PC/INSP. MARCELO B. DAYAG, COMPLAINANT, VS. JUDGE TEODORA R. GONZALES, JUDGE HERMINIO Z. CANLAS,[] AND ATTY. ARACELI S. CRISOSTOMO, RESPONDENTS.

A.M. NO. RTJ-05-1903 (FORMERLY OCA IPI NO. 04-2022-RTJ). June 27, 2006

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

The instant administrative matter refers to the charges filed by PC/Insp. Marcelo B. Dayag against Judge Herminio Z. Canlas, Branch 54, Regional Trial Court (RTC), Macabebe, Pampanga; Judge Teodora R. Gonzales, Municipal Circuit Trial Court (MCTC), Apalit-San Simon, Pampanga; and Atty. Araceli S. Crisostomo, Clerk of Court, Branch 54, RTC, Macabebe, Pampanga, for undue delay in rendering resolution, violation of the Code of Judicial Conduct, gross ignorance of the law, and incompetence. The specific charges[1] as contained in the Complaint[2] dated May 31, 2004 are as follows:

> 1] Hon. Herminio Z. Canlas is charged with having left the office at 4:00 o'clock in the afternoon of May 13, 2004, thus, causing prejudice to the criminal complaint for sedition filed by the complainant herein which is a Violation of the Code of Judicial Conduct;
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> 2] Hon. Teodora R. Gonzales is charged with (a) being out of the office from December 10 to 17, 2004, which is also a Violation of the Code of Judicial Conduct, and (b) with not immediately resolving a matter before her which constitutes Undue Delay in Rendering Resolution, Violation of the Code of Judicial Conduct, Gross Ignorance of the Law and Incompetence; and
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> 3] Atty. Araceli S. Crisostomo is charged with not accepting the sedition complaint then being filed by the complainant which constitutes Gross Ignorance of the Law and Incompetence.[3]

The antecedents are summarized in the Report[4] of the Office of the Court Administrator (OCA) dated November 26, 2004, to wit:

> Complainant, who is the Chief of Police and Station Commander of Apalit, Pampanga, alleges that after the conduct of the 10 May 2004 election, a crowd of persons gathered in front of the municipal building of Apalit awaiting the start of the canvassing. When the ballot boxes from various precincts started to arrive, the crowd became unruly. Employees and other persons going to and from the municipal building were being jeered, heckled and accosted by members of the crowd. The incumbent mayor was advised to leave the building through the back door.
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> Then, a man with a sledgehammer started banging the aluminum frame and glass door of the main entrance. Several persons including two (2) candidates for Mayor and the incumbent vice-mayor entered the building and proceeded to the Office of the Mayor where they forced open the doors, broke glasses, threw out all the frame pictures hanging on the wall and announced that the incumbent vice-mayor, Alex Manlapaz, was taking over as Municipal Mayor.
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> Meanwhile, several ballot boxes were forcibly taken by three (3) or four (4) persons but fortunately they were

recovered by some policemen. Canvassing of votes had to be transferred to the Provincial PNP Command at Camp Olivas, San Fernando, Pampanga.

It was only in the late morning of 12 May 2004 that the whole unruly crowd was dispersed by the arrival of the elements of the provincial command of the PNP. Thereafter, complainant ordered the gathering of evidence and preparation of the necessary documents for the filing of the appropriate complaints.

Complainant states that from 10 May 2004 until 14 May 2004, the MCTC of Apalit-San Simon, Pampanga was closed. On 13 May 2004, not even the prosecutor was present, hence, complainant, as well as the incumbent mayor and other witnesses, proceeded to RTC of Macabebe to file a complaint for sedition. However, both RTC judges of Macabebe were absent and only respondent Crisostomo, the Clerk of Court, was present.

Respondent Crisostomo refused to receive the criminal complaint allegedly upon instruction of the Executive Judge since the case is cognizable by the MCTC. Complainant pointed out to respondent Crisostomo that it was a matter of extreme urgency that the case be filed. Considering that MCTC Apalit is closed, the Executive Judge should assign the case to a judge from the nearest municipality within the same judicial region as mandated by the rules. Still respondent Crisostomo refused to accept the complaint.

Complainant avers that respondent Judges were remiss in their duty to hold office during working days and thus violated OCA Circular No. 62-2004 x x x [and] [o]ther similar issuances which directs judges to report to their respective courts on the day of the election to be able to act on and resolve all election matters within their jurisdiction with caution and dispatch.

