JUAN DE LA CRUZ (CONCERNED CITIZEN OF LEGAZPI CITY), COMPLAINANT, VS. JUDGE RUBEN B. CARRETAS, PRESIDING JUDGE, REGIONAL TRIAL COURT OF LEGAZPI CITY, BRANCH 9, RESPONDENT.

A.M. No. RTJ-07-2043. September 05, 2007

Ponente: CORONA, J.

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CORONA, J.:

This administrative case stems from an anonymous complaint by "Juan de la Cruz," a concerned citizen of Legazpi City, against respondent Judge Ruben B. Carretas, presiding judge of the Regional Trial Court (RTC) of Legazpi City, Branch 9. The letter- complaint[1] read:

> The Honorable Justices of the Supreme Court and The Honorable Court Administrator Supreme Court, Manila
> Sir and Madam,
>
> Kami po ay sumulat sa inyo dahil po sa reklamo sa masamang ugali at asal ni Judge Ruben Car[r]etas ng RTC, Branch 9, Legazpi City.
>
> Siya po ay isang mayabang na Judge at mahilig mang insulto sa pamamagitan ng side comments sa mga testigo, abogado at fiscal, parang siya na lang ang may alam sa batas. Bilang Judge siya na po ang nagdirect, at cross-examine sa mga testigo.
>
> Dahil sa kanyang ginagawa napapahiya ang mga testigo, abogado at fiscal sa harap ng publiko. Nawawala din po ang respeto ng publiko sa justice system.
>
> Kami po ay umaasa at nanalangin sa madaliang aksyon ng inyong opisina para malutas ang problemang ito.
>
> Salamat at mabuhay po kayong lahat.
>
> Ang gumagalang,
>
> (Sgd. Juan de la Cruz)
>
> Concern[ed] citizen of Legazpi [City]

In his comment,[2] respondent judge surmised that the complaint was initiated by a lawyer whose petition for declaration of nullity of marriage was not granted. He denied the accusation and claimed that he had not insulted anyone. He then narrated that, in his first few months in office, he experienced the following exasperating and somewhat amusing incidents: a lawyer insisting on further examining a witness he had already subjected to re-cross examination; a prosecutor proceeding with the presentation of evidence when the accused had not yet been arraigned; a lawyer appearing for an absent counsel de parte and manifesting that he was appearing "in corroboration" with the latter; lawyers appearing without observing the proper dress code; a lawyer offering the testimony of his witness "to collaborate" the testimony of another witness; a lawyer manifesting that he was ready

for trial but turning out to be unprepared with his documentary evidence, prompting the court to call a recess; a case for unjust vexation committed against a minor being raffled to his sala when the records showed that the victim was waylaid, boxed and dragged to a forested area where the accused touched her private part and mashed her breasts; a case being filed for kidnapping and serious illegal detention only despite the fact that the girl was raped while in captivity. Respondent judge stated that he never encountered these mistakes "in all his years of law practice in Manila." Thus, he was shocked because he thought that these things "happened only in anecdotes."

Respondent judge observed that due to their familiarity with each other, lawyers appearing in his sala hardly objected even to obviously objectionable questions. In such instances, he called the attention of counsels because, to his mind, they were making a "moro-moro"[3] out of the proceedings.

Respondent judge also stated that, while he may have used harsh word sometimes, they were made out of exasperation and with the intention merely to right the wrong committed in his presence, not to insult anyone. Nonetheless, he apologized to those who may have been offended by his remarks.

In connection with the complaint, Judge Romeo S. Dañas, executive judge of the RTC of Legazpi City, conducted a discreet investigation.[4] He interviewed lawyers who appeared in the sala of respondent judge. He requested them to submit their respective written comments on the decorum of respondent judge when holding trial. Among these comments were the following:

- Atty. Mariano B. Baranda, Jr.

