

LYDIA A. BENANCILLO, COMPLAINANT, VS. JUDGE VENANCIO J. AMILA, REGIONAL TRIAL COURT, BRANCH 3, TAGBILARAN CITY, RESPONDENT.

A.M. No. RTJ-08-2149 (Formerly OCA IPI No. 08-2787-RTJ). March 09, 2011

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

Before us is a Verified-Complaint[1] dated November 29, 2007 filed by complainant Lydia A. Benancillo (Lydia) charging respondent Judge Venancio J. Amila (Judge Amila) of the Regional Trial Court (RTC), Branch 3, Tagbilaran City with Grave Abuse of Discretion, Gross Ignorance of the Law and Procedure, Knowingly Rendering an Unjust Judgment or Order, Partiality and Impropriety relative to Civil Case No. 7268 entitled "Lydia A. Benancillo v. Paul John Belot," a Petition for Temporary Protection Order and Permanent Protection Order under Republic Act No. 9262.

The facts as culled from the Report[2] of the Office of the Court Administrator (OCA) are as follow:

1. VERIFIED COMPLAINT

x x x x

The complainant, the petitioner in Sp. Civil Case No. 7268, avers that Branch 1 of RTC Tagbilaran City, acting as then Family Court in Tagbilaran City, issued a Temporary Protection Order (TPO) against her live-in partner, Paul John Belot (Belot). The TPO included a directive to Belot to turn over to her personal effects, including properties in their diving business called the Underworld Diver's Panglao, Inc. (Underworld). Belot sought the reconsideration of the issuance of the TPO. Meanwhile, their business partners, Paz Mandin Trotin and Christopher Mandin, filed a motion for intervention with respect to the properties of Underworld. The complainant filed an opposition to the motion for intervention with prayer for preliminary injunction.

The complainant alleges that when Branch 2 of RTC Tagbilaran City, presided by the respondent judge, was designated as the new Family Court in Tagbilaran City, Sp. Civil Case No. 7268 was transferred to the said court. Acting on the pending incidents, the respondent judge denied both Belot's motion for reconsideration and the intervenors' motion for intervention in an Order dated July 16, 2007. The respondent judge incorporated in the resolution a cease-and-desist order prohibiting the intervenors from taking possession of the properties of Underworld.

The complainant further alleges that the respondent judge reiterated his Order of July 16, 2007 in an Order dated August 14, 2007. Subsequently, the respondent judge denied the intervenors' motion for reconsideration in an Order dated October 2, 2007.

The complainant states that the respondent judge constantly ruled in her favor as he consistently held that the intervenors had no legal personality in the case. However, the respondent judge refused to enforce the TPO.

The complainant claims that on October 8, 2007, the respondent judge called her and her counsel to a meeting in his chambers on October 9, 2007. They agreed to the meeting but they did not proceed when they learned

that the intervenors were joining them. Subsequent to the respondent judge's meeting with the intervenors, he issued an Order dated October 18, 2007 which rescinded his Order of October 2, 2007. Then, in an Order dated October 25, 2007, he denied the complainant's motion for reconsideration.

According to the complainant, the respondent judge's conduct smacks of impropriety and partiality. She further charges the respondent judge with grave abuse of discretion, gross ignorance of the law and procedure and knowingly rendering an unjust judgment/order for issuing the questioned Orders of October 18, 2007 and October 25, 2007.

The complainant further observed that the respondent judge revoked his Order of October 2, 2007, without any motion being filed by any of the parties. Moreover, the Order of October 18, 2007 was based on an inexistent ground as the respondent judge mentioned in this Order a petition for certiorari supposedly filed by Belot which had not yet been x x x filed with the Court of Appeals.

The complainant alleged that the respondent judge's Order of October 25, 2007 ruling on the complainant's motion for reconsideration of the Order of October 18, 2007 introduced a new issue on the jurisdiction of the court over the person of Belot. The respondent judge also ruled on maintaining the status quo, a position inconsistent with the preliminary injunction he had previously issued.

2. COMMENT of Judge Venancio J. Amila dated February 8, 2008 wherein he denies the charges against him.

The respondent judge claimed that the complainant was motivated by her "insatiable greed to have exclusive control and possession pending trial of the case [of] all the properties of the Underworld Divers Panglao, Inc. of respondent Paul John Belot." x x x [H]e added that the "complainant . . . is only a live-in partner of respondent with no specific address who was branded repeatedly by Belot as a 'prostitute' and one 'only after his money'."

