

JOHNSON LEE AND SONNY MORENO, COMPLAINANTS, VS. HON. RENATO E. ABASTILLAS, JUDGE, REGIONAL TRIAL COURT BRANCH 50, BACOLOD CITY, RESPONDENTS.

A.M. No. RTJ-92-863 and A.C. No. 3815. July 11, 1994

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PER CURIAM:

Johnson Lee and Sonny Moreno filed with this Court a verified complaint dated June 8, 1992, docketed as Adm. Case No. RTJ-92-853, charging respondent Judge Renato E. Abastillas with a violation of the Anti-Graft and Corrupt Practices Act for soliciting a bribe in Criminal Cases Nos. 10010 and 10011 pending in his sala entitled "People vs. Johnson Lee and Sonny Moreno", serious misconduct and conduct unbecoming a member of the Bench, gross ignorance of the law, rendering unjust interlocutory orders and manifest partiality, oppression and inordinate delay in the administration of justice "which may result or has resulted in falsification of public documents or in the commission of falsehood."

In his comment dated September 28, 1992, Judge Abastillas vehemently denied the charges against him. He averred that Atty. Chua had an axe to grind against him because of a prior incident between them. Judge Abastillas pointed out that on September 28, 1992, Atty. Chua as counsel for the accused in Criminal Cases Nos. 10010 and 10011, filed an Urgent Motion for Reconsideration where he made statements which were highly contemptuous of Judge Abastillas. Hence, according to Judge Abastillas, he issued an order on March 2, 1993 requiring Atty. Chua to show cause why he should not be held in contempt of court and recommended for suspension from the practice of law. After due proceedings, Judge Abastillas issued an order on March 11, 1993 finding Atty. Chua guilty of contempt of court and imposing upon him a fine in the amount of P500.00. Judge Abastillas then recommended to this Court that Atty. Chua be suspended from the practice of law. This order of March 11, 1993 became the basis of Adm. Case No. 3815 entitled "Judge Renato Abastillas vs. Enrique Chua."

The two administrative cases were consolidated and referred to Associate Justice Alfredo J. Laganon of the Court of Appeals for investigation, report and recommendation in a resolution of this Court dated May 6, 1993.

After hearing of the two cases, Justice Laganon submitted his report recommending the dismissal of the administrative complaint against Judge Abastillas in Adm. Matter No. RTJ-92-863 and the imposition of appropriate disciplinary measures against Atty. Enrique S. Chua in Adm. Case No. 3815.

Evidence in Adm. Case No. RTJ-92-863.

Complainants in Adm. Case No. RTJ-92-863 sought to prove their charges of violation of the Anti-Graft and Corrupt Practices Act and gross misconduct and conduct unbecoming a magistrate against Judge Abastillas, through the affidavits and testimonies of Johnny K.H. Uy, Johnson Lee and Atty. Enrique S. Chua.

The testimony of Atty. Chua who claimed to have delivered the bribe money of P20,000.00 to Judge Abastillas on May 2 or 3, 1991 as down payment of the consideration for the dismissal of the criminal cases against his clients, is summarized in the report of Justice Lagamon, to wit:

"Atty. Enrique S. Chua as counsel for the complainants and also as their principal witness declared in his Affidavit that when criminal cases nos. 10010 and 10011 were raffled to RTC, Br. 50, Bacolod City, presided by the respondent, he was heartened because the respondent was among the few judges he was comfortable with. Consequently, Atty. Chua allegedly approached the respondent in his chambers and apprised him of the background of the cases and requested that the warrants of arrest be held in abeyance because of the irregularity in the conduct of the preliminary investigation. That the respondent accordingly instructed the docket clerk not to release the warrants of arrest. After the clerk left, the respondent allegedly said, 'Ike, don't worry too much, anyway, that is not your personal problem. They are just cases of your clients. What is important is that you are assured of your attorney's fees. Why, how much is your fee there? P50,000.00? Make it-double, so that I can have a share there and I will take care of everything' (.Affidavit of Atty. Chua; Exh. 'H').

Atty. Chua then apprised his client Johnson Lee of what happened and told him not to worry but at the same time informed him 'that the judge is asking for P50,000.00 to take care of everything. Johnny K.H. Uy advised Atty. Chua that they are willing to give P50,000.00 to the respondent because of their sad experience with the Department of Justice and insisted that the amount be given over the objections of Atty. Chua. That Mr. Uy sent a check in the amount of P20,000.00 to Atty. Chua, which the latter should in turn give to respondent as initial payment for the bribe. In the meantime, Atty. Chua deposited the check in his account.

Sometime in the second week of April, 1991, the criminal docket clerk of the respondent informed Atty. Chua that the bail bond for his clients was increased from P18,000.00 to P100,000.00 each, upon ex-parte motion filed by the private prosecutor. Aware of the adverse development, Johnny Uy blamed Atty. Chua for not giving the money yet to the respondent; Atty. Chua again went to the chambers of the respondent where accordingly he was advised by the latter to file a motion to strike out the ex-parte motion for the reduction of the bail and at the same time moved for the reduction of the bail provided it shall be in cash. The motion was filed and the respondent granted it the following day. The respondent instructed Atty. Chua that the bail bond should be in cash to facilitate the collection of his attorney's fees so that both of them can receive their respective compensation for their efforts (Exh. 'H', par. 9).

Again, in his Affidavit Atty. Chua stated that on May 2, 1991 at about 4:00 o'clock in the afternoon he delivered P20,000.00 to the respondent and before he left the chambers, the respondent jestingly said where will they celebrate that evening.