Respondent judge should avoid making embarrassing, insulting and abrasive remarks. He should also limit himself to asking clarificatory questions.[5]

- Atty. Expedito P. Nebres

If not in open court respondent judge is kind, courteous and respectful. However, in open court he is arrogant and boastful. He has a bad habit in making embarrassing or insulting remarks when presiding over cases. Most of the time, he was the one conducting direct and cross-examination of witnesses. He used to scold, harass and embarrass witnesses, litigants, lawyers, prosecutors and PAO[6] lawyers for just a slight mistake in procedure.[7]

- Atty. Alexis C. Albao

In the course of presentation of evidence for his client, he was insulted and subjected to sarcastic remarks by respondent judge, not once but for several occasions. This traumatized him and made him avoid reading the transcript of stenographic notes of the said hearing until now. In one occasion, respondent judge proceeded to cut short the proceedings. When he manifested that he would cross-examine the defendant, respondent judge stood from his seat and in a sarcastic manner looked backward manifesting that he was not interested or not listening to the cross-examination. Thus, he was discouraged from proceeding with his cross-examination. Most of the time, respondent judge would unduly intervene in the presentation of evidence and asked more questions than counsel. Respondent judge showed apathy to those who were subjected to his insults. He insisted that others submit to his way of doing things. He showed inflexibility to minor mistakes.[8]

- Atty. Ricardo V. de Jesus

While he was in the process of conducting direct examination, respondent judge instructed him to ask questions which respondent judge thought to be material. When he was through with his direct examination, respondent judge asked him in open court how long he had been in private practice. He replied that he had been practicing for only a period of one and a half (1½) years. Respondent judge then told him to prepare supposed direct questions and expected answers. He felt embarrassed.[9]

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On October 6, 2005, the members of the Provincial Prosecution Office of Albay held a meeting to discuss the matter of assigning a public prosecutor to the sala of respondent judge. During the meeting, the prosecutors raised their concern about the behavior of respondent judge. Provincial prosecutor Benigno L. Tolosa furnished Judge Dañas with a copy of the minutes of the meeting.[10] The relevant portions of the minutes[11] were:

> II. DISCUSSION
>
> - The Provincial Prosecutor informed the group about the purpose of the meeting. He said that the prosecutor assigned in RTC Branch 9, Prosecutor Maria Miranda-Gojar will soon be transferring to the Office of the Regional State Prosecutor. He asked suggestions from the group on how to go about the matter of assigning a prosecutor in Branch 9 considering that all prosecutors have their own court assignment and considering further that the Presiding Judge of said Branch has a behavioral and attitudinal problem.
>
> - Considering that the matter to be discussed involves the problem with the Presiding Judge, the Provincial Prosecutor requested those prosecutors [present] to share their experiences in the court with the Presiding Judge.
>
> - Prosecutor [Eduardo B.] Quinzon remarked that the judge has a sudden burst of temper and wild moods, insulting and humiliating lawyers in front of their clients even in the presence of other people.
>
> - Prosecutor Gojar added that the Presiding Judge has a volatile temper and is fond of insulting and humiliating witnesses and also lawyers. She also said that during arraignment or trial of cases, he would even call her attention and would insult the prosecutor who made the Information and Resolution of the case and even the Chief who approved the same.
>
> - Prosecutor [Maria Teresa A.] Mahiwo added that she observed one hearing [where] the Presiding Judge [scolded] the two private lawyers who [were] much older than him. She said that being assigned in Branch 9 will not be good for the health of any prosecutor.
>
> III. RECOMMENDATION/AGREEMENT
>
> - Prosecutor [Elmer M.] Lanuzo opined that because the judge is temperamental, he should be given a fiscal who is not temperamental.
>
> - It was resolved by the group that no prosecutor will be assigned at RTC Branch 9 considering that all prosecutors have their own court assignment.
>
> - It was also agreed that the Presiding Judge can request from the Department of Justice a prosecutor who would attend to the cases in his sala.[12]

Judge Dañas also received a letter[13] from city prosecutor Palmarin E. Rubio of Legazpi City. City prosecutor Rubio stated that the prosecutor assigned to the sala of respondent judge did not want to comment on the conduct of respondent judge. He suggested that members of an audit team from this Court be made to observe the proceedings in Branch 9 to "see and feel the tension[-]charged atmosphere in the sala once the trial started."[14]

To his report, Judge Dañas attached copies of the comments of the lawyers he interviewed, the letter of provincial prosecutor Tolosa enclosing the minutes of the meeting of the public prosecutors in Albay and the letter of city prosecutor Rubio.[15] He concluded that the charges against respondent judge were true. However, he refrained from recommending any definite action against him and left the matter to the sound discretion of the Office of the Court Administrator (OCA).[16]

