

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
JUDGE JOSE B. GATICALES, MUNICIPAL TRIAL COURT,
KABANKALAN, NEGROS OCCIDENTAL, RESPONDENTS.**

A.M. No. MTJ-91-528. May 08, 1992

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PER CURIAM:

This administrative matter refers to the charges of gross misconduct brought by the office of the Court Administrator against Judge Jose Gaticales of the Municipal Trial Court of Kabankalan, Negros Occidental.

The antecedent facts are as follows:

In a letter dated April 16, 1991, a certain Anna Marie Lopez (her pseudonym) charged the respondent for abusive, unethical, indecent and corrupt practices. After looking closely at the matter, this Court, in its resolution dated April 23, 1991, directed the Office of the Court Administrator (OCA) to file a verified complaint against the respondent and asked the National Bureau of Investigation (NBI) to investigate Lopez' allegations.

Acting pursuant to our resolution, the OCA charged the respondent with gross misconduct for: (1) extracting money from litigants; (2) demanding "lagay" before issuing warrants of arrest; (3) charging exorbitant fees for marriage licenses; (4) immoral advances against a lady litigant and (5) being a heavy drinker and smoker. As a result of the NBI investigation, sufficient evidence to support a prima facie case on the first four charges was ascertained. The report of the NBI and its annexes were referred to Executive Judge Layumas to whom this Court referred the case for evaluation and recommendation.

Executive Judge Layumas, then, set the case for hearing. The following witnesses testified against the respondent:

VIRGILIO WEE TESTIFIED AS FOLLOWS:

That he is a lessee of a commercial/residential building situated at Lerazan Street, Kabankalan, Negros Occidental where he has his hardware and construction supply business; that a case for Ejectment was filed against him by the Olvido spouses, new owners of the building, with the Municipal Trial Court of Kabankalan, Negros Occidental presided by the respondent Judge Jose Gaticales; that after a few hearings of the said case he was called by the respondent Judge to his chamber for a conference where he was told that he (Judge) can delay the decision of his case if he wants to, that he left without entertaining what the Judge told him; that a few days later the respondent Judge went to his store and got some items like gear oil, super motor oil, grease, brake fluid for which he signed a "vale" for P324.00 worth of goods; that said items were not paid until this investigation; that on other subsequent occasions, he got other merchandise like accelerator spring, motor oil, brake fluid, sets of sandpaper, grinding compound, grinding stick, steel brush, contact point and condenser, fan belt and this time he did not sign a Vale anymore; that much later the said Judge demanded for cash so, he had to give first, P500.00. After one (1) month, another P500.00 and much later P1,000.00; that sometime in April 1991 he asked for P5,000.00 in consideration for his proposal to convince the new owner of the building to sell to him (Wee) the said building; that he was able to give Three Thousand (P3,000.00) Pesos only; that the respondent Judge called him several times to go to his house but he did not heed the invitation, so the next thing he knew, a writ of execution was issued against him. That he has executed an affidavit now marked as

Exhibit "A".

JOSE PIOQUINTO TESTIFIED AS FOLLOWS:

That he is the Administrative Manager of the Negros Occidental Electric Company Inc. (NOCECO) holding office in the main office at Kabankalan, Negros Occidental; that on March 31, 1990 there was a general assembly meeting at the NOCECO compound where 7,259 members were present; that the keynote speaker was the Honorable Rodrigo Cabrera NEA Administrator and with him were several provincial and municipal officials; that during the open forum the respondent Judge who represented his wife as member of the NOCECO, took hold of the microphone and began talking in an unintelligible manner for he appeared to be drunk; that when he (Pioquinto) stopped the open forum because the Judge seem not to stop talking, the said Judge threw the microphone to the ground, causing a disturbance to an otherwise peacefully assembly; that he executed an affidavit marked as Exhibit "B".