Respondent Judge Gonzales eventually reported for work on 17 May 2004 and the complaint for sedition was filed on the following day. Instead of conducting an Investigation, respondent Judge Gonzales curtly told complainant and the incumbent mayor to wait for her call since she had to first study the case.

It was only in the afternoon of 20 May 2004 that respondent Judge Gonzales conducted a hearing on the case. Despite complainant's request to expedite the investigation due to the prevailing tension in the municipality and the threat against the life of the incumbent mayor, respondent Judge Gonzales reset the investigation for continuation on the following day. However, no further hearing was conducted until 27 May 2004 when the case was set for preliminary investigation. Complainant claims that until the date of the filing of the instant administrative complaint, respondent Judge Gonzales has yet to take further action on the case.

Complainant concedes that the action of respondent Judge Gonzales is still within the period imposed in Sec. 9 (b), Rule 112 of the Rules of Court; however, she committed grave abuse of authority for ignoring the urgency of the matter. Moreover, they were informed that several of the accused in the case are relatives of some of the personnel of MCTC. Complainant expressed bewilderment over respondent Judge Gonzales' continued inaction and failure to find probable cause despite the very clear circumstances stated in the complaint.[5]

In a Resolution[6] dated February 9, 2005, the Court resolved to re-docket the instant administrative matter and refer the case to Court of Appeals Associate Justice Jose Catral Mendoza for investigation, report and recommendation. Hearings were conducted on April 27, May 4, 11, and 18, 2005.

Respondents' arguments, as contained in their pleadings and testimonies, were summarized by the Investigating Justice as follows:

A] Judge Herminio Z. Canlas x x x denied the charges against him explaining that he was present in court on May 13, 2004 although up to 4:00 o'clock only but for a good reason. He thus averred that:

- In the morning, he presided over twenty [four] (24) cases listed in the court calendar for that day including a promulgation of a criminal case decision (Exhs. 5, 5-A and 5-B-Canlas).

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- At 1:30 [p.m.], he attended the raffle of an election case, entitled "Kenneth Davit v. Pedro Enriquez," docketed as Case No. 04-014 (M) as evidenced by a certification issued by the Clerk of Court (Exh. 4-Canlas).

- He left the court at about 4:00 x x x p.m. to go to the office of a lawyer-friend in the City of San Fernando, Pampanga to read the full text of a Supreme Court decision, Ong v. Court of Appeals, 333 SCRA 180, which volume was not then available in the library of the trial court.

Judge Canlas further agrees with the decision of respondent Atty. Crisostomo not to accept the complaint considering that the RTC in Macabebe did not have the authority to receive the criminal complaint much less to conduct an investigation on the matter. The case should have been filed with the MCTC of Apalit-San Simon or with the Office of the Provincial Prosecutor of Pampanga.

Finally, he asserts that the instant administrative complaint was filed solely for harassment purposes, as the complaint did not allege even a single act committed by him that would support any of the charges against him.

B] Hon. Teodora R. Gonzales x x x denied that she was remiss in her duties. She explained that her not being physically present on certain days was brought about by the tumultuous circumstances then obtaining. She further contended that:

- She resolved the complaint for sedition within the ten-day period prescribed in Section 3 of Rule 112, New Rules of Criminal Procedure.

- The evidence of both parties show that the prevailing situation then made the court inaccessible and unavailable to her, her employees and to the public in general.

- The decision of whether or not to issue a warrant of arrest is a matter of discretion and in the absence of fraud, dishonesty or corruption, her judgment does not amount to any misconduct. It was her view that, after conducting the required searching questions on the complainant and his witnesses, there was no need to issue a warrant of arrest against the respondents in the sedition case.

- The administrative case was filed against her to harass her because she failed to accommodate the wishes of one candidate and his supporters.

C] Atty. Araceli S. Crisostomo x x x likewise denied the charges in the complaint as she did not violate any law or administrative circular. In fact, she acted according to the then prevailing rule on jurisdiction. Thus, she argued that:

- Clerks of court have discretion not to receive a pleading if they have legal or administrative bases. In the case of the sedition complaint, she refused to receive it because the [RTC] had no jurisdiction over the case. Under Sec. 1, Rule 110 of the 2000 Revised Rules of Criminal Procedure, actions for offenses where a preliminary investigation is required are instituted by filing the complaint with the proper officer for the purpose of conducting the requisite preliminary investigation. Under the law, municipal trial judges or provincial, city and state prosecutors are the persons authorized to conduct a preliminary investigation in accordance with Sections 1 and 2 of Rule 112. In this case, the complaint for sedition falls within the exclusive jurisdiction of the MCTC of Apalit-San Simon, Pampanga, or the Office of the Provincial Prosecutor. In fact, she advised the complainant to refer the matter to the Office of the Provincial Prosecutor.