According to the respondent judge, he rescinded his Order of October 2, 2007 because the complainant had no right to her alleged shares in the corporation being merely a dummy owner of Belot's shares. He was "fearful of the consequence in the event that complainant would stealthily dispose of or abscond [with] the properties. . . because of the illegitimate status of their relationship, more so, with their present feud caused by the arrival of Belot's son and the alleged coming of the legitimate wife."

The respondent judge averred that the complainant "masterminded all [the] legal manipulations [and] moved heaven and earth x x x to get possession of all the properties of Belot to the extent of filing the instant administrative charge and a petition for certiorari lately with the Court of Appeals, dated December 21, 2007 using the same offensive and disrespectful language in her arguments.

The respondent asserted he had the authority to motu proprio rectify an error to restore things to their status quo during the pendency of the case in order to avoid damage or loss. x x x [T]he complainant refused to attend the meeting he called with the intervenor in chambers to explain the Order.

Respondent Judge Amila incorporated in his submission his comment to a similar administrative complaint filed earlier by the complainant. x x x [H]e alleged that he set aside his Order of October 2, 2007 because the Petition for Certiorari filed by Belot before the Court of Appeals had placed the jurisdiction of the court under question.

3. REPLY-AFFIDAVIT dated February 29, 2008 of the complainant.

The complainant claimed that she suffered psychological and emotional violence as the respondent judge echoed Belot's verbal and psychological abuse against her that she was "only a live-in partner" "in an illegitimate relation" and a "prostitute." The respondent judge's remarks revealed his prejudice and lack of gender sensitivity and this was unbecoming of a family court judge. His remarks also manifested his lack of knowledge and/or utter disregard of the law on the equal protection to women-victims in intimate relationships

under the anti- VAWC law which he was mandated to uphold as a family court judge.

The complainant averred that the respondent judge refused to enforce the TPO under the Anti-VAWC law because of his prejudiced view that she would abscond with the contested properties due to the "illegitimate status" of their "relationship." His personal bias against the complainant reflects his utter lack of the cold neutrality of an impartial judge.

The complainant denied the respondent judge's accusation that she and her counsel "masterminded all these legal manipulations." She added that the accusation implies that the respondent judge was not in control of the proceedings and that he could be manipulated by the parties.

The complainant alleged that as the respondent judge still refused to implement the TPO despite the dismissal of Belot's petition for certiorari with the Court of Appeals, she filed a Petition for Certiorari before the Supreme Court for the annulment of the Orders dated October 18, 2007 and October 25, 2007.

The complainant asserted that while the respondent judge can change his mind, he could no longer do so when the Order already became final and executory and was not questioned anymore by the parties. Moreover, there was no reason for the respondent judge to call for a meeting with the intervenors because he already ruled that intervention was not allowed in the case.

4. AFFIDAVIT-MANIFESTATION dated May 27, 2008 of the complainant.

The complainant manifested that the Court of Appeals of Cebu City already dismissed the Petition for Certiorari filed by Belot which petition the respondent Judge cited as reason for rescinding his Order dated [October] 2, 2007, the petition being a prohibited pleading under Section 22 of RA 9262 (Anti-VAWC).[3]

In its Report[4] dated September 11, 2008, the OCA found that Judge Amila acted inappropriately in calling the intervenors to a meeting in his chambers. It was also noted that he used derogatory and irreverent language in presenting complainant in his Comment as an opportunist, a mistress in an illegitimate relationship and that she was motivated by insatiable greed. As regards the charge for gross ignorance of the law, the OCA noted that the same is premature considering that complainant filed before this Court a petition assailing the October 18 and 25, 2007 Orders of respondent Judge.[5]

The OCA thus recommended:

x x x x

- That the case be REDOCKETED as a regular administrative matter;
- That the charges of Grave Abuse of Discretion, Gross Ignorance of the Law and Procedure and Knowingly Rendering an Unjust Judgment or Order relative to the issuance of the Order[s] dated October 18, 2007 and October 25, 2007 be DISMISSED for being premature;
- [That r]espondent Judge Venancio J. Amila, Regional Trial Court (Branch 3), Tagbilaran City, be found guilty of impropriety for the use of intemperate language and unbecoming conduct and be FINED in the amount of P10,000.00 with the warning that a repetition of the same or similar offense x x x shall be dealt with more severely.[6]

We adopt the findings and the recommendations of the OCA.

Indeed, the New Code of Judicial Conduct for the Philippine Judiciary exhorts members of the judiciary, in the discharge of their duties, to be models of propriety at all times.

