

**ROLAND ERNEST MARIE JOSE SPELMANS, COMPLAINANT, VS.
JUDGE GAYDIFREDO T. OCAMPO, MUNICIPAL TRIAL COURT,
POLOMOLOK, SOUTH COTABATO, RESPONDENT.**

A.M. No. MTJ-07-1663. March 26, 2010

Ponente: ABAD, J.

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ABAD, J.:

This is a case about the improper conduct of an MTC judge who kept properties owned by the complainant while conducting a preliminary investigation.

The Facts and the Case

On April 8, 2006 complainant Roland Ernest Marie Jose Spelmans (Spelmans), a Belgian, filed before the Office of the Ombudsman, Mindanao, a complaint for theft and graft and corruption against respondent Municipal Trial Court (MTC) Judge Gaydifredo Ocampo (Judge Ocampo) of Polomolok, South Cotabato.[1]

Spelmans alleged in his affidavit that in 2002 his wife, Annalyn Villan (Villan), filed a complaint for theft against Joelito Rencio (Rencio) and his wife from whom Spelmans rented a house in Polomolok, South Cotabato. Spelmans claimed, however, that this complaint was but his wife's scheme for taking out his personal properties from that house. In the course of the investigation of the complaint, Judge Ocampo, together with the parties, held an ocular inspection of that rented house and another one where Spelmans kept some of the personal belongings of his late mother.

During the ocular inspection, Judge Ocampo allegedly took pieces of antique, including a marble bust of Spelmans' mother, a flower pot, a statue, and a copper scale of justice. A week later, Judge Ocampo went back and further took six Oakwood chairs and its table, four gold champagne glasses, and a deer horn chandelier.[2] In the meantime, the Bureau of Immigration happened to detain Spelmans in Manila and let him free only on January 28, 2003.[3]

The Ombudsman, Mindanao, referred Spelmans' complaint against Judge Ocampo to the Office of the Court Administrator (OCA). In his comment of August 8, 2006[4] Judge Ocampo denied the charge, pointing out that Spelmans' wife, Villan (the complainant in that theft case), gave him certain household items for safekeeping before she filed the case of theft against Rencio. On August 28, 2002, however, after conducting a preliminary investigation in the case, Judge Ocampo dismissed Villan's complaint.

Only in 2006, according to Judge Ocampo, when he received a copy of Spelmans' complaint for grave misconduct did he learn of the couple's separation and his unwitting part in their legal battles. As a last note, Judge Ocampo said that instead of hurling baseless accusations at him, Spelmans should have thanked him because he kept his personal properties in good condition.

In a supplemental complaint dated August 30, 2006[5] Spelmans further alleged that Judge Ocampo requested

him to sign an affidavit which cleared the Judge and prayed for the dismissal of the administrative complaint.[6]

On October 17, 2006 OCA found Judge Ocampo guilty of committing acts of impropriety and maintaining close affinity with a litigant in violation of Canons 1 and 4 of the New Code of Judicial Conduct for the Philippine Judiciary.[7] Since, under Rule 140 of the Revised Rules of Court, as amended, a violation of Supreme Court rules, directives, and circulars constitutes a less serious charge, punishable either with suspension or fine, the OCA recommended the imposition of a fine of P5,000.00 on Judge Ocampo with a stern warning that a repetition of the same or similar act shall be dealt with more severely.[8]

The Issue

The issue in this case is whether or not Judge Ocampo's taking and keeping of the personal items belonging to Spelmans but supposedly given to him by the latter's wife for safekeeping constitutes a violation of the New Code of Judicial Conduct.

The Court's Ruling

The evidence of Spelmans is that his wife, Villan, made it appear that she filed a complaint for theft against Rencio, the lessor or caretaker of the rented house, before Judge Ocampo's court but that this was a mere ploy. Her true purpose was to get certain properties belonging to Spelmans from that house. During the preliminary investigation of the case, Judge Ocampo held an ocular inspection of the house and another one that also belonged to Spelmans and took some of the personal properties from these places.

On the other hand, Judge Ocampo insists that Villan gave him the personal items mentioned by Spelmans for safekeeping before she filed in his court the complaint for theft against Rencio. This did not influence him, however, since he eventually ordered the dismissal of that complaint. But this explanation is quite unsatisfactory.

First. Judge Ocampo did not explain why, of all people in Polomolok, South Cotabato, Spelmans' wife, Villan, would entrust to him, a municipal judge, certain personal items for safekeeping. This is essentially suspect because she would subsequently file, according to Judge Ocampo, a case of theft of personal items that Rencio supposedly took from Spelmans' houses.