In its report,[17] the OCA adopted the findings of Judge Dañas and made the following recommendation:

> RECOMMENDATION: Respectfully submitted for the consideration of the Honorable Court is our

> recommendation that respondent Judge Ruben B. Carretas of the Regional Trial Court, Branch 9, Legazpi City be ADVISED to observe proper judicial decorum and to conscientiously abide by the mandates of the New Code of Judicial Conduct and the Canons of Judicial Ethics in the exercise of his official functions.[18]

We disagree. Respondent judge deserves more than mere "advice."

Respondent judge should be reminded of Sections 1 and 2, Canon 2 and Section 1, Canon 4 of the New Code of Judicial Conduct for the Philippine Judiciary:[19]

> CANON 2
> INTEGRITY
> Integrity is essential not only in the proper discharge of the judicial office but also to the personal demeanor of judges.
>
> SEC. 1. Judges shall ensure that not only is their conduct above reproach, but that it is perceived to be so in view of a reasonable observer.
>
> SEC. 2. The behavior and conduct of judges must reaffirm the people's faith in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done.
>
> xxx xxx xxx
>
> CANON 4
> PROPRIETY
> Propriety and the appearance of propriety are essential to the performance of all the activities of a judge.
>
> SEC. 1. Judges shall avoid impropriety and the appearance of impropriety in all of their activities.

A judge should possess the virtue of gravitas. He should be learned in the law, dignified in demeanor, refined in speech and virtuous in character. Besides having the requisite learning in the law, he must exhibit that hallmark judicial temperament of utmost sobriety and self-restraint.[20] In this connection, he should be considerate, courteous and civil to all persons who come to his court.[21] A judge who is inconsiderate, discourteous or uncivil to lawyers, litigants or witnesses who appear in his sala commits an impropriety and fails in his duty to reaffirm the people's faith in the judiciary. He also violates Section 6, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary which provides:

> SEC. 6. Judges shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, witnesses, lawyers and others with whom the judge deals in an official capacity. Judges shall require similar conduct of legal representatives, court staff and others subject to their influence, direction or control.[22] (emphasis supplied)

It is reprehensible for a judge to humiliate a lawyer,[23] litigant or witness. The act betrays lack of patience, prudence and restraint.[24] Thus, a judge must at all times be temperate in his language.[25] He must choose his words, written or spoken, with utmost care and sufficient control. The wise and just man is esteemed for his discernment. Pleasing speech increases his persuasiveness.[26]

Equanimity and judiciousness should be the constant marks of a dispenser of justice.[27] A judge should always keep his passion guarded. He can never allow it to run loose and overcome his reason. He descends to the level of a sharp-tongued, ill-mannered petty tyrant when he utters harsh words, snide remarks or sarcastic comments. As a result, he degrades the judicial office and erodes public confidence in the judiciary.

Against this backdrop, respondent judge indeed appears arrogant and boastful not only in the eyes of the anonymous complainant but also to the lawyers who practice in his sala. He revealed a hint of arrogance in his

comment when he professed exasperation over minor procedural mistakes[28] or even negligible lapses (such as the confusion in the use of "collaborate" and "corroborate"). He also displayed a condescending attitude toward lawyers in the provinces when he implied that they were "inferior" to lawyers from Manila. As a judge, he should ensure that his conduct is always above reproach and perceived to be so by a reasonable observer. He must never show conceit or even an appearance thereof, or any kind of impropriety.

The dispensation of justice is a joint responsibility of the judge and the lawyer.[29] A sense of shared responsibility which is a crucial factor in the administration of justice is expected of them.[30] They should co-exist in a spirit of cooperation and mutual respect, not animosity and derision. Respondent judge antagonized the lawyers (private practitioners, public attorneys and public prosecutors alike) appearing in his sala by his perceived arrogance and insulting remarks. Consequently, he impaired the administration of justice.

