97-02012-D

The decision is dated August 10, 1998 whereas the formal offer of exhibits was received by the court only on August 18, 1998 without any exhibits attached thereto.

e) Civil Case No. 98-02205

The documents attached to the formal offer of exhibits do not bear any exhibit marking.

f) Civil Case No. 98-02177-D

The presentation of ex-parte evidence was originally set on July 29, 1998 but was reset to July 31, 1998 and thereafter to August 12, 1998 but the formal offer of exhibits is dated July 30, 1998, although it was received by the court only on August 18, 1998, without any exhibit attached thereto.

Section 34, Rule 132 of the Revised Rules on Evidence provides that the court shall consider no evidence which has not been formally offered. In Civil Cases Nos. 97-01545-D, 97-01963-D, 98-02306-D and 97-02012-D, respondent rendered judgment even before the evidence allegedly presented during the ex-parte proceedings were formally offered. Inasmuch as respondent required the plaintiff to present evidence, she should have waited for the formal offer of said evidence before rendering judgment.

Moreover, respondent admitted that she conducted the ex-parte presentation of evidence inside her chambers with only the plaintiff's representative and counsel present and without the attendance of any member of her staff; that she merely jotted down in a yellow pad the manifestations made by counsel and that she asked plaintiff's representative to show the documents in support of the complaint. Respondent did not testify that she marked the documents shown by plaintiff's representative, which probably explains why the documents attached to the formal offer of exhibits filed in some of the cases do not bear any marking.

Respondent apparently had forgotten that she was presiding in a court of record where the attendance of the court interpreter and stenographer in all proceedings is required. Under the Manual for Clerks of Court, the interpreter has the duty to attend all court hearings, administer oath to witnesses, mark all exhibits introduced in evidence, prepare and sign all minutes of session, maintain and keep in custody a record book of cases calendared for hearing; while the stenographer is charged with taking stenographic notes on all matters that transpire during court hearings and transcribing them. One can only surmise what transpired inside the chambers of respondent during the ex-parte presentation of evidence which she did not want her interpreter and stenographer to witness. Respondent argued that there was no need for a stenographer during the ex-parte presentation of evidence because there were only three or four statements made by counsel, which she jotted down in a yellow pad, and that her stenographers were demanding P500.00 for a single-paged transcript of stenographic notes. Respondent did not explain, however, why she did not ask her interpreter to attend the hearing for the purpose of administering oath to plaintiff's witness and marking the exhibits to be introduced in evidence. Consequently, the documents allegedly introduced in evidence in said proceeding were not marked. In *Contreras vs. Solis*, it was stressed that the duty of a judge is not only to administer justice but also to conduct himself in a manner that would avoid any suspicion of irregularity. He has the avowed duty of promoting confidence in the judicial system. Any act which would give the appearance of impropriety is in itself reprehensible. This is the price which must be paid by one who joins the judiciary. Such practice of respondent in conducting ex-parte presentation of evidence inside her chambers, without the attendance of her interpreter and stenographer, is not only improper but also gives rise to questions on her integrity.

3. Respondent tried to justify her charging the telephone calls made to her by her son, Jason, against the funds of the city government upon the allegation that said calls were official because her son was the one whom she

asked to inquire from the Supreme Court regarding her delayed checks, as well as with respect to her transactions with the SSS, GSIS and other government offices because she was in Dagupan City the whole week. A scrutiny of the telephone bills, however, shows that Jason made several calls to respondent, to wit:

June 16 and 19, 1998

August 18, 19 and 20, 1998

January 29, 1999

May 7, 15, 19 and 21, 1998; June 2, 1998 (3x)

February 23, 1998, March 3 (2x), 12, 19, 24, 1998, April 8, 21, 23, 28, 30, 1998 (not marked but part of Exhibit "Y")

July 10, 1998; July 29, 30, 31, 1998 (not marked but part of Exhibit "Z")

September 10, 1998; September 22, 1998 (not marked but part of Exhibit "AA")

February 3 and 17, 1999, February 24, 1999 and March 2, 1999 (not marked but part of Exhibit "BB")

It taxes one's credulity that respondent would have problems with the Supreme Court with respect to her checks and would likewise have transaction with the GSIS and SSS and other government agencies very often that necessitated frequent calls to her by her son just to report the response of said agencies to her queries. Moreover, respondent did not elaborate on the nature of her alleged transactions with the GSIS, SSS and other government agencies which she allegedly asked her son to inquire on her behalf. Respondent admitted that the City Auditor of Dagupan City issued notices of suspension regarding her telephone bills and she was required by the latter to submit details of the telephone calls. However, while respondent claimed that the City Auditor and City Accountant were apparently satisfied with her explanation that the telephone calls were official, she did not present copies of the explanation allegedly submitted by her.