Second. Judge Ocampo does not deny that he conducted an ocular inspection of the houses that Spelmans used in Polomolok. But the purpose of this ocular inspection is suspect. Judge Ocampo did not explain what justified it. The charge was not robbery where he might have an interest in personally looking at where and how the break-in took place. It was a case of theft where it would be sufficient for the complainant to simply state in her complaint-affidavit where the alleged theft took place.

Third. If Judge Ocampo received the pieces of antique from Villan for safekeeping, this meant that a relation of trust existed between them. Consequently, Judge Ocampo had every reason to inhibit himself from the case from the beginning. He of course claims that he dismissed the case against Rencio eventually but this is no excuse since his ruling could have gone the other way. Besides, Spelmans claims that the complaint was just a scheme to enable Villan to steal his personal properties from the two houses. This claim seems believable given the above circumstances.

Fourth. By his admission, Judge Ocampo returned the items only after four years when Spelmans already filed a complaint against him. He makes no claim that he made a previous effort to return those supposedly entrusted items either to Villan or to Spelmans. His years of possession obviously went beyond mere safekeeping.

For the above reasons, the OCA erred in regarding Judge Ocampo's offense as falling merely under Section 11(B),

in relation to Section 9(4) of Rule 140, as amended, which is a less serious charge of violation of Supreme Court rules, punishable by either suspension from office without salary and other benefits for not less than one nor more than three months or a fine of more than P10,000.00 but not exceeding P20,000.00.[9] On the other hand, impropriety is treated as a light charge and is punishable by a fine of not less than P1,000.00 but not exceeding P10,000.00 or by censure, reprimand, or admonition with warning.[10]

Respondent judge should be made accountable for gross misconduct[11] constituting violations of the New Code of Judicial Conduct, specifically Section 6 of Canon 1,[12] Section 1 of Canon 2,[13] and Section 1 of Canon 4.[14] From the circumstances, his acts were motivated by malice.[15] He was not a warehouseman for personal properties of litigants in his court. He certainly would have kept Spelmans' properties had the latter not filed a complaint against him. He was guilty of covetousness. It affected the performance of his duties as an officer of the court[16] and tainted the judiciary's integrity. He should be punished accordingly.

WHEREFORE, the Court finds respondent Judge Gaydifredo Ocampo GUILTY of gross misconduct and IMPOSES on him the penalty of SUSPENSION from office without salary and other benefits for six (6) months.[17] He is STERNLY WARNED that a repetition of the same or similar act shall be dealt with more severely.

SO ORDERED.

Carpio, Brion, Del Castillo, and Perez, JJ., concur.

[1] Rollo, pp. 4-10.

[2] Id. at 5-6.

[3] Id. at 44.

[4] Id. at 21-22.

[5] Id. at 37-38.

[6] Id. at 40.

[7] Effective as of June 1, 2004.

[8] Rollo, pp. 1-3.

[9] RULES OF COURT, Rule 140, Section 11(B) as amended by A.M. No. 01-8-10-SC.

[10] Id., Section 11(C).

[11] Santos v. Arcaya-Chua, A.M. No. RTJ-07-2093, February 13, 2009, 579 SCRA 17, 30: As defined, misconduct is a transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, unlawful behavior, willful in character, improper or wrong behavior; while "gross," has been defined as "out of all measure; beyond allowance; flagrant; shameful; such conduct as is not to be excused.

[12] Canon 1. Independence. Judicial independence is a pre-requisite to the rule of law and a fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects. Section 6. Judges shall be independent in relation to society in general and in relation to the particular parties to a dispute which he or she has to adjudicate.

[13] Canon 2. Integrity. Integrity is essential not only to the proper discharge of the judicial office but also to the

personal demeanor of judges. Section 1. Judges shall ensure that not only is their conduct above reproach, but that is perceived to be so in the view of a reasonable observer.

[14] Canon 4. Propriety. Propriety and the appearance of propriety are essential to the performance of all the activities of a judge. Section 1. Judges shall avoid impropriety and the appearance of impropriety in all of their activities.

[15] See *Hallasgo v. Commission on Audit*, G.R. No. 171340, September 11, 2009, citing *Malabanan v. Metrillo*, A.M. No. P-04-1875, February 6, 2008, 544 SCRA 1, 7-8 and *Rodriguez v. Eugenio*, A.M. No. RTJ-06-2216, April 20, 2007, 521 SCRA 489, 505-506.

[16] *Abadesco Jr. v. Rafer*, A.M. No. MTJ-06-1622, January 27, 2006, 480 SCRA 228, 234.

[17] Under Section 11(A) in relation to Section 8(3) of Rule 140, as amended by A.M. No. 01-08-10-SC, effective October 1, 2001: SEC. 11. Sanctions. - A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed: 1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits; 2. Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or 3. A fine of more than P20,000.00 but not exceeding P40,000.00.

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