ARTEMIO NOBLE TESTIFIED AS FOLLOWS:

He was delegated by his wife and mother-in-law to file an ejectment case with the Municipal Trial Court presided by the respondent Judge Jose Gatacales, against several squatters occupying a portion of the farm of his wife and mother-in-law; that said case was filed on February 27, 1987 and is still pending up to the present, although about five (5) to six (6) hearings have been conducted; that in the course of the hearings Judge Gatacales demanded money from him in different amounts, during the first hearing for example, he asked for P400.00; second hearing P300.00; third hearing P300.00, fourth hearing P200.00 or, in the total amount of P1,200.00; that he also asked one (1) cavan of palay; that what is worse, the case has not been decided up to the present; that lately he was informed by the Acting Clerk of Court, Mrs. Yvonne Rivera that on July 21, 1990 Judge Gatacales brought the records of the case to his residence and has not returned the same to the court up to now; that Judge Lorenzo Mana-ay who has been detailed to the Municipal Trial Court of Kabankalan to take the place of the suspended Judge Gatacales has no idea about the case; that he has executed an affidavit marked as Exhibit "C".

LILIA VOLUNTATE TESTIFIED AS FOLLOWS:

That she is an ibos (rice cooked in coconut milk and wrapped in coconut leaves) vendor; that on February 26, 1990 her husband was arrested by the 66th Infantry Battalion soldiers and was brought to the Kabankalan Police Headquarters; that the arrest was by virtue of a warrant issued by the respondent Judge in connection with a criminal case; that her husband was able to put up a cash bail bond in the amount of P1,200.00; that the case against her husband was dismissed; that she, her husband and another person who acted as bondsman together with Judge Gatacales went to the Treasurer's Office of Kabankalan to withdraw the cash bond of P1,200.00; that Judge Gatacales asked for Three Hundred (P300.00) Pesos saying that he has to go to Bacolod to process the final release of the bail bond; that aside from the P300.00, he asked for an additional twenty (P20.00) Pesos; that she executed an affidavit which she identified and now marked as Exhibit "D".

BRIGIDA ENGOJO TESTIFIED AS FOLLOWS:

That she was an accused together with her two other sisters in a case for "Slight Physical Injuries" filed with the Municipal Trial Court of Kabankalan, Negros Occidental presided by the respondent Judge Gatacales; that the bail bond required by the said Judge for each of them was One Thousand (P1,000.00) Pesos; that the said Judge took a vacation and the Judge detailed to take his place was Judge Victor Magahud who reduced the bail bond to One Hundred (P100.00) Pesos for which they were able to put up; that when the respondent Judge returned from vacation, he called the case for hearing and while she and her sister were sitting on a bench in the courtroom Judge Gatacales asked for Five Thousand (P5,000.00) Pesos in consideration for the dismissal of the case for "Slight Physical Injuries"; that the case was filed on March 6, 1989 and up to the present the case has not been heard.

She admitted to have executed an affidavit which she identified and is marked as Exhibit "E".

VICTOR GARDE TESTIFIED AS FOLLOWS:

That sometime in 1989 he mentioned his problem to the respondent Judge regarding his lease of a parcel of land situated in Oringao, Kabankalan, Negros Occidental; that the said Judge showed an interest in solving his problem but, asked for One Thousand (P1,000.00) Pesos in cash, some soft drinks and beer from his store, for it was almost fiesta time in the place of the Judge, in consideration for his solution to the problem; that he was able to give the Judge P1,000.00 as well as soft drinks and beer but, the soft drinks and beer have been paid; that until now no solution to his problem was suggested by the respondent Judge; that he executed an affidavit to this effect which is now marked as Exhibit "F".

JOAQUIN LO GRANDEZA TESTIFIED AS FOLLOWS:

That he was a salesman from 1988 to 1991 in the store of Virgilio Wee; that as salesman he has delivered various goods on credit to Judge Gaticales, like brake fluid, motor oil, accelerator spring, sandpaper, steel brush, fan belt and others for which the Judge signed a "Vale" but, has not paid the same until the time he left the store as salesman; that other items on other occasion were taken without a "Vale".