It appears from the telephone bills produced by City Auditor Bonifacio Ico that respondent's son, Jason, used telephone number 8432083 in calling respondent at Branch 41 at telephone number 5225777. The telephone bills likewise show several telephone calls made by respondent, using telephone number 5225777, to telephone number 8432083, which she certified as official. Just what official matters did respondent discuss with the person on the other end of the line is beyond the comprehension of the undersigned.

With respect to the other vouchers produced by City Auditor Bonifacio Ico, referring to various office supplies and repair of typewriters and air conditioner, respondent admitted that she personally transacted with the supplier with respect thereto and she personally inspected the various office supplies delivered by the latter. There is no showing, however, that respondent inquired from her staff, particularly the Officer-in-Charge, as to what articles were needed by their office and the quantity thereof and if their typewriters needed repair. Respondent even allowed the supplier to deliver the office supplies after office hours so that she herself had to inspect the same, assisted by someone who was not even a member of her staff.

It should be noted that the Clerk of Court is the administrative officer of the court, subject to the control and supervision of the Presiding Judge and/or Executive judge (in case of multiple sala courts). Said officer has control and supervision over all court records, exhibits, documents, properties and supplies. As Supply Officer and Property Custodian, the Clerk of Court approves requisition and issue vouchers, as well as vouchers against funds appropriated by the provincial and city governments as aid to the court; allocates and distributes court properties and supplies; monitors the utilization and adequacy of court facilities and needed improvements and makes the corresponding representations to the local governments or the Supreme Court; and exercises control and supervision over the possession, custody and, safekeeping of court properties and supplies. The Branch Clerk of Court is considered as the extension of the Clerk of Court and performs some of the functions and duties of the Clerk Of Court but Only within his Branch, in the interest of the service and subject to the supervision and control

of the Presiding Judge. The acts of respondent in personally transacting with the supplier, without referring the matter to the Clerk of Court and without apparently inquiring from her Officer-in-Charge, in the absence of a Branch Clerk of Court, whether their typewriters needed cleaning and repair and what articles were needed by their office; and in signing the vouchers and personally supervising the delivery of the supplies after office hours and inspecting the same, being contrary to established practice, only show respondent's personal interest in said transactions. Said acts of respondent are reprehensible as they cheapened her noble office, as well as the entire judiciary in the eyes of the public, and somehow lend credence to complainants' allegations that no such cleaning and repair were made on their typewriters and that the supplies did not reach their office.

Respondent admitted that she never attended the flag ceremony on Monday morning at the Hall of justice because the trip to Dagupan City from Pasay City where she resides, takes about six (6) to seven (7) hours, although she would be at the bus station as early as 3:30 in the morning, and that she would leave the office on Fridays at 3:00 o'clock in the afternoon (Respondent's Memorandum, p. 13). As held in *Medina vs. De Guia*:

"We can empathize with Judge De Guia's urge to be with her family in their home in Parañaque which is quite some distance from her detail in Balanga, Bataan. Yet we must remind her and all judges in the same situation that when one accepts his or her appointment as a member of the judiciary, he or she embraces all the responsibilities attached to that office. One of these responsibilities is to render eight (8) hours of service every working day, five (5) hours of which are devoted to trial. As a judge and also as a public officer duty-bound to render public service, nothing less is expected to Judge De Guia. Indeed, Canon 5 of the Code of Judicial Conduct explicitly states that "[a] judge should regulate extra-judicial activities to minimize the risk of conflict with judicial duties.

We quote from *In Re: Echiverri* (67 SCRA 467[1975]):

'Judges are duty bound to comply with the above [service requirement] to insure the maximum efficiency of the trial courts for a speedy administration of justice. Daily trials at a minimum of five hours per working day of the week will enable the judge to calendar as many cases as possible and to dispose with regular dispatch the increasing number of litigations pending with the court. All other matters needing the attention of the judge are to be attended to outside of this five-hour schedule of trial."

