

**JOCELYN MCLAREN, JUNARIO VILLAMAYOR, RESTITUTO BARLES,
JANG JONG DAE, AMANDA TALIBONG, NOMER A. TALIBONG AND
EMELYN FREJOLES, COMPLAINANTS, V. HONORABLE JACINTO C.
GONZALES, PRE...**

A.M. No. MTJ-16-1876 (Formerly OCA I.P.I. No. 14-2668-MTJ). April 26, 2017

Ponente: PERALTA, J.

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PERALTA, J.:

On March 17, 2014, complainants Jocelyn McLaren, et al. filed an administrative complaint against respondent Judge Jacinto C. Gonzales, Municipal Trial Court in Cities (MTCC), Branch 2, Olongapo City for gross misconduct in connection with Civil Case No. 7439, entitled "Subic International Hotel Corp. v. Jocelyn McLaren, et al." and for gross dishonesty in failing to disclose that he had a pending criminal case filed against him when he applied for judgeship in the Judiciary.

Complainants, who were the defendants in Civil Case No. 7439 for Unlawful Detainer, alleged that their counsel was badly treated in three hearings in the following manner: (1) he was not allowed to argue or discuss their objections to the plaintiffs' motion for preliminary injunction and their two motions to dismiss *ad cautelam*; (2) most of the manifestations of their counsel were cut short by respondent even while he was just beginning to say something; and (3) he was ordered to sit down three times. Respondent allegedly had a visible ferocious negative facial countenance when he addressed their counsel.

Moreover, complainants said that respondent arbitrarily issued in open court, without legal basis, an Order denying all motions of the parties. They alleged that respondent was arrogant during the hearings, not wearing the judicial robe, incessantly puffing a lighted cigarette, and unnecessarily banging the gavel.

Complainants had the impression that respondent lost the neutrality of an impartial judge; hence, they filed an Urgent Ex-Parte Motion for Inhibition, which motion was denied by respondent in an Order^[1] dated January 21, 2014.

In addition, complainants alleged that respondent should be held liable for gross dishonesty, since he failed to disclose that he had a pending criminal case for sexual harassment filed in 2002 in connection with his application for judgeship and his appointment to the Judiciary in December 2005.

In his Comment,^[2] respondent stated that the charge against him stemmed from the denial of complainants' motion for inhibition from Civil Case No. 7439 on the ground that it was already submitted for decision. Respondent asserted that the charge of impropriety alleged to have been committed by him during the hearings was not true and was not a valid reason and legal basis for his inhibition and administrative sanction. Assuming that there were instances wherein counsels were cut short by him in the course of the hearing, respondent said that those were judgment calls designed to maintain orderly court proceedings and were made in the performance of duty in good faith.

Moreover, respondent averred that complainants' contention that he arbitrarily and without legal basis issued in open court an order denying all pending motions, including their motion to dismiss, is belied by the Order[3] issued on August 29, 2013. He maintained that the order denying complainants' motion to dismiss was not tainted by bias, negligence or any improper motives, but it was issued upon due consideration of the arguments of the parties in open court and contained in their respective pleadings. He also said that there was no factual basis in complainants' imputation of ferocity, negative facial countenance and arrogance on his part in the conduct of the trial.

Further, respondent stated that complainants' motion to inhibit him from taking cognizance of Civil Case No. 7439, which motion was filed after the case was submitted for decision, was an abuse of judicial process and dilatory tactic to prejudice the plaintiff and would prove antithetical to the speedy administration of justice. According to respondent, under the circumstances, he could not simply relinquish his sworn duty to finally dispose of the case at the risk of violating his constitutional mandate to decide the subject case within the 90-day period. While Rule 137, Section 1 of the Rules of Court allows a presiding judge to voluntarily inhibit himself from hearing a case, which is primarily a matter of conscience and addressed to his sound discretion, the decision must be based on his rational and logical assessment of the circumstances obtaining in the case pending before him.

In addition, respondent stated that, except for the alleged non-wearing of the judicial robe which at some instances could not be avoided due to the extreme heat, the failing air-conditioning unit and the regular daily brownouts, equally without factual basis were complainants' allegation that he unnecessarily banged the gavel and smoked during trial.

Finally, respondent contended that the issue raised by complainants relative to the other cases filed against him in another forum is a matter within the cognizance of the appropriate body where they are pending. As such, said issue cannot be considered or taken together with this administrative complaint without violating established rules of procedure and non-forum shopping.

Respondent prays that this complaint be dismissed for lack of merit.

This administrative complaint raises the following issues:

- Whether or not respondent Judge Gonzales should be held administratively liable for gross misconduct for his alleged hostile behavior toward complainants' counsel which resulted in the filing of a motion for inhibition, and for his alleged arrogance during the hearing with his non-wearing of the judicial robe, smoking and unnecessarily banging the gavel; and
- Whether or not respondent Judge Gonzales should be held liable for dishonesty for his failure to disclose in his application for judgeship before the Judicial and Bar Council that he has a pending criminal case.

