

LAMBERTO MACIAS, COMPLAINANT, VS. JUDGE GIBSON ARAULA, CFI, BRANCH II, SAN JUAN, SOUTHERN LEYTE, RESPONDENT.

A.M. No. 1895-CFI. July 20, 1982

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

Lamberto Macias, in his administrative complaint[1] with this Court, charged Judge Gibson Araula, Presiding Judge of Branch X of the Court of First Instance of Southern Leyte, for "serious infractions of the law, oppression, grave misconduct, illegal and unethical participation in partisan politics and electioneering," specifically committed as follows, to wit:

I. Serious infractions of the law, illegal and unethical participation in partisan politics and electioneering, in that

A. At about 9:00 o'clock in the evening of March 20, 1978 in Barangay Casile, Municipality of Dauin, Negros Oriental, the respondent Judge delivered a political campaign speech in a rally sponsored by the Kilusan ng Bagong Lipunan (KBL), urging his audience to vote for the KBL candidates.

B. At about 8:00 o'clock in the evening of April 2, 1978, respondent Judge delivered again a political campaign speech at a KBL rally held in Barangay Maayongtubig, Dauin, Negros Oriental, during which he said, among others: "Let us unite in this election; it is useless to support the Pusyon Bisaya because it is leaderless; President Marcos is still around to promote the welfare of the town of Dauin."

II. Serious infractions of the law, oppression and grave misconduct, in that

A. On April 9, 1978, two days after the elections in which the KBL candidates lost in Dauin, respondent Judge, aggrieved and enraged by the people's repudiation of his political leadership and of his wife's leadership in Dauin, made a round in the public market, in the company of members of his family and goons, threatened, coerced and physically ejected licit market vendors who were identified as Pusyon Bisaya followers, overturning and throwing out tables and other market equipment, warning and challenging Pusyon followers in the market and telling them to get out and that they can no longer sell goods in the market because they are Pusyon.

B. That on the same occasion, respondent Judge together with his three sons and his goons challenged Douglas T. Enriquez and his brother, Atty. Rudy T. Enriquez, a Pusyon coordinator in Dauin to a fist fight; that when Douglas ran to his brother Rudy, the respondent Judge, his sons and the aforesaid goons followed him, and while there, Ramon Araula, son of respondent Judge, tore Douglas' collar, slapped him and threw a lighted cigarette upon the face of Rudy. At this time, respondent Judge was drunk.

On February 26, 1979, this Court resolved to refer this instant case to Associate Justice Elias Asuncion of the Court of Appeals for investigation, report and recommendation.[2] Complainant's counsel filed on April 16, 1979 a motion[3] requesting that the hearings and investigation of this case should be held in Dumaguete City by reason of its proximity to the residences of the complainant's and respondent Judge's witnesses and the expensive

cost of travel, accommodation and food in Manila. This Court,[4] on March 26, 1980, designated Executive Judge of the Court of First Instance of Dumaguete City as commissioner in this case to receive the evidence of the parties thereto and the testimonies of their respective witnesses and thereafter, submit the same to this Court. On October 30, 1981, Executive Judge Alejandro R. Boncaros forwarded to this Court the complete records of the proceedings of this case.[5] On December 9, 1981, this Court delivered the aforesaid records to the investigating-Justice of the Court of Appeals for his evaluation, report and recommendation.

The records show that complainant presented ten witnesses including himself, namely: Claro T. Macias, Teofilo Versano, Atty. Rudy Enriquez, Primitivo Aletcha, Douglas Enriquez, Felix Soler, Sabina Bongalando and respondent Judge Gibson Araula. On the other hand, eight witnesses testified for the respondent Judge. They are: Gaudioso Cofino, Iluminado Tuban, Mrs. Senen Araula, Cenon Alagasi, Rogelio B. Alana, Paulo Balneg, Gregorio Alatan, Ramoncito Araula and respondent Judge Gibson Araula.