Respondent likewise admitted that in 1992-1993, she taught at the University of Pangasinan; that she has been teaching at the University of the East since 1995 up to the present and that it was only in 1997 that she requested permission from the Office of the Court Administrator to teach for the school year 1997-1998. Respondent's teaching load at the University of the East, as per Certification issued by Dean Carlos M. Ortega, is as follows:

Friday Saturday

1st Sem. SY 1998-199

Criminal Law Rev. 410 IV-A-1 7:00-9:00 5:00-8:00

"....."..... " 410 IV-B-1 12:00-5:00

2nd Sem. SY 1998-199

Criminal Law Rev. 410 IV-A-1 6:00-9:00 5:00-7:00

"....."....." 410 IV-B-1 12:00-5:00

1st Sem. SY 1999-2000

Criminal Law Rev. 410 IV-A-1 7:00-9:00 5:00-8:00

"....."..... " 410 IV-B-1 12:00-5:00

However, respondent claimed that she never attended her Friday evening classes and she conducted make-up classes on Saturdays.

In view of her Friday evening class schedule, respondent must have realized that the Office of the Court Administrator would not give her permission to teach, so that she did not bother to secure such permission for the school year 1998-1999 and the first semester of 1999, because to be able to attend said classes, she would have to leave her court in Dagupan City on Friday morning. Granting that respondent did not attend her Friday evening classes and that she held make-up classes on Saturdays, such conduct of respondent must have certainly caused inconvenience to her students who enrolled in the Friday evening, classes, only to find out that their professor had no intention of holding classes as scheduled, and that they would instead be made to attend make-up classes on Saturdays, thereby disrupting their schedules. While said conduct is not related to the performance of her duties as a member of the bench, respondent should bear in mind that one who occupies a position of such grave responsibility in the administration of justice must conduct herself in a manner befitting the dignity of such exalted office. A judge's private, as well as official conduct, must at all times be free from all appearances of impropriety and be beyond reproach. Respondent should have advised Dean Carlos M. Ortega not to schedule her classes on Friday evening because she would not be able to attend the same.

Respondent insists that complainants have an axe to grind against her because she was strict with them and she reprimanded them for their incompetence and inefficiency, especially Gloria Ydia because of her illicit and immoral relations with Judge Deodoro Sison of ranch 40. It is, indeed, the duty of respondent to exercise close Supervision over her court personnel. Judges must not only be fully cognizant of the state of their dockets but must also keep a watchful eye on the level of performance and conduct of the court personnel under their immediate supervision who are primarily employed to aid in the administration of justice.

However, the undersigned does not believe that complainants were motivated by ill-will against respondent for being strict with them and for disciplining them. Thus, Ever Mejia explained that she wants respondent to be removed from Branch 41, not because the latter was strict and had reprimanded her, but because she cannot stand respondent's practices, she pities the litigants who cannot obtain justice and she wants to help cleanse the judiciary. Besides, complainants cannot be sure that if respondent is removed from their Branch, the latter's replacement will not be as strict with them. In the case of Gloria Ydia, she had the courage to testify against respondent despite her awareness that the latter was imputing immoral, illegal and corrupt practices against her, as detailed in the Answer. In fact, respondent subsequently filed an administrative case against Gloria Ydia and Judge Deodoro Sison for grave misconduct and immorality.

Settled is the rule that in administrative proceedings, mere preponderance of evidence suffices to establish the charges against a judge. As thus shown by the evidence, respondent has failed to measure up to the exacting standards of conduct and integrity expected of members of the judiciary, as embodied in the following provisions of the Code of Judicial Conduct:

"CANON 2

A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES.

Rule 2.01. - A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary."

As held in office of the Court Administrator vs. Barron:

"Respondent judge tainted the image of the Judiciary to which he owes fealty and the obligation to keep it at all times unsullied and, worthy 'of the people's trust. There is no place in the Judiciary for those who cannot meet the exacting standards of judicial conduct and integrity. Respondent judge does not deserve to remain in the Judiciary and should accordingly be removed from the service."