Respondent judge unduly intervened in the presentation of evidence. He asked more questions than counsel and conducted direct and cross-examination of witnesses. In so doing, he contravened Rule 3.06 of the Code of Judicial Conduct and Canon 14 of the Canons of Judicial Ethics:[31]

> RULE 3.06 — While a judge may, to promote justice, prevent waste of time or clear up some obscurity, properly intervene in the presentation of evidence during the trial, it should be borne in mind that undue interference may prevent the proper presentation of the cause or the ascertainment of truth.
>
> — ? — — ? — — ? —
> 14. Interference in conduct of trial
>
> While a judge may properly intervene in a trial of a case to promote expedition and prevent unnecessary waste of time, or to clear up some obscurity, nevertheless, he should bear in mind that his undue interference, impatience, or participation in the examination of witnesses, or a severe attitude on his part toward witnesses, especially those who are excited or terrified by the unusual circumstances of trial, may tend to prevent the proper presentation of the cause, or the ascertainment of the truth in respect thereto.
>
> Conversation between the judge and counsel in court is often necessary, but the judge should be studious to avoid controversies which are apt to obscure the merits of the dispute between litigants and lead to its unjust disposition. In addressing counsel, litigants or witnesses, he should avoid a controversial tone.
>
> He should avoid interruptions of counsel in their arguments except to clarify his mind as to their positions, and he should not be tempted to an unnecessary display of learning or a premature judgment.

A judge may properly intervene in the presentation of evidence to expedite and prevent unnecessary waste of time and clarify obscure and incomplete details in the course of the testimony of the witness or thereafter.[32] Questions designed to clarify points and to elicit additional relevant evidence are not improper.[33] But the judge should limit himself to asking clarificatory questions and the power should be sparingly and judiciously used. The rule is that the court should stay out of it as much as possible, neither interfering nor intervening in the conduct of the trial.[34] A judge must always maintain cold neutrality and impartiality for he is a magistrate, not an advocate.[35]

In fine, the over-all conduct of respondent judge has been unbecoming of a magistrate. It is classified as a light charge[36] for which a fine of not less than P1,000 but not exceeding P10,000 may be imposed.[37]

Pursuant to A.M. No. 02-9-02-SC,[38] this administrative case against respondent judge shall also be considered as a disciplinary proceeding against him as a member of the bar.

Violation of the fundamental tenets of judicial conduct embodied in the New Code of Judicial Conduct for the Philippine Judiciary, the Code of Judicial Conduct and the Canons of Judicial Ethics constitutes a breach of

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Canons 1[39] and 11[40] of the Code of Professional Responsibility. Certainly, a judge who falls short of the ethics of the judicial office tends to diminish the people's respect for the law and legal processes. He also fails to observe and maintain the esteem due to the courts and to judicial officers.

Respondent judge also transgressed Canon 8[41] and Rule 8.01[42] of the Code of Professional Responsibility when he humiliated, insulted or embarrassed lawyers appearing in his sala. Instead of establishing a cordial and collaborative atmosphere with lawyers, respondent judge alienated them and effectively disregarded their significant role in the administration of justice.

Accordingly, respondent Judge Ruben B. Carretas is hereby found GUILTY of conduct unbecoming of a judge. In particular, he violated Sections 1 and 2, Canon 2, Section 1, Canon 4 and Section 6, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary, Rule 3.06 of the Code of Judicial Conduct and Canon 14 of the Canons of Judicial Ethics. He is FINED in the amount of P7,500.

Respondent Judge Ruben B. Carretas is also hereby found GUILTY of violating Canons 1, 8 and 11 and Rule 8.01 of the Code of Professional Responsibility for which he is FINED in the amount of P7,500.

Judge Carretas is further STERNLY WARNED that the commission of the same or similar acts in the future shall be dealt with more severely.

Let a copy of this resolution be attached to the personal records of respondent judge.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ. concur.

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[1] Dated July 15, 2005. Rollo, p. 3.

[2] Dated April 6, 2006. Id., pp. 29-30.

[3] In the vernacular, it is used to mean "a mockery."

[4] This was pursuant to the 1st Indorsement by the Office of the Court Administrator. Dated August 24, 2005. Rollo, p. 5.

[5] Letter dated November 14, 2005. Id., pp. 10-12.

[6] Public Attorney's Office.

[7] Comment dated December 7, 2005. Rollo, pp. 13-14.

[8] Comment dated November 9, 2005. Id., pp. 15-17.

[9] Notarized letter dated November 11, 2005. Id., p. 22.