Moreover, he indicated therein that on January 29, 1992, Johnson Lee and Atty. Chua appeared before the Judicial and Bar Council and briefly related the delivery of the P20,000.00 to the respondent where he was rebuked by Dean Palma for allowing himself to be used as a conduit for illegal and immoral act. Dean Palma asked Atty. Chua if he was not guilty as the respondent (Affidavit, par. 16).

During the cross examination of Atty. Chua, he affirmed, that his first meeting with the respondent was between April 10 to 15, 1991 in his chambers when the criminal docket clerk was instructed not to release the warrants of arrest (p. 52, TSN, Sept. 16, 1993; p. 41, TSN, Sept. 15, 1993). He further testified that it was also at that time when the respondent solicited P50,000.00 when he said, 'Why, how much is your fees there? You double it.' (p. 54, TSN, Sept. 16, 1993). The second meeting was when Atty. Chua discussed the reduction of the bail bond which he said could be on April 17, 18 and 19, 1991, but most probably on the 18th (pp. 85, 86, TSN, Sept. 15, 1993), and the: third meeting was when he delivered the P20,000.00 which he said was on May 2, 1991 but which he rectified during cross examination that he withdrew the amount or. May 2, 1991 and the delivery of P20,000.00 to the respondent was on May 3, 1991 at about 4:00 o'clock in the afternoon (pp. 63-64, TSN, Sept. 15, 1993).

"In the Memorandum filed by Atty. Chua on Dec. 28, 1993, he pointed out the following facts which were either admitted or undisputed and which he believes established the misconduct and the impropriety of the respondent as follows:

a) Respondent Judge's admission that he met complainant Lee ahead of witness Johnny Uy, whom he tagged as the 'financier' of the herein complainants on May 29, 1991; 'while he met Uy only on October 7, 1991' (p. 11, Comment dated September 28, 1992 of respondent).

b) Respondent Judge's admission that, indeed, on May 29, 1991, he and complainant Lee saw each other at the Quezon City Sports Center, during the meeting of the Philippine Judges' Association (p. 11, Comment, supra).

c) As to witness Uy, respondent Judge admitted that 'it is true that respondent met with Johnny K.H. Uy on October 7, 1991 at the residence of respondent at Unit A-2, 157 Katipunan Road Quezon City x x x' (p. 7, Comment, supra).

Atty. Chua is of the opinion that the meeting of the respondent with the accused who were charged with two (2) criminal cases before his sala will render him liable for gross misconduct or conduct unbecoming of (sic) a magistrate."

Atty. Chua further declared that after he delivered the P20,000.00 to Judge Abastillas, the latter told him that the accused (in Criminal Cases Nos. 10010 and 10011) could see the Judge at the forthcoming convention of Philippine Judges' Association to be held at the Quezon City Sports Center.

Johnson Lee, one of the accused in the Criminal Cases Nos. 10010 and 10011, narrated on the witness stand that he received a long distance call from Atty. Chua advising him that Judge Abastillas wanted to see him (Johnson Lee) at the Quezon City Sports Center on May 29, 1991 where the Philippine Judges' Association was to hold a convention. Johnson Lee went to the place on said date. After introducing himself to Judge Abastillas, they repaired to a function room where they had a private conversation for about twenty minutes. During the meeting, Johnson Lee asked Judge Abastillas if he had received what they sent to Atty. Chua. Judge Abastillas said yes, but added, "I cannot give you what you are asking. It will take a little time to study." Johnson Lee responded by saying, "Judge, the balance later on na lang." Judge Abastillas replied, "Okay, okay. Anyway, I know they have no case against you."

On the same occasion, Johnson Lee took the opportunity to ask Judge Abastillas why he approved three ex-parte motions of the private prosecutor in the criminal cases, one, for issuance of a warrant of arrest of the accused and, another, for increase of their bail bond, without giving the "accused an opportunity to oppose; the same. Judge Abastillas assured Johnson Lee that there was nothing to worry "because that is my style. I will just give them a little favor. Anyway, the case will be decided in your favor."

Before they parted, Johnson Lee told Judge Abastillas that one Johnny Uy a brother of Ban Hua Flores, who had a hand in the filing of the criminal cases, wanted to see the judge. Judge Abastillas said yes. "You just give him my telephone number and call me." Judge Abastillas had earlier given Johnson Lee his calling card bearing his telephone number 7222968.

The meeting of Judge Abastillas with Johnson Lee at the Quezon City Sports Center became the basis for the charges of "gross misconduct and conduct unbecoming of (sic.) a magistrate."

Johnny K.H. Uy testified that he was concerned with the two cases pending before Judge Abastillas where the accused were charged with embezzlement of the funds of Neugene Marketing Corporation. According to Uy, he was interested in the outcome of the cases, more particularly in the acquittal of the accused, for the reason that the pendency of the criminal cases had adversely affected the operation of the corporation, 75% of which stocks had been assigned to him. Uy declared that he visited Judge Abastillas at his residence in St. Ignatius Village, Quezon City, on October 7, 1991 at about 11:30 in the morning. Before going to Judge Abastillas' house, Uy called him by telephone and Judge Abastillas gave him the direction of his place." During that visit, where the background and merits of the criminal cases were discussed, Judge Abastillas assured Uy that he would take care of the cases.