On the basis of the foregoing findings, the Investigating Justice made the following recommendation:

WHEREFORE, it is respectfully recommended that respondent judge Erna Falloran-Aliposa be DISMISSED from the service, with forfeiture of all retirement benefits and privileges and with prejudice to re-employment in any branch of the government, including government owned and controlled corporations."

The Court fully agrees with Justice Buzon in her Report and thus adopts her recommendations. This Court "[h]as repeatedly stressed that a judge is the visible representation of the law and the embodiment of the people's sense of justice and that, accordingly, he should constantly keep away from any act of impropriety,[5] not only in the performance of his official duties but also his everyday actuations.[6] No other position exacts a greater demand on moral righteousness and uprightness of an individual than perhaps a seat in the judiciary.[7] A judge must be the first to abide by the law and to weave an example for the others to follow." [8] A judge should always be a symbol of rectitude and propriety, comporting himself in a manner that will raise no doubt whatsoever about his honesty.[9] As more emphatically stated in *Atty. Lauro Gacayan, et al. v. Hon. Fernando Vil Pamintuan*: [10]

...the Court pointed out in *Dawa v. De Asa* [11] that the (p)eople's confidence in the judicial system is founded not only on the magnitude of legal knowledge and diligence of the members of the bench, but also on the highest standard of integrity and moral uprightness they are expected to possess.[12] It is towards this sacrosanct goal of ensuring the people's faith and confidence in the judiciary that the Code of Judicial Conduct mandates the following:

'CANON 2 -- A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES.

RULE 2.01. - A judge should so behave at all times to promote public confidence in the integrity and impartiality of the judiciary.

CANON 3 - A JUDGE SHOULD PERFORM OFFICIAL DUTIES HONESTLY, AND WITH IMPARTIALITY AND DILIGENCE.

RULE 3.01 - A judge shall be faithful to the law and maintain professional competence.

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The Canons of Judicial Ethics further provides that: '[A] judge's official conduct should be free from the appearance of impropriety, and his personal behavior, not only upon the bench and in the performance of judicial duties, but also his everyday life should be beyond reproach.' Thus, the Court in taking the respondent to task in *Sarah .B. Vedana v. Judge Eudarlo B. Valencia*, [13] minced no words when it said:

...his being a public official, holding a position in the Judiciary specifically entrusted with the sacred duty of administering justice, breached Canon 2 of the Code of Judicial conduct and Canon 3 of the Canons of Judicial Ethics which mandate respectively, that 'a judge should avoid impropriety in all activities', and that 'a judge's official conduct should be free from the appearance of impropriety, and his personal behavior, not only upon the bench and in the performance of judicial duties, but also in everyday life, should be beyond reproach.' These most exacting standards of decorum are demanded from the magistrates if only, in the language of Rule 2.01 of Canon 2 of the code of Judicial conduct, to 'promote public confidence in the integrity and impartiality of the judiciary.'

The spirit and philosophy underlying these Canons is best expressed in *Castillo v. Calanog* [14] thus:

The Code of Judicial Ethics mandates that the conduct of a judge must be free of even a whiff of impropriety not only with respect to 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. As we have very recently explained, 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 judicial integrity and exemplify honest public service. The personal behavior of a judge, both in the performance of official duties and in private life should be above suspicion.[15]

Verily, no position is more demanding as regards moral righteousness and uprightness of any individual than a seat with on the Bench. Within the hierarchy of courts, trial courts stand as an important and visible symbol of government, especially considering that as opposed to appellate courts, trial judges are those directly in contact with the parties, their counsel and the communities in which the Judiciary is bound to serve. 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 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.[16] In insulating the Bench from the unwarranted criticism, thus preserving our democratic way of life, it is essential that judges, like Caesar's wife, should be above suspicion.