Judge Amila should be reminded of Sections 1 and 6, Canon 4 of the New Code of Judicial Conduct for the Philippine Judiciary.[7]

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.

x x x x

SECTION 6. Judges, like any other citizen, are entitled to freedom of expression, belief, association and assembly, but in exercising such rights, they shall always conduct themselves in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the Judiciary.

The above provisions clearly enjoin judges not only from committing acts of impropriety but even acts which have the appearance of impropriety. The Code recognizes that even acts that are not per se improper can nevertheless be perceived by the larger community as such. "Be it stressed that judges are held to higher standards of integrity and ethical conduct than attorneys and other persons not [vested] with public trust." [8]

In this case, the respondent judge acted inappropriately in calling the complainant and the intervenors to a meeting inside his chambers. His explanation that he called the said meeting to advise the parties that he will rescind his October 2, 2007 Order is not acceptable. Why would a judge give the parties advance notice that he is going to issue an Order, more so rescind his previous Order? Worse, why would he call on the intervenors whom he had earlier ruled as not having any legal personality in this case? This act of respondent judge would logically create an impression to complainant that the meeting of the judge with the intervenors had turned his views around towards issuing a revocation of the October 2, 2007 Order.

In his Comment, respondent judge used degoratory and irreverent language in relation to complainant. The former in effect maliciously besmirched the character of complainant by calling her as "only a live-in partner of Belot" and presenting her as an opportunist and a mistress in an illegitimate relationship. The judge also called her a prostitute. The judge's accusations that complainant was motivated by insatiable greed and would abscond with the contested property are unfair and unwarranted. His depiction of complainant is also inconsistent with the Temporary Protection Order (TPO) he issued in her favor as a victim of domestic violence. Verily, we hold that Judge Amila should be more circumspect in his language.

It is reprehensible for a judge to humiliate a lawyer, litigant or witness. The act betrays lack of patience, prudence and restraint. Thus, a judge must at all times be temperate in his language. 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. [9]

Accordingly, respondent Judge Venancio J. Amila is hereby found guilty of conduct unbecoming of a judge. In particular, he violated Sections 1 and 6, Canon 4 of the New Code of Judicial Conduct for the Philippine Judiciary.

Conduct unbecoming of a judge is classified as a light offense under Section 10, [10] Rule 140 of the Rules of Court. It is penalized under Section 11C [11] thereof by any of the following: (1) A fine of not less than P1,000.00 but not exceeding P10,000.00; (2) Censure; (3) Reprimand; and (4) Admonition with warning.

In as much as Judge Amila was previously found guilty of gross ignorance of the law in connection with his Decision in Criminal Case Nos. 14988 and 14989 which was docketed as A.M. No. RTJ-07-2071 where he was ordered to pay a fine of P20,000.00 and warned that a repetition of the same or similar act would be dealt with more severely, the penalty of fine of P21,000.00 is deemed appropriate in the instant case.

WHEREFORE, we find Judge Venancio J. Amila GUILTY of Conduct Unbecoming of a Judge, and FINE him P21,000.00.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Peralta,[*] and Sereno,**] JJ., concur.

[*] In lieu of Associate Justice Jose Portugal Perez per raffle of September 20, 2010.

[**] In lieu of Associate Justice Presbitero J. Velasco, Jr. per raffle dated March 2, 2011.

[1] Rollo, pp. 1-16.

[2] Id. at 436-442.

[3] Id. at 436-439.

[4] Id. at 436-442.

[5] In a Resolution dated January 13, 2010, the Court in A.M. OCA IPI No. 09-3233-RTJ dismissed the complaint against respondent judge for refusing to enforce the Writ of Injunction for being premature. Id. at 490.

[6] Id. at 441-442.

[7] 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.

[8] Office of the Court Administrator v. Estacion Jr., 317 Phil 600, 603 (1995).

[9] Dela Cruz v. Carretas, A.M. No. RTJ-07-2043, September 5, 2007, 532 SCRA 218, 229.

[10] Rule 140, Section 10. Light Charges. - Light charges include:

1. Vulgar and unbecoming conduct;
2. Gambling in public;
3. Fraternizing with lawyers and litigants with pending case/cases in his court; and
4. Undue delay in the submission of monthly reports.

[11] Rule 140, Section 11. Sanctions.

x x x x

C. If the respondent is guilty of a light charge, any of the following sanctions shall be imposed:

1. A fine of not less than P1,000.00 but not exceeding P10,000.00; and or
2. Censure;
3. Reprimand;
4. Admonition with warning.

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