- She properly declined the reception of the Complaint for Sedition pursuant to Administrative Order No. 134-92, as amended by Administrative Order No. 19-97.

- She did not violate A.O. No. 134-92, as amended by A.O. No. 19-97, explaining that the complainant failed to present a referral and a certification from the MCTC of Apalit, Pampanga that the station was vacant or that the presiding judge thereon was absent or disabled and that no acting judge had been designated as required in the aforesaid Administrative Order.

> - Moreover, OCA Circular No. 62-2004 pertains to additional duties of all Executive Judges of RTC, MeTC, MTCC, Judges and Clerks of Courts of single sala MeTC[,] and MTCC and Judges and Clerks of Court of MTC and MCTC on Election Day, 10 May 2004, whereas the alleged inaction complained of happened on May 13, 2004.
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> - She committed none of the grounds enumerated in Sec. 46 (b), Chapter 1, Subtitle A, Title 1, Book V of E.O. No. 292, as the complainant failed to substantiate his charges for violation thereof. The elements of dereliction of duty under Art. 208 in relation to Art. 203 of the Revised Penal Code are wanting as it covers only persons duty bound to prosecute or to move for the prosecution of the violation of the law. In addition, the complainant failed to prove malice on her part.
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> - The complaint was filed against her to harass her because of her refusal to give in to the demands of the legal advisers of a mayoralty candidate.[7]

In his Report submitted on January 23, 2006, Justice Mendoza recommended the dismissal of the complaint.

According to the Investigating Justice, while respondent Judge Canlas admitted leaving the office before 5:00 p.m. on December 13, 2004, he found the purpose therefore acceptable, made as it was "in the interest of the service." Thus, it cannot be said that respondent deliberately and maliciously violated Circular No. 63-2001 (which mandates that all courts should observe the prescribed office hours).

Respondent Judge Gonzales, for her part, was able to satisfactorily explain why she was not physically present in her court on December 10, 12, 13 and 14, 2004. She and her witnesses testified that they could not hold office in the courtroom due to the unruly crowd that was surrounding and ransacking the municipal building. Her staff stayed in the nearby nipa hut and inside the post office which were both within the municipal government compound, while respondent Judge remained in her house, which was just 15 minutes away, and accessible by phone in case of an emergency. The complaint for sedition was likewise resolved within the period of ten days as required under Section 3, Rule 112 of the New Rules of Criminal Procedure. According to the Investigating Justice, no fraud, dishonesty or corruption tainted her decision, and there was really no immediate need for a warrant of arrest. In the afternoon of December 12, 2004, the unruly crowd was dispersed by the 50-man augmentation force from the PNP Provincial Headquarters based in San Fernando, Pampanga.

The Investigating Justice likewise did not find any fault in Atty. Crisostomo's decision not to receive the complaint for sedition, noting that the offense is penalized by imprisonment of prision mayor in its minimum period, an offense which requires preliminary investigation under Section 1, Rule 112 of the Revised Rules of Criminal Procedure. Section 1 of Rule 110 in turn provides that in offenses where preliminary investigation is required, criminal actions are instituted by filing the complaint with the proper officer for the purpose of conducting the requisite preliminary investigation. Considering that RTC judges are not one of those authorized to conduct such investigation, the RTC-Office of the Clerk of Court has no power or mandate to receive said criminal complaint for sedition. Since only first-level courts in the provinces have such authority, Atty. Crisostomo was correct in refusing to receive the criminal complaint filed by the complainant. The Investigating Justice noted that respondent Atty. Crisostomo even advised complainant to refer the matter to the Office of the Provincial Prosecutor, which he did not do.

Complainant's contention that since the MCTC Apalit-San Simon was closed, the RTC should have received the complaint and the Executive Judge should have assigned the case to a judge from the nearest municipality within the same judicial region is a misplaced interpretation of Administrative Order (A.O.) No. 134-92, as amended by A.O. No. 19-97, since the said administrative order covers the pairing system in single sala courts.

