

ATTY. PABLO B. MAGNO,[1] COMPLAINANT, V. JUDGE JORGE EMMANUEL M. LORREDO, METROPOLITAN TRIAL COURT, BRANCH 26, MANILA, RESPONDENT.

A.M. No. MTJ-17-1905 (Formerly OCA I.P.I. No. 13-2582-MTJ). August 30, 2017

Ponente: TIJAM, J.

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TIJAM, J.:

In a verified Complaint[1] dated March 6, 2013, complainant Atty. Pablo B. Magno (Atty. Magno) charges respondent Judge Jorge Emmanuel M. Lorredo (Judge Lorredo), Metropolitan Trial Court of Manila (MeTC), Branch 26, with bias and partiality, arrogance and oppression, and violation of the Code of Judicial Conduct (CJC).

ANTECEDENT FACTS

On March 3, 2010, Que Fi Luan (Luan), as represented by his attorney-in-fact and legal counsel, Atty. Magno, filed a complaint for forcible entry against Rodolfo Dimarucut (Rodolfo) docketed as Civil Case No. 186797-CV.[2]

Due to Rodolfo's death, Atty. Magno filed an Amended Complaint, seeking, among others, that the complaint for forcible entry be treated as an unlawful detainer case impleading Teresa Alcober (Teresa) and Teresita Dimarucut, daughter and widow of Rodolfo, respectively.[3]

In an Order dated September 8, 2010, however, the MeTC, through respondent Judge Lorredo, dismissed the complaint for failure of Luan to appear for mediation.[4]

On appeal, the Regional Trial Court (RTC) reversed the Order of the MeTC in a Decision[5] dated June 29, 2011. It held that the MeTC hastily ordered the dismissal of the case for failure of the parties to appear for a mediation conference without proper notification to the parties. Accordingly, the RTC remanded the case to the MeTC for further proceedings.

After the finality of the RTC Decision, the MeTC set the case for preliminary conference. For failure, however, of defendants' counsel therein to appear, the same was cancelled. Nonetheless, in the course thereof, Judge Lorredo asked Atty. Magno: "What did you do to convince those up there [RTC], that you were able to secure that kind of decision". In reply, Atty. Magno answered: "I never follow up on my cases, Your Honor."[6]

Thereafter, Judge Lorredo vented his anger on Teresa's husband and asked him where their lawyer was. Immediately, he informed Judge Lorredo that their lawyer will not be able to attend the hearing due to ailment.[7]

Also, during the preliminary conference, Judge Lorredo told Teresa's husband that their lawyer is "mahina" or "hihina-hina". He further stated that "[g]inawa ko na nga ang desisyon dito sa kasong ito, at panalo kayo, ngayon talo pa kayo sa RTC."[8]

Consequently, Atty. Magno filed the instant case and claimed that Judge Lorredo violated the Rules of Court and the CJC in connection with his remarks during the preliminary conference which insinuated that the former was able to get a favorable decision from the RTC by committing unethical practice.[9]

In its 1[st] Indorsement,[10] the Office of the Court Administrator (OCA) required Judge Lorredo to file his Comment within 10 days from receipt thereof.

In his Comment,[11] Judge Lorredo denied the charges against him. He alleged that the questions thrown against Atty. Magno during the preliminary conference were made out of curiosity considering that the latter's representation before the RTC was allegedly based on a lie.

According to Judge Lorredo, Atty. Magno lied to the RTC when he claimed that he was not notified of the scheduled mediation conference.[12] As proof, Judge Lorredo submitted a copy of the Minutes[13] during the July 23, 2010 hearing stating that the case is referred to mediation on "August 4, 2010" at 2:00 p.m.

To put his questions in proper context, Judge Lorredo, likewise, submitted a copy of the Minutes of the preliminary conference to prove that he did not show any bias or partiality in his line of questioning. The relevant portion of the Minutes reads:

COURT:

Sino yong abogado mo sa appeal?

MR. ALCOBER:

Atty. Montera, your honor.

COURT:

Nandito ba non... Atty. kanino pirma 'to? Ipakita mo nga Alie, kung kaninong pirma to.

ATTY. MAGNO:

Akin, your honor.

COURT:

Ang argument mo sa RTC hindi mo sinabi na mediation kayo?

ATTY. MAGNO:

Sinabi ninyo pero there was no setting, your honor. Atty. Montera was not here, also the defendant.

COURT:

Hindi nong August 2010 pumirma ka nga eh.

ATTY. MAGNO:

I don't know if it is in the afternoon or it was in the morning, your honor.

COURT:

Pirma mo 'to?

ATTY. MAGNO:

Yes, your honor.