This admonition applies with even more stringence to municipal, metropolitan and regional trial court judges, like herein respondent, because they are judicial front-liners who have direct contact with the litigating parties.[17] They are the intermediaries between conflicting interests and the embodiment of the people's sense of justice.[18] Verily –

The courts exist to promote justice;[19] accordingly, the judge's official conduct should be free from the appearance of impropriety, and his personal behavior, not only upon the bench and in the performance of his official duties, but also in his everyday life, should be beyond reproach.[20] He is the visible representation of the law and, more importantly, of justice.[21] He should administer his office with due regard to the integrity of the system of the law itself, remembering that he is not a depository [of] power, but a judge under the sanction of Law.[22]

All those who don the judicial robe must always instill in their minds that exhortation that "[T]he administration of justice is a mission. Judges, from the lowest to the highest levels are the gems in the vast government bureaucracy, beacon lights looked upon as the embodiments of all what is right, just and proper, the ultimate weapons against injustice and oppression. The Judiciary hemorrhages every time a Judge himself transgresses the very law he is sworn to uphold and defend at all costs. This should not come to pass." [23]

The evidence before us is a sad testament to respondent's utter disregard of such a mission as well as an appalling demonstration of gross abuse and misuse of judicial prerogatives. Restating what has been said earlier, a member of the Judiciary is commanded by law to exhibit the highest degree of moral certitude and is bound by the highest standards of honesty and integrity. Life, liberty, and property are defined and molded as judges perform their sworn tasks to uphold the law and to administer justice. There is no place in the Judiciary for those who can not meet the exacting standards of judicial conduct and integrity.[24] This court has been watchful of dishonest judges and will not withhold penalty when called for to uphold the people's faith in the Judiciary.[25]

WHEREFORE, based on the foregoing, respondent judge Erna Falloran-Aliposa is DISMISSED from the service with forfeiture of all retirement benefits and leave credits with prejudice to re-employment in any government

agency or instrumentality. Immediately upon service upon her of this decision, she is deemed to have vacated her office and her authority to act to as judge is considered automatically terminated.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.

Pardo, J., on official leave.

[1] Rollo, p. 7.

[2] Ibid., pp. 9-43, passim.

[3] Ibid., p. 44.

[4] Id., p. 46.

[5] Marces, Sr. v. Arcangel, 258 SCRA 502 (1996)

[6] Panganiban v. Guerrero, Jr., 242 SCRA 11 (1995)

[7] Legaspi v. Garrete, 242 SCRA 679 (1995)

[8] Lao v. Abelita III, 295 SCRA 267 (1998), citing Moreno v. Bernabe, 246 SCRA 120 (1995)

[9] Office of the Court Administrator (OCA) v. Barron, 297 SCRA 376 (1998), citing Yuson v. Noel, 227 SCRA 1 (1993)

[10] A.M. No. RTJ-99-1483, 17 September 1999, pp. 15-17.

[11] 292 SCRA 703 (1998)

[12] Talens-Dabon v. Arceo, 259 SCRA 354 (1996)

[13] 295 SCRA 1 (1998)

[14] 199 SCRA 75 (1991)

[15] See also Junio v. Rivera, Jr., 225 SCRA 688 (1993); Imbing v. Tiongson, 229 SCRA 690 (1994)

[16] Jugueta v. Bocaros, 60 SCRA 27 (1974); dia-Anonuevo v. Bercacio, 66 SCRA 81 (1975); Association of court employees of Panabo, Davao v. tupas, 175 SCRA 292 (1989); National Intelligence and Security Agency v. Tablang, 199 SCRA 766 (1991); Imbing v. Tiongson, supra.

[17] Dawa v. De Asa, supra.

[18] Marces, Sr. v. Arcangel, supra.

[19] Canon 2, Canons of Judicial Ethics.

[20] Canon 3, Canons of Judicial Ethics.

[21] Office of the Court Administrator v. Gines, 224 SCRA 262 (1993); Inciong v. De Guia, 154 SCRA 93 (1987); De la Paz v. Inutan, 64 SCRA 540 (1975)

[22] Abundo v. Judge Gegerio E. Manio, Jr., A.M. No. RTJ-98-1416, 6 August 1999, p. 22, citing Canon 18, Canons of Judicial Ethics and Guillen v. Nicolas, 299 SCRA 623 (1998)

[23] Lao v. Abellita III, supra, p. 294.

[24] Martinez v. Judge Cesar N. Zoleta, A.M. No. MTJ-94-904, 29 September 1999, p. 17, citing Borja v. Bercacio, 74 SCRA 355 (1976)

[25] Jabao v. Judge Melchor E. Bonilla, A.M. Nos. MTJ-94-923 and 95-11-125, 10 September 1999, pp. 12-13, citing Sadik v. Casar, 266 SCRA 1 (1997); Ortigas & Co. v. Velasco, 277 SCRA 342 (1997)

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