It is to be observed that complainant Lamberto Macias, 80 years old, is merely a nominal complainant because he was not an eyewitness to any of the incidents constituting his specific charges against respondent Judge. Complainant Macias was only informed by a group of people, known to him and residents of Dauin, Negros Oriental, of the respondent Judge's actuations involving the aforesaid charges.[6] Witness Claro T. Macias, corroborated by Teofilo Versano, testified that respondent Judge, on March 20, 1978 at a political rally held at Casile, Dauin, Negros Oriental, delivered a speech urging the people around to vote for the KBL, candidates.[7] It was Primitivo Aletcha who declared that at about 9:00 o'clock in the evening of April 2, 1978, respondent Judge delivered a political speech at a rally held at Maayontubig, Dauin, Negros Oriental, convincing his audience to be together in this politics because Pusyon Bisaya are leaderless and President Marcos is still around.[8]

In support of Charge II-A, witnesses Felix Soler and Sabina Bongalando declared that respondent Judge ordered them to stop selling fish in the Dauin public market because they are Pusyon Bisaya.[9] Regarding Charge II-B, Atty. Rudy Enriquez and his brother, Douglas Enriquez, were presented who testified that while they were sitting in the store of Manuela Delmo, in the evening of April 9, 1978, respondent Judge arrived and thrust his finger at the face of Atty. Enriquez shouting, "You are brave, you challenged me." They, further, testified that Ramon Araula, son of respondent Judge, tore Douglas' collar, slapped him and threw a lighted cigarette at the face of Atty. Enriquez.[10]

In his defense, respondent Judge, corroborated by the aforesaid eight witnesses, denied all the charges against him. He declared that in the evenings of March 20, 1978 and April 2, 1978, upon the request of Councilor Iluminado Tuban and Barrio Captain Gaudioso Cofino, he explained the mechanics of the April 7, 1978 elections, the whys and wherefores of the aforesaid elections, the blockvoting and other nonpolitical matters connected with the elections such as the explanations that the Philippines is divided into twelve regions and each region will elect a number of candidates and that some members of the cabinet will be members of the Interim Batasan Pambansa.[11] In addition, respondent Judge refuted the testimony of Atty. Rudy Enriquez that he challenged him to a fight, raising his clenched fist at the face of Atty. Enriquez.[12] He also denied the testimonies of Sabino Bongalando and Atty. Rudy Enriquez that he ejected vendors who were Pusyon Bisaya followers as he has no authority to do so.[13]

We quote the findings of the Investigating-Justice as follows:[14]

"A. On Charges I-A and I-B

"The undersigned investigator had systematically and graphically indicated the witnesses of the complainant and their testimonies, which he presented to prove the different counts of his charges. Under Charge I-A, on the alleged respondent's electioneering on the night of March 20, 1978, only two eyewitnesses in the persons of

Claro T. Macias and Teofilo Versano were presented, because witnesses complainant Lamberto Macias and Atty. Rudy Enriquez were not present in that political meeting, and the last two were only the persons to whom Claro Macias and Versano reported the alleged political speeches of respondent.

"The claim of witnesses Claro T. Macias and Teofilo Versano that respondent delivered a political speech at Bo. Casile, Dauin, on the night of March 20, 1978, was denied by respondent and his witnesses, Casile's Barangay Captain Gaudencio Cofino, Sangguniang Member Iluminado Taban, and respondent's wife Mayor Senen Araula.

"Complainant's witnesses Claro Macias and Teofilo Versano are admittedly staunch supporters and leaders of the political party known as Pusyon Bisaya in the Barangay of Casile, Municipality of Dauin, Negros Oriental, and their testimonies are patently tainted with personal bias and hostility against respondent. On the other hand, respondent's witnesses Gaudencio Cofino and Liuminado Taban, not mentioning Mayor Senen Araula who is the wife of respondent and who could be assumed to be personally biased towards her respondent husband, are also avid supporters of the KBL party, and could also be said to be in favor of the respondent since respondent's wife was the KBL chairman in Dauin during the election of April 1978.