Before they parted Judge Abastillas told Uy to ask Johnson Lee if he could help Judge Abastillas with 5,000 U.S. dollars. Uy replied that he would talk to Johnson Lee about the matter and would inform Judge Abastillas by telephone of the result. On October 16, 1991 at about 7:00 o'clock in the evening, Uy called up Judge Abastillas telling him that there will be no problem about the 5T (meaning US \$5,000.00) as long as the cases of Johnson Lee will be cleared first. Judge Abastillas told Uy to take up the matter with Al Simbulan. Al Simbulan, a lawyer, was a mutual friend of Uy and Judge Abastillas. The telephone conversation was taped by Uy (Exh. "D").

Going back to the testimony of Johnson Lee, said witness further declared that sometime in the middle of June, 1991, Atty. Simbulan called his office and left a note that they would have a dinner with Judge Abastillas at six o'clock in the evening at Manila Hotel. Johnson Lee obliged. Towards the end of the dinner, Judge Abastillas told Johnson Lee and Atty. Simbulan in a low voice: "Johnson, don't worry. Huwag kang mag-alala. Nakatimbre na ang kaso n'yo sa akin."

After some waiting and obviously realizing that Judge Abastillas was giving the accused a runaround, not having done anything relative to the criminal proceedings to indicate that he would perform his part of the bargain, Johnson Lee appeared before the Judicial and Bar Council (JBC) sometime in the middle of 1992 to oppose Judge Abastillas' application for transfer to Manila, as RTC Judge on the ground of his lack of good moral character. Johnson Lee saw Justice Lorenzo Relova to whom he cited the incidents where the Judge allegedly solicited money in the sums of P50,000.00 and \$5,000.00 and accepted the amount of P20,000.00 in connection with Criminal Cases Nos. 10010 and 10011. Justice Relova advised him to come back together with Johnny Uy and bring with them the tape containing the conversation between Johnny Uy and Judge Abastillas in the evening of October 16, 1991. A week later or on January 29, 1991 Johnson Lee, together with Johnny Uy and Atty. Chua, returned to JBC's office where the tape was replayed before then JBC member Calcetas-Santos. Atty. Calcetas-Santos obtained an English translation of the taped conversation and gave it to Justice Relova and Dean Rodolfo Palma, another JBC member. Both extensively interrogated Johnson Lee, Johnny Uy and Atty. Chua. At one point, Dean Palma sternly reprimanded Atty. Chua for having allowed himself to be a conduit in the bribery, pointedly reminding Chua that by delivering himself the advance payment of P20,000.00 to Judge Abastillas, he was as guilty as the judge.

As specifics, in support of their other charges against Judge Abastillas, complainants in Adm. Case No. RTJ-92-863 averred and sought to prove the following:

- 1.) When complainants filed a Consolidated Motion to Quash the Information in Criminal Cases Nos. 10010 and 10011, Judge Abastillas, instead of acting on the same, issued an order for their arrest and confiscation of their bailbonds in view of their failure to appear at the arraignment scheduled for that day;
- 2.) Likewise, although complainants had already posted bail, Judge Abastillas still insisted that they be present at their arraignment. Judge Abastillas gave preferential treatment to some cases, particularly Criminal Cases Nos. 8846 and 8847, entitled "People vs. Espinosa" for violation of the Dangerous Drugs Acts and for Illegal Possession of Firearms and Ammunitions, which were heard and the accused acquitted in just five (5) months, and in which the accused were not required to be present at the hearing of the Motion to Quash the Information; whereas in connection with complainants' Consolidated Motion to Quash the Information, their presence was required in a "full-blown type of hearing" and the motion was denied in open court in a "trifling manner."
- 3.) Complainants' Urgent Motion to Reset Arraignment and to Set Arraignment, Pre-trial and Continuous Trial dated June 2, 1991 was arbitrarily denied, their bonds were declared forfeited and the bondsmen were asked to show cause why no judgment shall be rendered against them for the amount of their bonds. In addition, Judge Abastillas issued an order for complainants' arrest and fixed an excessive bond of P50,000.00 each for their

provisional liberty.

4.) In Criminal Case No. 8847, Judge Abastillas issued an order posthaste requiring the delivery to court of the illegally possessed firearm and ammunition, which order was not necessary because the items should have been forfeited in favor of the Government and deposited in Camp Crame.

5.) Two of complainants' motions in Criminal Cases Nos. 10010 and 10011 had remained unresolved beyond the 90-day reglementary period.

In his verified Comments dated September 28, 1992 and Sworn Affidavit of October 22, 1993, as well as in his testimony in his own behalf, Judge Abastillas denied having solicited P50,000.00 from Atty. Chua or having received P20,000.00 from him as initial payment at 4:00 p.m. on May 2 or May 3, 1991. To prove his defense, Judge Abastillas obtained a joint affidavit from the personnel of his sala, namely, Pablo D. Juguan (Branch Clerk of Court), Estanes A. Alvior (Legal Researcher), Aurora Leda S. Exito, Alma M. Ronato, Wilma B. Cepeda and Julieta D. Jarce (Stenographers), Diana B. Lamur (Interpreter), Armando N. Eso (Deputy Sheriff), Maribec B. Alvior (Staff Asst. 2) and Edwin O. Navaja (RTC Aide) stating, in essence, that during the incumbency of Judge Abastillas of RTC Branch 50 in Bacolod City, they had never seen Atty. Chua enter the judge's chamber.

While on direct examination, Atty. Chua declared that he delivered the P20,000.00 to Judge Abastillas either on May 2 or May 3 of 1991, on cross-examination Atty. Chua at one point adverted when pressed to give the exact date that:

"Q

Now, we go back to your allegation that sometime either on May 2 or the next day, you delivered P20,000.00 to Judge Abastillas?