LAZARO MONTE CASTRO TESTIFIED AS FOLLOWS:

That he had a niece who was married to an Englishman and the marriage was solemnized by the respondent Judge in a private house; that the Judge asked for Five Hundred (P500.00) Pesos as fees then took a bottle of imported wine from the Englishman which was brought to his car. He also asked for one whole fried chicken which was on the table; that the Judge asked for the wrist watch of the Englishman but, the latter did not give the same for it has a sentimental value to him being a gift from his mother; that the Englishman promised to send him a watch in the future; that he has executed an affidavit before an NBI agent, copy of which is now marked as Exhibit "G". (Judge Layumas' report, pp. 4-11)

The respondent, on the other hand, denies the various charges against him. His answers to the accusations against him are as follows:

"The respondent Judge testified in substance that the complaint filed by Annie (sic) Marie Lopez should not have been entertained for said person does not exist; that the charges filed by Virgilio Wee against him are all false for everytime he gets any article from the store of Wee he always pay either through his driver, his children or himself; that Wee made some overtures to him regarding his pending case in respondent's sala, but, he ignored this and rendered a decision against Wee so that, it aroused his ire; that Wee filed an administrative case against him before the Supreme Court but, same was dismissed as shown in a decision dated, September 17, 1990 that he has not received any money from Wee;

That the testimony of Jose V. Pioquinto regarding his behavior during the NOCECO members general assembly meeting on March 31, 1990 was not true for he did not misbehave nor, was he drunk as charged, at that time, although his face was red because of the heat of the sun. Defense witness Salvio Alvior testified that he was at the general assembly meeting of the members of the NOCECO at the latter's compound but, he did not see Judge Gaticales talking or was drunk although his face was red at the time.

That with respect to charge of Artemio Noble that he asked for money and palay the same are all false for the truth is that he has more palay than Noble; that Noble testified against him because his case was dismissed, although, his wife has a relative who has a case before his sala, filed sometime in 1990 or 1991 which is pending up to the present;

That the assertions of Lilia Voluntate are all false because he never received the amount of P300.00 taken from the bail bond put up by a certain Nuida for Lilia's husband; that Voluntate filed a case against him with the Supreme Court for Anti-Graft and disrespectful conduct which is docketed as MTJ-90-444, which is still

pending; that he never intervened in the withdrawal of the bail bond for Voluntate's husband;

That Brigida Engojo is a troublesome woman who has been convicted in several cases rendered either by Judge Magahud or Judge Mana-ay who are MTC Judges;

That he has not received any money from Victor Garde as alleged by him, although Garde approached him regarding a case but, he did not entertain Garde for he wanted that Garde should bring the matter to Court;

That as regards the testimony of witness Joaquin Lo Grandeza the same was not true, except, with respect to the "Vale" in the amount of P324.00 which bears his signature and which he was willing to pay even during the trial;

That with respect to the story of witness Lazaro Monte Castro regarding his Englishman nephew-in-law, they were all untrue, although he admits having solemnized the marriage of his niece to an Englishman." (Judge Layumas' report, pp. 11-14)

Upon hearing the evidence for and against the respondent, Executive Judge Layumas has the following conclusions:

xxx xxx xxx

"xxx the respondent Judge Jose B. Gaticales is GUILTY of Gross Misconduct as charged, by committing the following acts:

1. getting some articles on credit from the store of Virgilio Wee, a litigant in his sala, without paying for the same in spite of the lapse of more than two (2) years since he signed the vale for said goods;
2. extracting the amount of Three Thousand (P3,000.00) Pesos from Virgilio Wee, a litigant in his sala;
3. misbehaving before a crowd of more than Seven Thousand (7,000) people, who are members of the NOCECO during a general assembly meeting, with high ranking national and local leaders present during said meeting, by talking with the use of a microphone in a manner that he could not be understood for he was under the influence of liquor, and throwing the microphone to the ground to the dishonor of the Judiciary;
4. withholding the amount of Three Hundred (P300.00) Pesos from the cash bonds of Gonzalo Voluntate and asking for another twenty (P20.00) pesos from the Voluntate couple."