COURT:

Pero paano mo napaniwala yong court sa taas na hindi ko sinet eh klaro na pumirma ka pa. Ano bang nangyari?

ATTY. MAGNO:

I did not follow it up. Hindi ako nag follow I'm not the lawyer who follow[ed] it up, your honor.

COURT:

Di ba yon ang theory mo sa RTC?

ATTY. MAGNO:

Yes, your honor.

COURT:

Na hindi ko sinet ang mediation.

ATTY. MAGNO:

There was no specific setting on that very day.

COURT:

Eto o[,]2 P.M. pumirma ka. Nagtataka lang ako kung paano mo napaniwala ang RTC.

ATTY. MAGNO:

I'am (sic) a lawyer who does not follow up cases, your honor.

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COURT:

Pero klaro tayo na sinet ko yung mediation pumirma ka eh.

ATTY. MAGNO:

Pirma ko yan ho.

COURT:

Nagtataka lang ako. How could you tell the RTC na walang mediation. Sinet ko nga eh.

ATTY. MAGNO:

I have pleadings your honor.

COURT:

Bat mo ba sinabi na

ATTY. MAGNO:

The RTC reversed the order because the parties should be given another chance because the mediator set it for the first time. The mediator did not issue any order.

COURT:

Anyway, mahina ang abogado ayan mo (sic) sinet ko na eh. Nanalo pa ang kalaban mo don. Kasalanan ng abogado mo yan. Hindi pinag-aaralan yung record. Sinasabihan kita. Nanalo pa sila kahit may setting ako. Anyway, since nandito ka. I'm setting this case for mediation. Both of you, you appear in mediation. Set this case for mediation. Mandatory let him sign for mediation. You choose a date.[14]

On August 14, 2013, Atty. Magno filed a Supplemental Complaint[15] wherein he further charged Judge Lorredo for the following: (i) falsification of the Minutes during the July 23, 2010 hearing by adding the date "4" to indicate that he set the mediation conference on August 4, 2010; (ii) not calling his cases promptly at 8:30 a.m.; (iii) prays his usual prayer instead of the centennial prayer required by the Court before the start of the hearing; (iv) failure to require the parties to hand-carry the order setting mediation to the mediation center to ensure that the parties are notified personally of mediation setting; and (v) knowingly and maliciously rendered an unjust and illegal decision in Civil Case No. 186797-CV.

In its 1st Indorsement^[16] dated August 28, 2013, the OCA required Judge Lorredo to file his Comment to the Supplemental Complaint within 10 days from receipt thereof.

In his Comment to the Supplemental Complaint,^[17] Judge Lorredo denied all the charges against him. Also, he referred Atty. Magno as "petty, dull and slow thinking" and asseverated that the latter's allegations were "amusing" but "incredibly, super silly".

THE RECOMMENDATION OF OCA

In a Memorandum^[18] dated March 3, 2016, the OCA recommended that Judge Lorredo be found guilty of conduct unbecoming a judge and be fined in the amount of P5,000 with a stern warning that a repetition of the same or similar act shall be dealt with more severely.

The OCA held that it is improper for a member of the bench to humiliate a lawyer, litigant, or witness. Instead, he must carefully choose his words, written or spoken, with utmost care and sufficient control.

THE RULING OF THE COURT

After a careful review of the records of the case, the Court finds that the recommendation of the OCA is proper under the circumstances.

Respondent Judge Lorredo should be more circumspect in his language in the discharge of his duties

A member of the bench "is the visible representation of the law".^[19] Thus, the law frowns upon even any manifestation of impropriety in a magistrate's activities. In fact, it has often been ruled that a judge must be like Caesar's wife - above suspicion and beyond reproach.^[20]

Indeed, the CJC mandates all members of the bench to be models of propriety at all times. Canon 4 thereof provides:

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.

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SEC. 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.

In the present case, Judge Lorredo's insulting statements during the preliminary conference and in his pleadings before the Court are obviously offensive, distasteful, and inexcusable. Certainly, while Judge Lorredo's concern on the misrepresentation committed by Atty. Magno before the RTC is understandable, he should not have disregarded the rules on proper decorum at the expense of the integrity of the court.