"A

Yes. Correct.

"Q

Can you please be a little bit more specific. Was it May 2 or May 3?

"A

Because as far as I can recall, when I appeared before the JBC I had then with me my old bank passbook. I traced the deposit and withdrawal in that passbook. There was a withdrawal on May 2, 1991 of the sum of P20,000.00. So most probably, it's either on that very same day or immediately the next day that I delivered the money.

"A

I think most probably it would be May 3 because if I am not mistaken, the next day is either a non-working, day or a Saturday and I remember that. Yes, yes. Correct. When I placed the P20,000.00 in my attache case, I remember my kid commenting that 'Papa, you have so much money in your attache case'. So the money stayed overnight with me. Yes. Correct. It was May 3." (TSN, p. 11, .Sept. 15, 1993.)'

Seizing upon Atty. Chua's above-quoted assertion that the delivery of the money "most probably" was on May 3, 1991, Judge Abastillas argued that he could not have received the money in the afternoon of May 3 as he left Bacolod City early in the morning of that day by ferry boat for Iloilo City and then proceeded by car to Roxas City where he stayed up to the following day to attend a testimonial in honor of Justice Bellosillo who was appointed as Court Administrator. To prove his alibi, Judge Abastillas submitted an affidavit of Judge Bernardo T. Ponferrada (then Presiding Judge of Branch 42, RTC, Bacolod City) certifying that he and his wife were with Judge Abastillas in their journey to Roxas City. Judges Sergio Pestano, Ramon B. Berjamin and Jose V. Alovera of the Regional Trial Court at Roxas City also executed a joint affidavit to the effect that Judge Abastillas arrived at Roxas City just before noon of May 3, 1991 where he stayed up to the following day.

Judge Abastillas admitted that he met Johnson Lee on May 29, 1991 at the Quezon City Sports Center during the convention of the Philippine Judges' Association. But he denied having asked Johnson for a meeting there or having talked to him privately regarding the criminal cases. Judge Abastillas said that RTC Judge Joselito de la Rosa of Manila was introduced to him by Judge Ponferrada. Judge de la Rosa, a friend of Johnson Lee, in turn introduced Lee to him. According to Judge Abastillas, he gave his calling card to Judge de la Rosa who must have handed it to Johnson Lee afterward. This was the same calling card that was introduced as evidence by the complainants in Adm. Case No. RTJ-92-8 53.

Judge Abastillas, likewise, confirmed the fact that he met Johnson Lee at the Manila Hotel in the evening of June 7, 1991 but that the latter was never invited by him to be there on that occasion. This is the account of Judge Abastillas in his sworn affidavit (Exh. "27") of the meeting:

"23. It is true that Lee attended the dinner which I and my wife had with my cousin and his wife, Mr. and Mrs. Arturo Sena, at the Manila Hotel on the evening of June 7, 1991. He was a gatecrasher on that occasion. What happened was this: My cousin and I agreed to a foursome at the Manila Hotel on June 7, 1991. When my wife and I were already on our way to the Manila Hotel, Atty. Simbulan called me up and said he wanted to see me. I told him that I was going to a dinner at the Manila Hotel. He insisted in seeing me; and I had an inkling it was because of the above-mentioned criminal cases, so I told him, I was willing to see him as long as he did not bring along either or both Lee or Moreno. (Prior to this, he informed me that Lee and Moreno were clients of his partner, Atty. Pineda), and I made this condition because I did not want to meet Lee and/or Moreno outside of the court and especially not during a social occasion; I was willing to see Atty. Simbulan because his brother is a friend of mine, and he was my counsel for one of my brothers-in law ('bilas – husband of my wife's sister). Atty Simbulan agreed that he would not take with him either of his clients, so I told him to join us at the Manila Hotel. Much to my surprise and anger, Lee was at the Manila Hotel Lobby, when he reached the place. So, when I saw Atty. Simbulan, I asked him: 'Bakit ba nandito iyan?' (Why is that person here?). Atty. Simbulan answered: 'Ewan ko ba diyan. Pasensiya ka na; Huwag ka nang magalit. Hayaan mo na siya' (I don't know. Please be patient; don't get angry. Let him join us). I contained my irritation. My cousin and his wife, and my wife were civil and hospitable. We, Filipinos, are a hospitable people. Unlike Americans, we tolerate gatecrashers, as in this instance of gatecrashing by Johnson Lee, who is a very pushy person, as indeed he also gatecrashed during the Judges' Convention. Furthermore, as indicated by their attempts to see and talk to Justice Alfredo Lagamon, the Investigating Justice in this proceeding.

"24. During the dinner, altho my wife, my cousin and his wife tried to be cordial to Lee, I showed my displeasure by not addressing him. It is not true that I told him I will take care of the two criminal cases." (At pp. 13 and 14.)