[10] Letter dated October 27, 2005. Id., p. 24.

[11] Id., pp. 25-26.

[12] Id.

[13] Dated November 7, 2005. Id., p. 23.

[14] Id.

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[15] Dated November 21, 2005. Id., pp. 8-9.

[16] Id.

[17] Dated July 25, 2006. Id., pp. 31-36.

[18] Id., p. 36.

[19] The New Code of Judicial Conduct for the Philippine Judiciary took effect on June 1, 2004. It superseded the Canons of Judicial Ethics and the Code of Judicial Conduct to the extent that the provisions or concepts embodied therein were embodied in the New Code. A proviso stated that in case of deficiency or absence of specific provisions in the New Code, the Canons of Judicial Ethics and the Code of Judicial Conduct shall be applicable in a suppletory character.

[20] Atty. Seludo v. Judge Fineza, A.M. No. RTJ-04-1864, 16 December 2004, 447 SCRA 73.

[21] Retuya v. Equipilag, A.M. No. 1431-MJ, 16 July 1979, 91 SCRA 416.

[22] This superseded Rule 3.04 of the Code of Judicial Conduct and Canons 9 and 10 of the Canons of Judicial Ethics which provided:

> Rule 3.04 — A judge should be patient, attentive, and courteous to lawyers, especially the inexperienced, 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 courts, instead of the courts for the litigants.
>
> — ? — — ? — — ? —
> 9. Consideration for witnesses and others
>
> [A judge] should be considerate of witnesses and others in attendance upon his court.
>
> 10. Courtesy and civility
>
> Judges should be courteous to counsel, especially to those who are young and inexperienced, and also to all others concerned in the administration of justice in their courts.

[23] Abibuag v. Mun. Judge Estonina, 157 Phil. 51 (1974).

[24] Id.

[25] Turqueza v. Hernando, G.R. No. L-51626, 30 April 1980, 97 SCRA 483.

[26] Proverbs 16:21.

[27] Cf. Romero v. Valle, Jr., A.M. No. R-192-RTJ, 09 January 1987, 147 SCRA 197 citing Calalang v. Fernandez, A.C. No. 175-J, 10 June 1971.

[28] Such as a lawyer's insistence on further examining a witness he had already subjected to re-cross examination and lawyers who were improperly attired or unprepared with their documentary evidence.

[29] Agpalo, Ruben, Legal and Judicial Ethics, Seventh Edition (2002), Rex Bookstore, Inc., p. 544.

[30] Luque v. Judge Kayanan, 139 Phil. 807 (1969).

[31] There is no provision on this matter in the New Code of Judicial Conduct for the Philippine Judiciary. Hence, these provisions may be applied.

[32] People v. Galleno, 353 Phil. 942 (1998).

[33] Cosep v. People, 352 Phil. 979 (1998).

[34] Tabuena v. Sandiganbayan, 335 Phil. 795 (1997).

[35] Id.

[36] Under Section 10, Rule 140 of the Rules of Court, light charges include (a) vulgar and unbecoming conduct, (b) gambling in public, (c) fraternizing with lawyers and litigants with pending cases/cases in his court and (d) undue delay in the submission of monthly report.

[37] Section 11 (C), Rule 140 of the Rules of Court provides that if the respondent judge is guilty of a light charge, any of the following sanctions shall be imposed: (a) a fine of not less than P1,000 but not exceeding P10,000, (b) censure, (c) reprimand and (d) admonition with warning.

[38] 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 Officials and as Members of the Philippine Bar. Dated September 17, 2002.

[39] CANON 1 — A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND FOR LEGAL PROCESSES.

[40] CANON 11 — A LAWYER SHALL OBSERVE AND MAINTAIN THE RESPECT DUE TO THE COURTS AND TO JUDICIAL OFFICERS AND SHOULD INSIST ON SIMILAR CONDUCT BY OTHERS.

[41] CANON 8 — A LAWYER SHALL CONDUCT HIMSELF WITH COURTESY, FAIRNESS AND CANDOR TOWARD HIS PROFESSIONAL COLLEAGUES X X X.

[42] Rule 8.01 — A lawyer shall not, in his professional dealings, use language which is abusive, offensive or otherwise improper.

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