"On the assumption that witnesses Claro Macias and Teofilo Versano on one side, are credible witnesses, and that Gaudencio Cofino and Iluminado Taban, on the other side, are equally credible, then we are faced and confronted with a situation where the testimonial evidences proceeding from these two sets of witnesses are in perfect equilibrium. Now, if this is the kind of evidence presented by the complainant to substantiate this specific charge against respondent, then it can not even approximate the quantum of a preponderance of evidence required in ordinary cases.

"Then, the equilibrium of the testimonial evidences coming from the two sets of witnesses could necessarily be upset by the testimonies of respondent and his wife, Senen Araula, who positively declared that respondent neither delivered any political speech on the night of March 10, 1978 nor on the night of April 2, 1978, but that, upon requests of the masters of ceremonies of the rallies, he merely explained the mechanics of the block voting, and the whys and wherefores of the April 7, 1978 elections, and that he never asked the people not to vote for Pusyon Bisaya and to vote KBL.

"There are, therefore, four declarants-witnesses on the side of the respondent as against two for the complainant. It is then the well-considered opinion of the undersigned that the greater weight of credible evidence lies on the side of the respondent. For while it is a rule in evidence that preponderance of evidence does not necessarily mean the greater number of witnesses, yet, in the determination where the superior weight of evidence lies, the court may consider all the facts and circumstances of the cases, among others, the nature of the facts to which they have been testifying, the probability or improbability of their testimonies, their interest or want of interest, the number of witnesses, (Sec. 1, Rule 133 New Rules of Court; V. S. vs. Caro, 32 Phil., 413).

"In the case at bar, complainant's witnesses Claro Macias and Versano had testified on a matter which became one of personal interest to them the elections - where their political party, Pusyon Bisaya, was pitted against the other party, KBL, and its supporters, which they vowed to defeat in that election. Thus, a political interest pervaded the whole breadth of their testimonies. Such, of course, can also be, said of the respondent's witnesses, Gardioso Cofino and Teofilo Versano. On the assumption, therefore, that the witnesses' were of equal candor, fairness, intelligence and truthfulness, then we are governed by the ruling that while the number of witnesses should not, in and of itself, determine the weight of evidence, yet in case of conflicting testimony, the numerical factor may be given certain weight. (People vs. Esquilona, 58 Phil. 295).

"But undersigned investigator is not only guided by the numerical superiority of respondent's witnesses, but the evident improbability of the testimonies of complainant's witnesses, Claro Macias and Teofilo Versano, that respondent delivered a political speech on the night of March 20, 1978. Investigator is not convinced that respondent was afflicted with such a chronic malady of insensible and nonsensical stupidity that he would

deliver a political speech on grounds swarming with his political and personal enemies, foremost of which came from his own clan. Atty. Rudy Enriquez who is his wife's nephew because the mother of Rudy is the elder sister of respondent's wife, and who is also respondent's brother-in-law because Rudy's wife is the younger sister of respondent, has become a mortal enemy of respondent, in a manner of speaking, for since Atty. Rudy Enriquez ran for Mayor against respondent's wife, Senen Araula, in the elections of 1971, their family, personal and political relationships have become irreversibly estranged and bitter as vile. This estranged relationship was beyond repair when Atty. Rudy Enriquez began filing administrative charges with the Department of Justice, the Supreme Court, the Tanodbayan, definitely seeking not only the ouster of respondent from his job, but wanting and wishing him to land and languish in jail.

"With this atmosphere obtaining since 1971 or 1972, it would be most improbable for respondent to have delivered political speeches on these two occasions - March 20, and April 2, 1978 - if only to give Atty. Rudy Enriquez a happy occasion to file again an administrative complaint against him. It is for this, that investigator is not convinced of the verity of this particular charge of electioneering on both the dates - March 20 and April 2, 1978.