Again, Judge Abastillas did not deny that Johnson Lee, one of the accused in Criminal Cases Nos. 10010 and 10011, went to his residence at Quezon City on October 7, 1991. But the visit, according to Judge Abastillas, was not at his own initiative and the amount of \$5,000.00 was never discussed on that occasion. This is his version of the meeting:

"25. It is not true that on October 7, 1991 that I asked for \$5,000.00 from Johnny Uy. He did come to my residence on that date, but that was not on my initiative. Prior to October 7, 1991, I had been getting word from our maid and from my son, that a certain Mr. Uy had been calling up asking for me, but refused to leave any message. And then on October 7, 1991, just as I was preparing to go out for a luncheon meeting, our maid informed me a certain Mr. Uy wanted to talk to me over the phone. When I answered the phone Johnny Uy introduced himself and insisted that I let him come over to my house; he said he wanted to talk to me and explain his S.E.C. Case where his sister Banhua is opposing party. He did not say outright that he was going to discuss the Criminal Cases against Lee and Moreno; if he had, I would have-refused to see him, because I did not want to talk with or about Lee, at this time, I was getting fed up with the pushiness and aggressive behavior of Uy, who plainly wanted to establish a close relationship with me. Uy was very insistent that I see him, so just to accommodate him, I agreed to see him. And he came to my house on said date, October 7, 1991. He did talk about the S.E.C. case and also about Commissioners. I never asked him for \$5,000.00. I never asked him for money, Philippine or American currency, on that occasion, or over the phone. Uy was lying when he testified, that when he came to see me at home, I asked for \$5,000.00 from him and/or Lee. He was likewise lying when he said that in a telephone conversation with me on October 16, 1991, said \$5,000.00 was discussed. That is not true. It is possible I may have talked with him over the phone, but I categorically declare that I have never mentioned, nor have we ever discussed \$5,000.00. Also, I have never consented to the taping of any conversation, with him, or with anybody else." (Sworn Statement, Exh. "27", pp. 14 and 15.)

Evidence in Adm. Case No. 3815.

The offending statements of Atty. Chua that were the subject of the March 11, 1993 contempt order were contained in the Urgent Motion for Reconsideration dated February 21, 1992 he filed in Criminal Cases Nos. 10010 and 10011, to wit:

- 'And at the risk of incurring the ire of the Court, defense counsel regrets to say that in denying the six (6) incidents in the manner above-described, the Court acted no better than a pre-school kid who murmurs a favorite nursery rime (sic)' (Page 3, par. 5 of the Motion).
- 'To put it bluntly, accused have the feeling that these cases are being railroaded against them' (Page 5, 2nd par. of the Motion).
- 'Inasmuch as this motion not only seeks to reconsider the various palpable erroneous actuations of the Court, which have gone so far out of hand, but also cries for prompt extraordinary remedies or corrective disciplinary sanctions urgently required, so as to restore order and sanity in the entangled situations created by the series of plainly and outrageously, if not maliciously, erroneous orders of His Honor, which are highly prejudicial to the rights of the accused and injurious to the administration of justice and in effect, constitute a desecration of our entire judicial system, which have therefore rendered the President Judge RENATO E. ABASTILLAS unfit to continue wearing the judicial robe and sitting any second longer in the Bench, a copy of this Motion is made under oath and furnished the Supreme Court thru the Hon. Chief Justice Andres R. Narvasa; Judicial and Bar Council and the Court Administrator, without prejudice to the impending formal administrative complaint the accused will in due time institute with the Supreme Court (Page 12, No. (7) of the Motion)."

In the course of the joint hearing of the administrative cases, Judge Abastillas expanded his charges against Atty. Chua to include the following:

A.) Atty. Chua does not have the good moral character required of a member of the Bar and he violated his oath of office for the reason that:

- He admitted during cross-examination that in his conspiracy with Lee, Moreno and Uy, he committed the crime of bribery which is penalized in Articles 210 and 212 of the Revised Penal Code;
- He has been charged with the crime of Falsification of Public Document in People of the Philippines versus

Enrique S. Chua, docketed as Criminal Case No. 12036 of the Regional Trial Court, Branch 53, Bacolod City;

- An administrative case has been filed against him in Adm. Case No. 1425, entitled "J. Bautista Rabago vs. Atty. Enrique S. Chua;"

- Atty. Chua committed perjury in conspiracy with Lee, Moreno and Uy, by testifying in the proceedings under oath that he gave P20,000.00 as a bribe to Judge Abastillas on May 3, 1991, when he knew that he never gave any bribe money to Judge Abastillas; and that Atty. Chua also made other false statements in the proceedings to harass Judge Abastillas.

B. Atty. Chua violated the provisions of the Code of Professional Responsibility, as follows:

- Canon 1, Rules 1.01 and 1.02 for falsely testifying under oath that he gave P20,000.00 bribe money to Judge Abastillas on May 3, 1991;

- Canon 8, Rule 0.01 for using abusive and offensive language in his pleadings and memoranda against Undersecretary Bello of the Department of Justice;

- Canon 10, Rules 10.01, 10.02 and 10.03, for not only by perjuring himself in declaring that he gave P20,000.00 bribe money to Judge Abastillas, but also by offering false evidence in the form of a taped conversation, indicating lack of candor, fairness and good faith with the Court, and which acts of Atty. Chua violate his duties not to do any falsehood to mislead or allow the court to be misled by any artifice; and

- Canon 12, Rule 12.04 for advising his clients - the two (2) accused in Criminal Cases Nos. 10010 and 10011 not to attend the scheduled arraignment.

Atty. Chua categorically testified on cross-examination during the proceedings before Justice Lagamon that he gave P20,000.00 as bribe to Judge Abastillas. Thus:

"Q

In this particular case, with a solicitation bribe allegedly made by Judge Abastillas, what was your advise to your clients?

"A

I admonished them that the defense in these two cases are intrinsically rneritorious. So I do not see any reason, giving money or bribing any Judge. And that I am not in the habit doing that.

"Q

Did you agree with your clients that you would not give the bribe?

"A

That is what I told them.

"Q

What did your client tell you?