The other charges of:

- a) demanding "lagay" before issuing warrants of arrests;
- b) charging exorbitant fees for marriage licenses;
- c) immoral advances against a lady litigant;
- d) being a heavy smoker;

are recommended for dismissal for insufficiency of evidence. (Judge Layumas' report, pp. 30-31, 33)

The Executive Judge recommended a two-year suspension without pay for the respondent Judge. Furthermore, the Executive Judge stated that once reinstated, the respondent be transferred to another court as he will not be an effective dispenser of justice in Kabankalan because of the petition (Exhibit "10") signed by many citizens of that municipality asking for his dismissal.

This Court agrees with the above findings of the Executive Judge. However, we find that the recommended penalty is too light for the acts of gross misconduct committed by the respondent. The correct penalty should be dismissal.

The Executive Judge found the testimonies of Virgilio Wee and Lilia Voluntate to be credible. He stated that the giving of the P3,000 by Virgilio Wee to the respondent had something to do with the delay in the execution of the respondent's decision against Wee. (Judge Layumas' report, p. 22) As with regards to Lilia Voluntate's charges, the respondent merely denied said charges. He did not even subpoena the treasurer of Kabankalan to testify that he had nothing to do with the withdrawal of the cash bonds. (Judge Layumas' report, p. 25)

These acts of the respondent show that he can be influenced by monetary considerations. These acts of the respondent of demanding and receiving money from a party-litigant before his court constitute serious misconduct in office. It is this kind of gross and flaunting misconduct, no matter how nominal the amount involved, on the part of those who are charged with the responsibility of administering the law and rendering justice that so quickly and surely corrodes the respect for law and the courts without which government cannot continue and that tears apart the very bonds of our polity. (Haw Tay v. Singayao, 154 SCRA 107, 111-112 [1987])

Such acts go against Canons 2 and 3 of the Code of Judicial Conduct which state: A Judge should avoid impropriety and the appearance of impropriety in all activities and a judge should perform official duties honestly, and with impartiality and diligence (underlining supplied).

In the case of Mejia v. Pamaran, 160 SCRA 457, 477 [1988]), we held that:

"Those who are involved in the administration of justice from the highest to the lowest level must live up to the strictest standard of honesty and integrity in the public service. The general public should respect and support such imperative. No attempt to influence them one way or the other much less to bribe them should be made. One cannot buy a bad case nor sell a good one. No amount of money can make out a good case out of a bad one. And even if one succeeds in so doing it would certainly be uncovered and reversed on appeal. Justice will prevail."

Although the other charges of extracting money from litigants (as to the charges of Noble and Engojo) were not proven for lack of witnesses willing to stand up in public against a Judge, this Court is just as concerned about the poor reputation that Judge Gaticales has developed in Kabankalan. A Judge anywhere should be the last person to be perceived as no better than a mulcting traffic cop or a corrupt bureaucrat out to make money at every turn. The reputation of the respondent unfortunately appears to have preceded him, and while situations are possible where a judge is unfairly ruined by well-orchestrated attempts of disgruntled litigants or power blocs or influential members of the community whose interests are threatened by a judge's zeal and integrity, no evidence has been shown in this case that the mounting complaints against the Judge are the byproducts of similar maneuvers. At any rate, the thing itself has spoken, and it has spoken eloquently. (Office of the Court Administrator v. Bartolome, Adm. Matter No. RTJ-90-446, November 7, 1991)

The respondent ruined his reputation by misbehaving in front of a crowd of more than 7,000 people. After a lapse of more than 2 years, he has not paid his P324.00 debt to Virgilio Wee. Only during the hearing did the respondent offer to pay for it.

All these acts of the respondent constitute gross misconduct that deserves a penalty of dismissal.

WHEREFORE, Judge Jose Gaticales, is hereby DISMISSED from the service with forfeiture of all salaries, benefits and leave credits to which he may be entitled. Copies of the decision are furnished the Secretary of Justice and the Integrated Bar of the Philippines for possible prosecution and disbarment proceedings. The dismissal is with prejudice to re-employment in the Government service, including government-owned or controlled corporations.

SO ORDERED.

Narvasa, C.J., Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., Romero, and Nocon, JJ., concur.
Bellosillo, J., on leave.

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