"We now go to charge I-B, on the alleged respondent's electioneering activity on the night of April 2, 1978, in sitio Hawa, Barangay Maayongtubig, Dauin. There is only one eyewitness, Primitivo Aletcha, who testified on this charge because, as we said before, complainant Lamberto Macias was not in attendance at such a political rally. He and Atty. Rudy Enriquez were merely told by Primitivo Aletcha that respondent delivered a campaign speech in such a rally, asking the people there present not to vote for the Pusyon Bisaya candidates but to vote for the KBL candidates.

"We find here, we repeat, only one witness to substantiate this charge. But investigator also finds this lone witness to be extremely bias against respondent, for he was not an avid supporter of the Pusyon Bisaya but he himself was a complainant against respondent when he filed a complaint with the Honorable Supreme Court charging respondent as having actively intervened for one landlord Francisca Tuble who was trying to eject Primitivo Aletcha from the land of Tuble. The telegram-complaint of Primitivo Aletcha is marked Exhibit 4. This complaint did not prosper because respondent was able to explain his side satisfactorily.

"Thus, We see how this witness, Aletcha, could be so bias that we could not help but take his testimony with a grain of salt and with extreme caution. Investigator can not see why complainant could have not been able to secure a corroboration of Aletcha's testimony from a disinterest witness, even as there were plenty of people who were in attendance in that rally.

"We also have here, therefore, one witness of the complainant as against two witnesses of the respondent, namely Gaudencio Cofino and Regelio B. Alana, who positively declared that respondent Judge did not deliver any political speech on that night of April 12, 1978, but had merely explained, upon request of the Barangay Captain, the mechanics of block voting and the whys and wherefores of the April, 1978 elections. This is of course aside from the testimonies of respondent and Mayor Senen Araula.

"Now, then, what has been said of the investigator's assessment of the evidence under charge I-A can also be said, and with greater reason, on the evidence adduced pro and con under the charge (Charge II-B) under consideration.

"It is, therefore, the finding of the investigator that respondent did not deliver political speeches during the rallies of the KBL at Barangay Casili and Maayong-tubig, Dauin, Negros Oriental, on the nights of March 20, and April 2, 1978, but had merely made an informative expose of the block voting system adopted in the April 7, 1978 elections, and some other non-political matters connected with such election. Investigator is of the well-considered opinion that such an informative speech does not fall under the terms 'electioneering', or 'active participation in election' which are prohibited by law. Rather it can fall under the 'Provided' clause of Section 34 of P. D. No. 1296.

"We find the meaning of these terms in Sec. 34 of P.D. No. 1296 which provides:

The term 'election campaign' or 'partisan political activity' refers to an act designed to have a candidate elected or not or to promote the candidacy of a person or persons to a public office which shall include:

x x x

(2) Holding political caucus, conferences, meetings, rallies, parades, or other similar, assemblies, for the purpose of nominating candidates, soliciting votes and/or undertaking any campaign or propaganda for or against a candidate;

(3) Making speeches, announcements or commentaries, or holding interviews for or against the election of any candidate for public office.

Provided, that simple expression of opinions and thoughts concerning the election shall not be considered as part of an election campaign: Provided further, that nothing herein stated shall be understood to prevent any person, including officers and employees in the civil service, which shall be understood to include officers and employees of government-owned or controlled corporations, or from mentioning the names of the candidates for public office whom he supports."

"The undersigned investigator, therefore holds the view that complainant utterly fizzled in substantiating the two specifications under the electioneering charges against the respondent.

B. On Charges II-A and II-B

"Under the first charge (II-A), it is claimed by complainant that respondent, in the company of members of his family and goons, went to the public market in the evening of April 9, 1978, and threatened, coerced and physically ejected market vendors who were identified as Pusyon Bisaya followers, overturning and throwing out tables and other market equipment, challenging and warning them to get out of the public market and to stop selling their wares in said market.