“A

They are so insistent and finally they prevailed upon me. Because their reason is the sad experience they had undergone with the Dept. of Justice. And according to Mr. Uy he told me, he said you just cannot underestimate my sister Banua and perhaps you do not know her. And he said giving of money is not in reality a bribe because we are in effect buying justice. And he told me I have to be practical about the whole thing.

“Q

So you were convinced by your clients that this was not really a bribe but you were only ‘buying justice.’

“Q

I still have reservation. Actually, up to this date I do not as a way of life approach such practice but I really do not know why I gave in to their constant persistent pleadings.

“Q

Was it because as you said you emotionally identified yourself to your clients?

“A

Partly maybe.

“Q

So you agreed that you are going to give what Judge Abastillas was allegedly asking from you?

"A

That was the effect because finally I delivered P20,000.00 to him.” (TSN, Oct. 27, 1993, pp. 7-3.)

Findings in Adm. Case No. RTJ-92-863

We find no sufficient proof to sustain the charge that Judge Abastillas accepted the amount of P20,000.00 in view of Atty. Chua's uncertainty as to the date he delivered the money. His final estimate of the date on cross-examination—May 3, 1993--had afforded Judge Abastillas a credible defense of alibi.

However, there is strong and convincing evidence that Judge Abastillas had willingly and knowingly discussed with interested parties with whom he met at least three (3) times, the possible dismissal of the criminal cases for a certain consideration.

Judge Abastillas made no denial that he met and talked with Johnson Lee, one of the accused in Criminal Cases Nos. 10010 and 10011 on May 29, 1991 at the Philippine Judges' convention at the Quezon City Sports Center on May 29, 1991 and at the Manila Hotel on June 7, 1991. Also, he did not deny that he accepted as visitor in his house at St. Ignatius Village, Quezon City, on October. 7, 1991 Johnny K.H. Uy, a party interested in the outcome

of the criminal cases. This meeting was followed by a telephone call made by Uy to Judge Abastillas on October 16, 1991 wherein the former informed the latter that there will be no problem about the 5T (meaning US\$5,000.00) as long as the cases of Johnson Lee would be cleared first, to which Judge Abastillas suggested to Uy to take up the matter with Al Simbulan, a mutual friend to both.

Judge Abastillas cleverly hedged in answering whether or not he talked to Johnny Uy on the phone on October 16, 1991, except to say, "It is possible I may have talked with him over the phone, but I categorically declare that I have never mentioned, nor have we even discussed \$5,000.00" (p. 16, Sworn Statement, Exh. "27"). Judge Abastillas also declared on cross-examination that "it is possible (that Johnny Uy talked to him over the phone on October 16) but I cannot remember exactly the caller, maybe one of the callers might be a certain Uy but I cannot recognize because I have never heard his voice." (TSN, p. 25, November 11, 1993.) Yet, in his verified comment dated September 28, 1992 (Exh. 4), Judge Abastillas declared he had telephone conversation with Johnny Uy just before Uy went to his house on October 7, 1991. Thus:

"Then in (sic) October 7, 1991 in the morning, our aforesaid maid Beth informed me that Mr. Johnny Uy wanted to talk to me. When respondent answered the phone, Mr. Uy introduced himself and asked that he be allowed to see respondent in his house. Respondent demurred because he was in a hurry because he had a 2 p.m. appointment in the Court of Appeals. But Uy was very insistent, so, just to get rid of him, respondent agreed to see Uy for a few minutes. So Uy went to see respondent at the latter's house. After introducing himself, Uy started discussing the criminal cases against complainants herein.

"What respondent repeatedly told Uy is that he (Uy) should rely on the counsel of Lee and Moreno to do all that need to be done in the case." (pp. 6-7.)

Since judge Abastillas had already heard Johnny Uy's voice on the phone and in fact they had a face-to-face conversation on October 7, 1991 in the Judge's house, it is highly unbelievable that Judge Abastillas could not say definitely whether he had a talk with Johnny Uy on the phone on October 16, 1991. His lame and shallow stance only serves to emphasize the obvious.

There is no doubt in the mind of the Court that the voices in the telephone conversation as recorded in the tape by Johnny Uy on October 16, 1991 were those of Uy and Abastillas. The taped conversation was replayed at the hearing before Justice Lagamon with the consent of both parties. Johnny Uy identified and recognized the voices in tape as belonging to him and Judge Abastillas.

In the taped conversation already adverted to, Johnny Uy told Judge Abastillas that there will be no problem about the 5T (meaning US \$5,000.00) as long as the (criminal) cases of Johnson Lee will be cleared first. Judge Abastillas' response was to advise Uy to take up the matter with Al Simbulan.

It may be argued that that would not prove that Judge Abastillas solicited US \$5,000.00. However, the taped conversation as the evidence of the complainants in Adm. Case No. RTJ-93-863 would show, was just a sequel of a series of interlinked events that had earlier taken place, starting with the solicitation by Judge Abastillas of P50,000.00 of which he received P20,000.00 as initial payment, followed by the meeting between Judge Abastillas and Johnson Lee at the Quezon City Sports Center and at the Manila Hotel, and the meeting between Johnny Uy and Judge Abastillas at the latter's house at St. Ignatius Village, Quezon City where the judge asked for US \$5,000.00. All the interrelated events ineluctably point to the conclusion meant that Judge Abastillas knew that the \$5,000.00 he tried to solicit.

Besides, if Judge Abastillas during the telephone conversation had no idea at all about the "5T" mentioned by Johnny Uy, he should have expressed surprise and inquired from Uy what he meant by it. He did not, which goes to show he fully understood what the "5T" stood for.

