

## FRANCISCO M. LECAROS, COMPLAINANT, VS. HON. SEGUNDO M. GARCIA, RESPONDENT.

*A.M. No. 2271-MJ. September 18, 1981*

Ponente: DE CASTRO, J.

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### DE CASTRO, J.:

This is a verified complaint[1] dated March 8, 1979, filed by Francisco Lecaroz, Municipal Mayor of Santa Cruz, Marinduque, against Municipal Judge Segundo Garcia of said municipality, for alleged "misconduct or improprieties" committed by the latter as follows:

"1. The improper conduct of Judge Garcia in soliciting for donations of office equipments (sic) from Marcopper Mining Corporation, an entity which at some time or another may be a party in litigation before Judge Garcia himself. As a matter of fact, at the time the office equipments (sic) were donated and delivered, Mr. Cirilo Cachero, the Personnel Officer of Marcopper Mining Corporation, has a pending criminal case against him before the Municipal Court of Santa Cruz for Perjury, docketed as Crim. Case No. (78)-216 and said case is still pending disposition by Judge Garcia. In the face of the instant situation, how can the complainant in the Cachero case believe in the 'cold impartiality' of Judge Garcia?

"2. Without going through the propriety of making representations with the office of the Mayor and/or office of the Municipal Treasurer in order that the donated equipments (sic) can be issued for the use of his office, Judge Garcia took it upon himself to accept delivery of the equipments (sic) from Atty. Teodulo Gabor, Jr., a Marcopper lawyer, and placed said equipments (sic) inside his office where they are situated up to the present. Such abject lack of decorum and courtesy could hardly be expected from a man of the bench."

In his comment[2] dated April 19, 1979, respondent Judge alleged that the office desk, swivel chair and a long carriage typewriter donated by Marcopper Mining Corporation on November 17, 1978 to the Municipality of Santa Cruz were physically received by former Mayor Percival Morales, who allocated the same to the office of the respondent; that as they were second hand, the same had to be refurbished or fixed, so that they were actually delivered to the office of respondent only on January 17, 1979, and were inventoried as properties of the Municipality of Santa Cruz on February 16, 1979 by Mrs. Virginia P. Garcia, property clerk, and Mr. Rufino Ney, Assistant Treasurer and in-charge of office; that as stated in the Deed of Donation,[3] the Municipality of Santa Cruz, as donee, represented by Mayor Percival Morales, "hereby receives and accepts this DONATION" of the aforementioned office equipment, thus, negating the claim of complainant that "there is no records the donee accepted delivery of the properties and that no official or representative of the municipality received and allocated them to the office of the Municipal Judge"; that it is improper for the complainant to demand the turn over within 72 hours of those equipment, which are for the official use of the court, respondent not being in personal custody thereof; and that pursuant to Section 7 of the Judiciary Act, as amended, the complainant, as Executive Head, is even duty bound to provide the municipal court with all the necessary office facilities.

Respondent further alleged that the complainant, choosing to be fault-finding, also mentioned Criminal Case No. (78)-216, prejudging that the complainant in that case cannot rely on his "cold impartiality". He explained that the

records of that case will speak for itself that Marcopper is not a party to said case although the accused Cirilo Cachero and complainant Reggie Ilagan happen to be both employees of Marcopper.

Respondent furthermore averred that ulterior motives underlie the accusation of herein complainant. Thus, pursuant to the letter of the Municipal Treasurer dated January 26, 1979, informing herein respondent that a position for janitor was created under Resolution No. 44, dated April 11, 1978, per Municipal Ordinance No. 1-78, Supplemental Budget No. 1 of the General Fund (Item 109) with an appropriation of P3,432.00 per annum as salary and that funds are available, respondent Judge appointed one Ambrocio Revilla to said position. However, complainant resented this appointment claiming that there was an error in the creation of the position, but how could he claim any irregularity in the creation of the position when he was not yet the Mayor at that time. Just lately, complainant abolished the position in question and instead created a similar position in the office of the Mayor, the appointee there to be detailed in the office of respondent Judge. Another instance of harassment by the complainant, respondent pointed out, is the former's refusal to sign the voucher for the reimbursement of the latter's official expenses for telegrams in spite of its supporting papers.

After a conscientious and thorough review of the records, We are of the considered view, and so hold, that the conduct of respondent Judge cannot be allowed to pass without administrative sanction.

It clearly appears on record that the donation in question was made thru respondent Judge's personal intercession and solicitations, which consist not merely of follow-up letters but also thru personal follow-ups.[4] On top of this, respondent Judge expressly admitted that the request or solicitation made to the Marcopper Mining Corporation is only one among more solicitations he had made, as he had likewise "sent similar solicitations to Mr. Macario Rodil for another swivel chair, to the Consolidated Mines and to Mr. Luis Tan Family for a dozen upholstered chairs, 3 long upholstered benches, a long table for the courtroom and others." [5] Ironically, the respondent Judge did not even bother to ask these things from the Municipal Government on the lame excuse that "it has many, many more projects to make that will redound to the benefit of the people of Sta. Cruz." [6]

Apparently, respondent Judge would claim justification for having solicited directly office equipment and furniture not only from the Marcopper Mining Corporation but also from other civic-spirited citizens and entities, not for personal gain but to refurnish and improve the municipal court. We do not, of course, denounce that intention of respondent Judge for such is even commendable rather than condemnable. But the means by which he set that intention in motion can not receive the imprimatur of approval of this Court. His conduct of soliciting for the office equipment in question would show that he openly transgressed the established norm for judicial behavior as contained in Paragraph 3 of the Canons of Judicial Ethics, which provides that " (a) judge's official conduct should be free from the appearance of impropriety, and his personal behavior, not only upon the bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach." Paragraph 29 of the Canons of Judicial Ethics likewise provides that a judge "should not accept any presents or favors from litigants or from lawyers practicing before him." Respondent Judge should have avoided giving ground for any reasonable suspicion that he is utilizing the power or prestige of his office or the influence of his name to solicit donations from private parties. Marked attention and unusual hospitality on the part of private parties to a judge engender misinterpretation of his motive and should thus be avoided. Judges, in general, should refrain from pursuing such a course of conduct, which, in the normal course of events reasonably to be expected, might bring their actuations into conflict with the impartial performance of their official duties, which present hazards to the proper administrative of justice.

Under the circumstances, the act of respondent Judge discloses a deficiency in the prudence, discretion and judgment that a member of the judiciary must exercise in the performance of his functions, if the bench is to command the respect due thereto. In his effort to furnish and equip well his office, respondent Judge should not

lose sight of the proper judicial norm.

WHEREFORE, respondent Judge is hereby ADMONISHED and enjoined to act with proper judicial perspective, free from the appearance of impropriety, and his personal behavior should be beyond reproach, with the warning that a repetition of the same or similar offense will be dealt with more severely.

Let this resolution be made a part of the personal record of the respondent Judge.

**SO ORDERED.**

Aquino, Concepcion, Jr., and Guerrero, JJ., concur.

Barredo, J., (Chairman), concur because it appears that at the time the solicitation to Marcopper was made, two of its employees had a case pending before respondent judge.

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[1] pp. 1-3, rollo.

[2] pp. 19-22, rollo.

[3] pp. 12 & 12-A, *ibid*.

[4] p. 7, rollo.

[5] *ibid*.

[6] p. 8, rollo.

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