"There were only three eyewitnesses whom complainant presented to substantiate some specifications of this charge, namely Felix Soller, Sabina Bongalando and Douglas Enriquez.

"Only the direct testimony of Felix Soller was taken because when he was up for cross-examination on subsequent hearings, inspite of the insistence of respondent to cross-examine him, he (Soller) can no longer be produced by complainant, on the latter's claim that he (Soller) can no longer be found in his previous address or in any other place inspite of efforts to locate him.

"Consequently, his testimony on direct examination should be disregarded in the assessment of the evidence in fairness to the respondent who was deprived of the right to cross-examine the witness against him as an imperative of due process.

"Only the testimonies of Sabina Bongalando and Douglas Enriquez should, therefore be considered in the assessment of the evidence under this charge.

"The evidence adduced by complainant is completely devoid of the presence of goons accompanying the respondent and his wife in going to the market place in that evening of April 9, 1978, unless complainant considers respondent's sons (Ramoncito, Gibson, Jr. and Jeffry), Policeman Paulo Balnag and Major Jose Tuballa of the Armed Forces of the Philippines, as goons. But, whatever is the impression of complainant on these persons as being "goons", if they are the ones referred to as 'goons', We find nothing in the evidence to justify calling them 'goons'.

"There is also absolutely no evidence to show that respondent overturned tables and threw out tables and, other market equipment of any person on that night of April 9, 1978, except on the claim of Atty. Rudy Enriquez

that he was informed that respondent upturned and threw tables out of the market place, which, of course, is completely hearsay. Even witness, Sabina Bongalando, could not say in her testimony that respondent did these particular acts of upturning tables, throwing them and other equipment and wares for sale out of the market stalls. What Sabina Bongalando had testified to in passing was her claim that the fishes she and one Magdalena Venales were selling were thrown out by the market collector, Aniceta Abellon. When this happened is not shown in her testimony.

"There is also a specification under this charge that respondent had coerced vendors in the public market to pack up and stop selling because 'no matter how much we will do for you are still with the opposition'. This, of course, is denied by respondent, strongly claiming that he never had told or ordered any one to stop selling in the public market because he has no authority to do so.

"It is the well-considered opinion of the undersigned investigator that Sabina Bongalando is not a reliable witness. She has been oscillating too dangerously in her testimony on this point that, without any corroboration at all, it is very dangerous to take her word as gospel truth. Thus, she declared on cross-examination:

"ATTY. ARAULA:

Q Is it not true that on April 10, 1978 you told Atty. Enriquez that you were warned by the respondent not to continue selling in the public market?

A They did not warn me. It was Mayor Senen Araula who warned us not to sell.

Q It was not the respondent who warned you not to sell but Mayor Senen Araula?

A It was Mayor Araula."

(p. 488, Records)

But, when respondent unnecessarily pursued his cross examination on that point, witness changed her testimony by saying:

"ATTY. ARAULA:

Q Not Mayor Araula?

A Yes.

Q So you are changing your testimony?

A He was the one who was facing me

(Pointing to Judge Araula)

Q But it is recorded that it was Mayor Senen Araula who warned you.

A It was he (pointing to the respondent) who warned us not to sell.

Q So it was not Mayor Araula?

A No." (p. 488, Record)

although, in her subsequent testimony she volunteered to say that Citas (Abellon), the market collector, ordered them to stop selling upon order of the mayor as the respondent can no longer order anybody. Thus witness declared:

ATTY. ARAULA:

Q And, of course, you knew for a fact that the respondent has nothing to do with the municipal government at that particular time, day or year?

A I know.

Q So that it is not true that because of the warning you stopped selling fish in the public market?

A That is true that he warned me that was the cause why I withdrew my table.

Q But you said sometime ago that it was Citas who prevented you from selling fish in the public market, how true is that?