It is, likewise, suggested that when Johnny Uy mentioned "5T" to Judge Abastillas, the latter's reply did not appear to be responsive because he mentioned something like "Take up the matter with Al Simbulan." The theory is advanced that it would be illogical for a person who is soliciting a bribe to involve a third party and a lawyer at that — referring to Atty. Al Simbulan. We do not agree. Atty. Simbulan is a mutual friend of Judge Abastillas and Johnny Uy. He could serve as a convenient conduit between the two, thus avoiding the direct personal involvement of the taker in the payoff.

In this connection, Judge Abastillas cannot now question the admissibility of the taped conversation (Exh. 13) as evidence. He offered no objection to its replay at the hearing before Justice Lagamon.

We do not believe that Judge Abastillas' meeting with Johnson Lee at the Quezon City Sports Center was not pre-arranged. Neither do we accept his explanation that Johnson Lee was a "gate crasher" at the judge's party at Manila Hotel. On this point, we find the discussion in complainants' memorandum in Adm. Case No. RTJ-92-863 dated December 3, 1993 convincing. We quote:

"2. The circumstances as narrated by respondent Judge under which he first met complainant Lee by way of his justification in meeting the said Complainant, should be taken with a grain of salt, so to speak. Respondent Judge seems to heap the blame on his fellow Judges Ponferrada and de la Rosa, as being instrumental in paving the way for his meeting complainant Lee, but neither of these two judges was presented by him to substantiate his version. Worse, if respondent was able to secure the affidavit of Judge Ponferrada (Annex '4' of his sworn affidavit dated 27th October, 1993) to support the fact that on May 3, 1991, he was in Roxas City, then, there is no reason why he cannot at least secure a similar affidavit from Judge Ponferrada to bolster the circumstances under which he met complainant Lee.

Hence, that respondent Judge and complaint Lee met under mutually conducive and cordial circumstances which subsequently led to the latters (sic) solicitation of bribe from witness Uy, is very probable.

3. Moreover, the pretension of the respondent Judge that after the meeting of May 29, 1991 with complainant Lee at the Judges' convention, he 'did not give him the opportunity to see respondent again' and that 'he took all steps necessary so that he could not have to talk again to Lee', is a pure lie, and thus cannot be believed, because when respondent Judge, without his slightest expectation, was confronted with a calling card (EXH. 'D') of his own cousin Mr. Arturo Sena, given by said Mr. Sena to complainant Lee, in the presence of respondent. Judge and his wife, at a dinner at the Manila Hotel on June 7, 1991 or barely a week after respondent Judge, realizing that he could no longer pretend to be that 'resolute' in avoiding complainant Lee, vainly set up the pretext that complaint (sic) Lee was a gatecrasher on that occasion'. This, by itself, is extremely difficult to believe.

Even respondent Judge's explanation about the presence of complainant Lee at that Manila Hotel dinner is silly, if not childish and ridiculous. According to respondent Judge, he already 'had an inkling' on what was in Atty Simbulan's mind when the latter 'insisted in seeing him' at the time he and his wife were already on their way to the Manila Hotel for a 'foursome' dinner. That 'inkling' according to respondent Judge, are the two criminal cases where complainant Lee is one of the accused, but respondent Judge nonetheless willingly allowed Atty. Simbulan to join them in the dinner, notwithstanding the fact that, in his own words, 'prior to this, he (Atty. Simbulan) informed me that Lee and Moreno were clients of his partner, Atty. Pineda'. Thus if indeed respondent Judge is so determined in not seeing complainant Lee again and so resolute in avoiding at all costs complainant Lee as what he wants to impress upon the Investigating Justice, then, he could, have easily set up an alibi to mislead Atty. Simbulan.

Thus, there was indeed a prior understanding on where and when to meet Lee again after their meeting at the Judge's convention.

Besides, why did not respondent call on his own cousin Mr. Sena to prove that complainant Lee was really a

'gatecrasher' or request Atty. Simbulan to substantiate his version that Lee was the most unwanted guest during that Manila Hotel dinner. Worse, respondent Judge did not offer an explanation regarding Lee's having his calling card (EXH. 'C'), which witness Uy subsequently used in calling him up by telephone prior to their seeing each other on October 7, 1991 at the residence of respondent Judge."

The three (3) meetings by Judge Abastillas with interested parties who had a stake in the outcome of Criminal Cases Nos. 10010 and 10011 and the recorded telephone conversation where said cases were discussed manifested Judge Abastillas' willingness, nay, propensity to enter into deals with motivations incongruous to the merits of the cases pending before him. Judge Abastillas committed serious misconduct no less.

The Code of Judicial Conduct requires that a judge should be the embodiment of competence, integrity and independence (Rule 1.01). He should administer justice impartially and without delay (Rule 1.02). He should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary (Rule 2.01)

It is peculiarly essential that the system for establishing and dispensing justice be developed to a high degree of proficiency, to gain the absolute confidence of the public in the integrity and impartiality of its administration, because appearance is as important as reality, so much so that a judge, like Cesar's wife, must not only be pure but beyond suspicion. The actuations of Judge Abastillas transgressed against the high standard of moral ethics required of judges.