The Investigating Justice concluded that the complaint against respondents appears to be politically motivated, as

even complainant admitted that he did not understand all the contents of the complaint because it was the legal advisers of the candidate-municipal mayor who prepared it.[8] Complainant also admitted that the crowd was already committing acts of sedition in his presence, and should have arrested them even without a warrant. He did not do so, however, because they had adopted a policy of maximum tolerance.[9] According to the Investigating Justice, this bolsters the suspicion that the complaint was instituted for no other purpose than to harass respondents. Complainant also admitted that the RTC has no authority to conduct a preliminary investigation, and that he filed the complaint so that a warrant of arrest could be issued,[10] which, however, given the circumstances, was no longer necessary.

The Court fully agrees with the findings and recommendation of the Investigating Justice.

It is settled that the burden of substantiating the charges in an administrative proceeding against court employees falls on complainant,[11] who must be able to prove the allegations in the complaint with substantial evidence. In the absence of evidence to the contrary, the presumption that respondent regularly performed his or her duties will prevail.[12] Moreover, in the absence of cogent proof, bare allegations of misconduct cannot prevail over the presumption of regularity in the performance of official functions.[13] In fact, administrative complaints leveled against judges must always be examined with a discriminating eye, for its consequential effects are, by their nature, highly penal, such that respondents stand to face the sanction of dismissal and/or disbarment.[14] The Court cannot give credence to charges based on mere suspicion and speculation.[15]

As champion – at other times tormentor – of trial and appellate judges, this Court must be unrelenting in weeding the Judiciary of unscrupulous judges, but it must also be quick in dismissing administrative complaints which serve no other purpose than to harass them.[16] Thus, while it is our duty to investigate and determine the truth behind every matter in complaints against judges and other court personnel, it is also our duty to see to it that they are protected and exonerated from baseless administrative charges. The Court will not shirk from its responsibility of imposing discipline upon its magistrates, but neither will it hesitate to shield them from unfounded suits that serve to disrupt rather than promote the orderly administration of justice.[17]

Complainant ought to be reminded that the Court has recognized "the proliferation of unfounded or malicious administrative or criminal cases against members of the Judiciary for purposes of harassment," and issued A.M. No. 03-10-01-SC[18] which took effect on November 3, 2003. It reads in part:

> - If upon an informal preliminary inquiry by the Office of the Court Administrator, an administrative complaint against any Justice of the Court of Appeals or Sandiganbayan or any Judge of the lower courts filed in connection with a case in court is shown to be clearly unfounded and baseless and intended to harass the respondent, such a finding should be included in the report and recommendation of the Office of the Court Administrator. If the recommendation is approved or affirmed by the Court, the complainant may be required to show cause why he should not be held in contempt of court. If the complainant is a lawyer, he may further be required to show cause why he or she should not be administratively sanctioned as a member of the Bar and as an officer of the court.

WHEREFORE, the charges against Judges Teodora R. Gonzales, Herminio Z. Canlas, and Atty. Araceli S. Crisostomo are DISMISSED for lack of merit.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez, and Chico-Nazario, JJ., concur.

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[*] Now retired.

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[1] Judge Ma. Josephine Rosario-Mercado, Branch 55, RTC, Macabebe, Pampanga, was initially included as a respondent. The charges against her were dismissed in the Court's Resolution dated February 9, 2005 for "utter lack of merit" (rollo, pp. 115-118).

[2] Rollo, pp. 1-9.

[3] Report of Investigating Justice Jose Catral Mendoza, pp. 1-2.

[4] Rollo, pp. 106-114.

[5] Id. at 106-108.

[6] Id. at 119.

[7] Report of Investigating Justice Jose Catral Mendoza, pp. 5-7.

[8] TSN, May 4, 2005, p. 95.

[9] Id. at 28.

[10] TSN, April 27, 2005, pp. 95-96.

[11] Cortes v. Agcaoili, 355 Phil. 848, 880 (1998), citing Lachica v. Flordeliza, 254 SCRA 278, 284 (1996).

[12] Sierra v. Tiamson, A.M. No. RTJ-04-1847, July 21, 2004, 434 SCRA 560, 563.

[13] Sayson v. Luna, A.M. No. P-04-1829, July 7, 2004, 433 SCRA 502, 505.

[14] Dadizon v. Asis, A.M. No. RTJ-03-1760, January 15, 2004, 419 SCRA 456, 463.

[15] Araos v. Luna-Pison, 428 Phil. 290, 298 (2002).

[16] Tan Tiac Chiong v. Cosico, 434 Phil. 753, 764 (2002).

[17] Montes v. Mallare, A.M. No. MTJ-04-1528, February 6, 2004, 422 SCRA 309, 316.

[18] Entitled "Resolution Prescribing Measures To Protect Members Of The Judiciary From Baseless And Unfounded Administrative Complaints."

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