A Including him because he was ordered by the Mayor. Also Citas ordered us not to sell because the respondent can no longer order anybody in Dauin because he is no longer connected with the municipal government."

(pp. 488-489, Record)

"Then this witness declared that when respondent allegedly ordered her to stop selling in the public market, she obeyed him. And yet, she retorted on this order by saying: 'I told him that I will not stop selling until I have no more capital.' (p. 492, Record). Finally she came back with the statement: 'Later on I obeyed him because I have no more capital.

"It is thus clear from this that Sabina Bongalando was not ejected or forced to stop selling in the market place of Dauin due to the order of the respondent, but that she stopped selling in the public market of Dauin because she no longer had capital to finance her business.

"The undersigned investigator can not, therefore, see any oppressive act of respondent for which he is charged on this particular specification.

"It is significant to note that even in the report made by Atty. Rudy Enriquez to the police, and which was entered in the police blotter, there was not the slightest intimation that it was respondent who ordered those vendors mentioned by Atty. Enriquez in his report to stop selling, or that it was, respondent who ejected them out of the market place. (Please see Exhs. 12-a to 12-e). More than this, a verification by the police of this report of Atty. Enriquez showed the falsity of the report. For on the following morning of April 9, 1978, all those reported to have been allegedly ejected or ordered to stop selling in the public market the night before were all found to be in their respective stalls, normally selling their wares. (Please see Exhs. 12-f to 12-h).

"On the charge that respondent was drunk on the night of April 9, 1978, there is also no concrete, convincing evidence that he was. Of course, the consensus of Douglas Enriquez, Atty. Rudy Enriquez and Sabina Bongalando is that respondent's face was red. But, respondent is admitted by Sabina to be of brown complexion, and so it would be really inconclusive to say that respondent was drunk just because his face was red. After all, these witnesses have not seen respondent drank liquor that night. Even the claim of Sabina that he was swaying sideways as he walked would not make a positive showing that he was drunk. There are those who walk that way even if they are not drunk. Nor would the fact that respondent allegedly held the post of Sabina's table with both hands indicate that he was drunk and tipsy. Nor could Atty. Rudy Enriquez's claim that respondent would have not done what were attributed to him to have done if he was not drunk, a proof that he was in fact drunk.

"It is, therefore, the finding of the undersigned investigator that Charges I-A, I-B and II-A were not convincingly and positively established, short of the quality of evidence required for cases of this nature. For it is clear from the language of the Honorable Supreme Court, when, speaking through Mr. Chief Justice Enrique Fernando, It said in the Case of Suerte vs. Ugbinar (75 SCRA 69):

"x x x This is to defer the basic concept first announced in 1922 in this, jurisdiction in Justice Malcolm's

opinion in the leading case of *In re Horrilleno* that proceedings of this character being 'in their nature highly penal,' the charge 'must, therefore, be proved beyond reasonable doubt.' (43 Phil. 212). To paraphrase the opinion further, there is no showing of the alleged incompetence and gross ignorance of the law 'by a preponderance of the evidence, much less beyond a reasonable doubt'. Such an exacting standard has been adhered to by this Court in subsequent decisions. (See *Enriquez vs. Araula*, 54 SCRA 232; *Tombo vs. Medina*, 55 SCRA 13; *Lampauog vs. Villarojo*, 55 SCRA 304; *Bartolome vs. de Borja*, 71 SCRA 153; *Tolentino vs. Tiong*, Adm. Case No. 535-MJ, August 21, 1976; *Amosco vs. Magro*, Adm. Case No. 439-MJ, Sept. 30, 1976).

"This basic concept was reiterated in the cases of *Caballo vs. Celis* (83 SCRA 620) and *Lopez vs. Fernandez* (99 SCRA 603).