We find, however, the rest of charges of the complainants in Adm. Case No. RTJ-92-863 against Judge Abastillas without merit. We quote with approval the pertinent portions of Justice Lagamon's report relative to said accusations:

"The undersigned finds nothing irregular when the Court issued an Order of Arrest when the accused Johnson Lee and Sonny Moreno failed to appear during the scheduled arraignment on Sept. 26, 1991. Atty. manifested that he instructed his clients not to appear in Court because a day before the date set for arraignment he allegedly filed a consolidated motion to quash which he requested that the same be heard on Oct. 11, 1991. Both accused and counsel were duly notified of the arraignment. They should have displayed their respect for the Court by appearing personally and prayed for the deferment of the arraignment. There was nothing that could have prevented the Court from orally denying the motion to quash and proceeding with the arraignment. It appears that the motion which was filed only one day before the scheduled date of hearing was intended to delay and derail the speedy trial of the case, taking into account that the Sept. 16, 1991 date of arraignment was originally agreed in open court in the presence of Atty. Chua as early as August 5, 1991 and set for Sept. 3, 1991 but reset to Sept. 26.

The undersigned finds nothing untoward in the proceedings of People vs. Espinos (Crim. Cases 8846 and 8847) where the respondent ordered that the firearms involved in the case be delivered to the custody of the Court for proper disposition.

The complainants maintain that the respondent treated the cases in a favored manner just because counsel for the accused Atty. Roger Z. Reyes is close to him. Accordingly, a 'full-blown trial type hearing' was conducted in a motion to quash and, eventually, the case was dismissed. Whereas, in the cases of the complainants the accused were ordered arrested upon their failure to appear on Sept. 26, 1991 arraignment notwithstanding the pendency of a motion to quash. It is our observation that the two cases cannot be equated because in the first place the complainants failed or refused to appear in court notwithstanding notice to them and counsel. In the Espinos case the accused consistently appeared in court. Moreover, the Order of the Court directing the delivery of the firearms in the custody of the police is properly and in order. , We are fully aware of the evil practice of irresponsible policemen who hold on to the possession of the firearms for their personal use. The Court, therefore, has to issue an Order for the delivery of the firearms for proper disposal. In fact, Atty. Chua is guilty of deliberately misquoting the Order of the Court changing the phrase 'to this Court' to 'to him', thereby

creating an implication that the respondent entertained personal interest in the firearms.

The records show that the public prosecutor also moved that the firearm in question be delivered to the court and after an Order of Forfeiture be forwarded and deposited with the Firearms and Explosives Unit, PC Headquarters, Bacolod City (Exh. '15', p. 143, records).

The charge that the respondent failed to decide Civil Case No. 2423 (Susana Lim vs. Lim) within 90 days cannot be given much consideration taking into account the Certification issued by the Clerk of Court of the branch to the effect that the case was partially tried by the respondent and that the stenographer who took down the stenographic notes left for the United States without transcribing the same. There is, therefore, a need for the retaking of the testimonies of the witnesses.

The failure of the respondent to resolve the motion to disqualify private prosecutor dated April 20, 1991 as well as the motion for reinvestigation dated July 3, 1991 which were resolved in open court only on February 5, 1992 is rather a minor violation in the face of the series of motions filed by Atty. Enrique S. Chua. Respondent lost track of what motions are due for resolution until he was reminded on January 20, 1992 through a supplemental motion filed by Atty. Chua, however, sixteen days thereafter the pending motions were all resolved."

Findings in Adm. Case No. 3815.

Undoubtedly, Atty. Chua is guilty of violating Rule 1.01, canon 1, of the Code of Professional Responsibility in view of his admission that he allegedly delivered P20,000.00 as bribe money to Judge Abastillas, thereby allowing himself to be used as a conduit for an illegal and immoral act. Rule 1.01 provides that "A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct."

However, we take note that Atty. Chua during the investigation before Justice Lagamon humbly expressed his genuine regrets for having acted the way he did. He said: "I considered that, particular moment of my life as one of the human weaknesses." He felt sorry for "a lapse in my life." "I was not strong enough to resist," he added (TSN, Oct. 27, 1983, pp. 11-12).

Atty. Chua declared that while he believed that his clients' case was meritorious, his clients prevailed upon him to offer bribe money as the practical way to obtain justice.

Under the circumstances, and in addition to Atty. Chua's profound expression of remorse, we do not find it difficult to mitigate his liability when we consider his willingness to come forward, at the risk of being administratively penalized himself, to expose what he considered illegal and immoral acts perpetrated by the very ones tasked with the sacred duty to uphold the law and dispense justice.

WHEREFORE, respondent Judge Renato E. Abastillas, Regional Trial Court, Branch 50, Bacolod City, is hereby found GUILTY of serious misconduct in Adm. Matter No. RTJ-92-863 for having met with persons involved and/or interested in Criminal Cases Nos. 10010 and 10011 entitled "People vs. Johnson Lee and Sonny Moreno" of the Regional Trial Court of Bacolod City, for the purpose of discussing or soliciting bribe in connection with said cases and is hereby DISMISSED from office, with forfeiture of all retirement benefits and accrued leave credits and with prejudice to re-employment in any branch or instrumentality or government, including government owned or controlled corporations.

This Court holds Atty. Enrique S. Chua administratively liable in Adm. Case No. 3815 for violation of Rule 1.01 of the Code of Professional Responsibility for allegedly bribing Judge Abastillas.

Respondent Atty. Enrique S. Chua is STERNLY WARNED that a repetition of a similar act or acts or violation committed by him in the future will be dealt with more severely.

SO ORDERED.

Cruz, Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Melo, Puno, Vitug, and Kapunan, JJ., concur.

Narvasa, C.J., No part. Close relation to family of party.

Bellosillo, J., No part. Name is mentioned a number of times in the case.

Quiason, J., No part, Judge R.E. Abastillas being a client of former law office.

Mendoza, J., No part.

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