On February 23, 2016, the Office of the Court Administrator (OCA) submitted a report[4] and recommended that the administrative complaint against respondent Judge Gonzales be re-docketed as a regular administrative matter, and that respondent be found guilty of violating Supreme Court Administrative Circular No. 25 dated June 9, 1989 for non-wearing of the judicial robe during court sessions and be fined therefor.

The OCA stated that the allegation that respondent Judge Gonzales smoked cigarettes during trial, displayed arrogance in the conduct of the proceedings, and unnecessarily banged the gavel should be dismissed in the absence of substantial evidence by the complainants to support the charge.

In regard to the propriety of inhibiting from the case, the OCA stated that, under Supreme Court Circular No. 7

dated November 10, 1980, it has been settled that orders of inhibition are not administrative in character, but are judicial in nature. Questions on the competency of the inhibiting judge should be determined with finality in an appropriate judicial proceeding. Moreover, complainants failed to provide substantial evidence that respondent was partial to the other party. The presumption that official duty has been performed will govern.

In regard to the issue of dishonesty, the OCA stated that it is essentially the same allegation raised in OCA I.P.I. No. 09-2119-MTJ, and the Court had already resolved the issue in a Resolution dated March 9, 2009, hence, the charge of dishonesty by herein complainants should be dismissed and the matter considered closed and terminated.

The Court sustains the findings of the OCA that the charge of dishonesty against respondent should be dismissed as it has been resolved in OCA IPI No. 09-2119-MTJ. There is insufficient evidence against respondent in regard to all other charges of complainants, except the non-wearing of his judicial robe.

Respondent Judge Gonzales admitted not wearing the judicial robe due to the extreme heat, non-functioning air-conditioning units and regular brownouts. His justification for not wearing his judicial robe is unacceptable. In *Atty. Tiongco v. Judge Savillo*,^[5] the Court said:

Respondent judge admitted that he does not wear the black robe, but seeks to excuse his non-compliance because of his illness. The Court cannot accept his plea. In *Chan v. Majaducon*, where respondent judge tried to excuse his non-compliance because of his hypertension, we held that:

The wearing of robes by judges during official proceedings, which harks back to the 14th century, is not an idle ceremony. Such practice serves the dual purpose of "heightening] public consciousness on the solemnity of judicial proceedings," as Circular No. 25 states, and of impressing upon the judge, the exacting obligations of his office. As well put by an eminent jurist of another jurisdiction:

[J]udges [are] x x x clothed in robes, not only, that they who witness the administration of justice should be properly advised that the function performed is one different from, and higher, than that which a man discharges as a citizen in the ordinary walks of life; but also, in order to impress the judge himself with the constant consciousness that he is a high priest in the temple of justice and is surrounded with obligations of a sacred character that he cannot escape and that require his utmost care, attention and self-suppression.

Consequently, a judge must take care not only to remain true to the high ideals of competence and integrity his robe represents, but also that he wears one in the first place.^[6]

Respondent's act of not wearing the judicial robe during court sessions is violative of Administrative Circular No. 25 dated June 9, 1989, thus:

Pursuant to Sections 5 and 6, Article 8 of the Constitution and in order to heighten public consciousness on the solemnity of judicial proceedings, it is hereby directed that beginning Tuesday, August 1, 1989, all Presiding Judges of all Trial Courts shall wear black robes during sessions of their respective courts.^[7]

Under the principles of statutory construction, the term "shall" is mandatory.^[8] The Circular orders all Presiding Judges of all trial courts to wear their black robes during sessions in their respective courts.

Under Section 9(4), Rule 140 of the Revised Rules of Court, violation of Supreme Court rules, directives and circulars is considered a less serious charge and punishable under Section 11 (B) of the Revised Rules of Court with suspension from office without salary and other benefits for not less than one month nor more than three months, or a fine of more than P10,000.00 but not exceeding P20,000.00.

WHEREFORE, the Court finds respondent Judge Jacinto C. Gonzales, Municipal Trial Court in Cities, Branch 2, Olongapo City, guilty of violating Administrative Circular No. 25 dated June 9, 1989. Respondent Judge Jacinto

C. Gonzales is ORDERED to PAY a fine of Twelve Thousand Pesos (P12,000.00), with a warning that the commission of a similar act in the future shall be dealt with more severely.

SO ORDERED.

Carpio, (Chairperson), Mendoza, Leonen, and Martires, JJ., concur.

[1] Records, p. 77.

[2] Id. at 74.

[3] Id. at 78.

[4] Rollo, p. 89.

[5] 520 Phil. 573 (2006).

[6] Atty. Tiongco v. Judge Savillo, *supra*, at 585-586.

[7] Emphasis supplied.

[8] Gonzales v. Chavez, G.R. No. 97351, February 4, 1992, 205 SCRA 816, 836.

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