"We finally come to the last charge (II-B) that respondent was shouting challenging words, and that he challenged Douglas Enriquez and Rudy Enriquez to a fist fight. It is the claim of Atty. Rudy Enriquez that when respondent approached the former where he and his brother were sitting, he raised his clenched fist about a foot away from Atty. Rudy Enriquez's face and said: 'You are brave, you challenge me?! As respondent said this, his son Ramon, pulled the collar of the shirt of Douglas. Enriquez which was torn in the process and Ramon challenged them to a fight.

"It is the belief of the undersigned investigator that respondent had in fact shouted at the Enriquez brothers saying: 'You are brave, you challenge me!', and raised his clenched fist towards Atty. Rudy Enriquez. This could have been his natural reaction to the indignities and embarrassment naturally flowing out of what the Enriquez followers had done in bringing brooms to the Municipal Hall, symbolic of an act of cleaning or sweeping away from the town hall the incumbent Mayor, wife of respondent, and her henchmen. This conduct of Atty. Rudy Enriquez and his followers had added to injury a feeling of greater remorse legitimately arising from the defeat of the KBL leadership in the Municipality of Dauin, that fomented a more bitter hostility between Atty. Rudy Enriquez and his other relatives who were in the opposite camp, headed by then Mayor Senen Araula. This included the respondent who, even as he was already a public official whose position did not warrant him to engage in political activities, could be said, to have communed his sympathies with his wife, Mayor Senen Araula, who was the KBL Chairman at Dauin.

"It is, however, the finding of the undersigned investigator that all that respondent had done in that occasion was his raising his clenched fist towards Atty. Rudy Enriquez and angrily asked him: 'You are brave, you challenge me!' Of course, respondent denied having clenched his fist and of having raised it towards Atty. Rudy Enriquez and of having said that he was attributed to have said, but this finding is made probable by respondent's admission that at 7:00 o'clock in the evening of April 9, 1978, when he was about to retire that night (he was in his house at Dauin), he was in-formed that Douglas Enriquez, Marcial Ariola and Victor Credo were inciting people, especially the vendors who were their followers, by saying:

'Don't believe the Mayor anymore, she lost in the election last Friday evening. She will be changed and another will be appointed in her place.

Thus informed of what these persons were allegedly saying, respondent went to the public market 'to see to it whether the report was true.' (pp. 776-777, Report).

"If respondent purposely went there to verify if the report was true, then it must be assumed that respondent was inceased of the conduct of these men and was determined to confront these men and to tell them to stop what respondent would have considered as abominable and insulting conduct against his wife. In the heat of his anger, he had done what he did - clenched his fist, raised it towards Atty. Rudy Enriquez and said 'You are brave. You challenged me!'

"For if respondent had not felt an unmitigated anger by the reported conduct of these men, he could have just let the report pass away without the need of his going to the market place only for the purpose of verifying the said report. Then, he would have avoided the confrontation. The confrontation was necessarily an occasion to

vent out angered feelings, of which words and actions must necessarily be their manifestations.

"As regards the act of respondent's son, Ramoncito Araula, in challenging the two brothers Rudy and Douglas - to a fight, holding Douglas by the collar of his shirt which was torn in the process and in flicking a lighted cigarette butt at the face of Rudy Enriquez, these are, to the undersigned, individual, separate acts of Ramoncito Araula for which respondent should not be held liable. These acts were done while respondent was still far from his son, and he could have not prevented him from doing these. In fact, respondent was not with his son when he went to the market place. He only saw persons grouping near the store of Abellon Delmo when he went out of the market place after he could not locate Douglas Enriquez and his companions. And seeing this group of persons, he called up Policeman Balnag, and they proceeded to the place. There he already saw his son Ramoncito. Respondent never knew what his son, Ramoncito, was intending to do at the time he (respondent) was confronting the two brothers. Anyway, respondent told his son to stop, held him, and, with the help of his wife, Mayor Senen Araula, and Maj. Jose Tuballa who arrived after him, admonished his son to go home. The undersigned investigator finds, therefore, no conspirational design on the part of respondent and his son, Ramoncito Araula, in the latter's holding of Douglas Enriquez by the collar of his shirt, and in flicking a lighted cigarette butt at Atty. Rudy Enriquez' face. Each of respondent and Ramoncito Araula should, therefore, be answerable for his individual act.