As correctly observed by the OCA in its Memorandum, Judge Lorredo failed to exercise caution in his speech, keeping in mind that his conduct in and outside the courtroom is always under constant observation. The Memorandum in part states:

[Judge Lorredo] acted inappropriately when he repeatedly badgered [Atty. Magno] about how the latter was able to "convince" the RTC, Manila and secure a reversal of his decision. [Judge Lorredo] did not even attempt

to hide his sarcasm and hold back his irritation towards [Atty. Magno] when he indiscriminately and unashamedly used the word "stupid" in his Supplemental Rejoinder and referred to [Atty. Magno] as "petty, dull and slow thinking" and "pathological or compulsive liar" in his Comment on the Supplemental Complaint.[21]

Atty. Magno failed to present sufficient evidence to prove his allegations in his Supplemental Complaint

In *Magsucang v. Judge Balgos*,[22] the Court elucidated that:

A judge enjoys the presumption of regularity in the performance of his function no less than any other public officer. The presumption of regularity of official acts may be rebutted by affirmative evidence of irregularity or failure to perform a duty. The presumption, however, prevails until it is overcome by no less than clear and convincing evidence to the contrary. Thus, unless the presumption is rebutted, it becomes conclusive. Every reasonable intendment will be made in support of the presumption and in case of doubt as to an officer's act being lawful or unlawful, construction should be in favor of its lawfulness.[23]

Moreover, it is well settled that in administrative proceedings, the burden of proof that respondent committed the acts complained of rests on the complainant.[24] Mere allegations, however, in the complaint must be supported by evidence to establish that a judge has overstepped the parameters of his official prerogative.[25] Here, the Court finds that Atty. Magno failed to submit any evidence that will corroborate his assertion of irregularities against Judge Lorredo, as alleged in the Supplemental Complaint.

Penalty to be imposed against Judge Lorredo for conduct unbecoming of a judge

Conduct unbecoming of a judge is classified as a light offense under Section 10, Rule 140. The same is penalized under Section 11 (c) thereof by any of the following: (i) fine of not less than P1,000 but not exceeding P10,000; (ii) censure; (iii) reprimand; and (iv) admonition with warning.

In *Correa v. Judge Belen*,[26] the Court, taking into consideration that the complaint is not Judge Belen's first infraction, fined him in the amount of P10,000 for his use of intemperate language and inappropriate actions in dealing with counsels, such as the complainant therein, appearing in his courtroom.

Here, considering that this is the first offense of Judge Lorredo, the Court finds that the recommendation of the OCA for the imposition of fine in the amount of P5,000 is commensurate.

As a final note, the Court reiterates that members of the bench, as dispensers of justice, should always observe judicial temperament and to avoid offensive or intemperate language.[27] This is the price that judges have to pay for their exalted positions in the administration of justice.[28] Improper conduct on their part erodes public confidence in the judiciary.[29] Consequently, they are called upon to avoid any impression of impropriety in order to protect the image and integrity of the judiciary.[30]

WHEREFORE, the Court finds Judge Jorge Emmanuel M. Lorredo, Presiding Judge of the Metropolitan Trial Court of Manila, Branch 26, GUILTY of Conduct Unbecoming of a Judge and FINE him in the amount of P5,000 with a STERN WARNING that a repetition of the same or similar act shall be dealt with more severely.

SO ORDERED.

Del Castillo and Jardeleza, JJ., concur.

Sereno, C.J., (Chairperson), on leave.

Leonardo-De Castro, J., on official leave.

[*] It is indicated in the Complaint that complainant is Atty. Pablo P. Magno.

[1] Rollo, pp. 1-9.

[2] Id. at 2.

[3] Id.

[4] Id.

[5] Id. 86-88.

[6] Id at 3-4.

[7] Id at 4.

[8] Id. at 4-5.

[9] Id. at 329.

[10] Id. at 92.

[11] Id. at 93-95.

[12] Id. at 94.

[13] Id. at 134.

[14] Id. at 97-99.

[15] Id. at 204-218.

[16] Id. at 316.

[17] Id. at 317-320.

[18] Id. at 328-334.

[19] Atty. Correa v. Judge Belen, 641 Phil. 131, 136 (2010).

[20] Atty. Gandeza, Jr. v. Judge Tabin, 669 Phil. 536, 543 (2011).

[21] Rollo, p. 333.

[22] 446 Phil. 217 (2003).

[23] Id. at 224.

[24] Re: Letter-Complaint of Atty. Ariel Samson C. Cayetuna, et al., All Employees of Justice Michael P. Elbinias against Associate Justice Michael P. Elbinias, CA Mindanao Station, 654 Phil 207, 222 (2011).

[25] Magsucang v. Judge Balgos, *supra* note 23.

[26] Atty. Correa v. Judge Belen, *supra* note 19.

[27] Re: Anonymous Complaint Dated February 18, 2005 of a Court Personnel Against Judge Francisco C. Gedorio, Jr., RTC, Branch 12, Ormoc City, 551 Phil. 174 (2007).

[28] Id. at 180.

[29] Id. at 180-181.

[30] Id. at 181.

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