"On Charges I-A and I-B, the undersigned can only say that respondent should have avoided occasions or situations where his presence and actuations could be 'misinterpreted by others as an overt act of violation of law. It was not really necessary for him, considering that he was occupying a position of delicate responsibility where he is expected to be apart from partisan activities, to have driven the jeep in which his wife and her followers rode in going to two political meetings, and worst of it, to make explanations on the mechanism of block voting, and the whys and wherefors of an election, on the very platform of a political rally of a particular party, to appear as if his participation therein was a part of the political campaign. Members of the bench should refrain from any conduct that should in any way give rise to a suspicion, whether founded or not. (Azupardo vs. Buenviaje, 82 SCRA 369). The personal and official actuations of every member of the Bench should be beyond reproach and above suspicion (Dy Taban Hardware Auto Supply Co. vs. Tapucar, 102 SCRA 495).

"Respondent's intentions in making such explanations were definitely laudable and should be encouraged, but the outward manifestations of such intentions should be properly made at a proper time and in an uncontentious forum, where his good intentions can not be beclouded with suspicions of partisanship. This could be best achieved by respondent in a non-political forum.

"Respondent could have also avoided Charge II-B, if he were patient and forbearing enough, and not to be too onion-skinned to informations adverse to him and his wife. Of course, it is understandable that the hurt of his wife is his hurt, that he equally feels the pains and pangs of this hurt. But, as a Judge he is expected by some to be more forbearing than ordinary persons. Of course, this is too much to be expected of a judge who is no less and no more than a human being, but he is expected by others to be an angel, or to approximate one.

"Anyway, the conduct of the respondent under Charges I-A, I-B and II-B, can still fall within the silo of the Canons of Judicial Ethics when it prescribes:

"3. Avoidance of appearance of impropriety - A Judge's official conduct should be free from the appearance of impropriety, and his personal behavior, not only in the bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach."

"4. Essential conduct, - He should be temperate, x x x, patient x x x

In the light of the foregoing detailed findings of the Investigating-Justice, We agree and hereby approve his recommendations[15] that the respondent Judge be reprimanded for what he admittedly, and/or was proved to have done under Charges I-A, I-B and II-B, and should be admonished to be more careful next time in not placing

himself in such occasions where he can be suspected of engaging in partisan politics, and advised to be more temperate and patient, more forbearing and more forgiving on the petty incursions on his sensibilities.

Judges, indeed, should be not only men of highest integrity but they should also at all times conduct themselves in such a manner as to be above suspicion.[16]

WHEREFORE, respondent Judge Gibson A. Araula is hereby reprimanded with the stern admonition that a repetition of similar act will be dealt more severely. Let a copy of this resolution be entered in his personal record.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., Guerrero, Abad Santos, and Escolin, JJ., concur.

[1] p. 1, Rollo.

[2] p. 33, Rollo.

[3] p. 42, Id.

[4] p. 86, Id.

[5] p. 88, Id.

[6] p. 886, Rollo, Report of Executive Judge Alejandro Boncaros.

[7] pp. 877, & 880, Id.

[8] p. 878, Id.

[9] pp. 882 and 883, Id.

[10] pp. 870 and 874, Id.

[11] pp. 910 and 912, Id.

[12] p. 914, Id.

[13] Ibid.

[14] pp. 33 to 46, Investigation, Report and Recommendation of Investigating-Justice Elias Asuncion.

[15] p. 46, Id.

[16] Li vs. Mijares, 65 SCRA 167; Castillo vs. Barsana, 63 SCRA 388; Jugueta vs. Boncaros, 60 SCRA 27; Lague vs. Kayanan, 29 SCRA 165.

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