

**PERLA BURIAS, COMPLAINANT, VS. JUDGE MIRAFE B. VALENCIA,
MTC-IROSIN, SORSOGON,**

A.M. No. MTJ-07-1689 [Formerly OCA-I.P.I. No. 07-1897-MTJ]. March 13, 2009

Ponente: TINGA, J.

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TINGA, J.:

In a verified complaint dated 19 August 2005, Perla Burias (complainant) charged Judge Mirafe B. Valencia (respondent), then Presiding Judge of the Municipal Trial Court (MTC) of Irosin, Sorsogon, of gross misconduct.

The undisputed facts follow.

On 4 and 25 August 2005, respondent borrowed money from complainant in the amounts of P5,000.00 and P2,500.00, respectively. The loans were evidenced by promissory notes.[1]

On 25 August 2005, complainant filed a verified complaint[2] for forcible entry and damages with prayer for the issuance of a writ of preliminary mandatory injunction before the MTC of Bulan, Sorsogon, presided by Judge Marie Louise A. Guan-Aragon (Judge Guan-Aragon). The case was docketed as Civil Case No. 590 entitled Perla Burias vs. Celima Morata.

On 7 November 2005, Judge Guan-Aragon inhibited herself from the civil case.[3]

On 16 June 2006, respondent took over Civil Case No. 590 and, as the new presiding judge in the case, issued a pre-trial conference order.[4]

On 15 and 29 September 2006, the parties to the civil case submitted their position papers in compliance with the order of respondent.

On 6 December 2006, respondent issued an order requiring the defendant in the civil case to submit other documents to support her claim of prior physical possession.[5]

On 4 and 24 January 2007, respondent again borrowed from complainant the amounts of P15,000.00 and P3,000.00, as evidenced by two (2) handwritten notes.[6]

On 23 March 2007, complainant filed an urgent motion for respondent's inhibition on the ground of delay in the resolution of the civil case and apparent bias against complainant based on the Order of 6 December 2006.

Respondent denied the motion on 18 April 2007, citing the demise of her son as cause for the delay.[7]

Complainant moved for reconsideration but the motion was denied by respondent on 8 January 2008.[8]

In her administrative complaint, complainant alleged that on 12 October 2005, respondent endorsed a check and thereafter exchanged the same for cash in the sum of P5,000.00 that complainant provided. Said check however was dishonored when presented for payment by complainant. She also averred that sometime in March 2007, respondent verbally demanded from her the sum of P50,000.00 and that her P30,500.00 indebtedness be written

off in exchange for a favorable decision in Civil Case No. 590. According to complainant, she refused to accede to the demands of respondent. In April 2007, respondent reportedly called her up and threatened that she would release any of the two (2) draft decisions she allegedly prepared favoring respondent in the civil case. Complainant claimed that by reason of these threats, she was constrained to file the instant administrative case.[9]

In a 1st Indorsement dated 21 May 2007, the Office of the Court Administrator (OCA) required respondent to comment on the administrative complaint.[10]

On 21 June 2007, respondent submitted her comment. Anent the dishonored check, respondent explained that she signed on the dorsal side of the check to accommodate a troubled friend who issued said check in favor of complainant.[11] Respondent admitted that she entered into several transactions with complainant involving copra products from her plantation to complainant's buying station. She was even allowed to take small credits with the assurance of payment whenever the next copra produce is delivered to complainant's store.[12] Respondent denied that she had demanded P50,000.00 from complainant and that the P30,500.00 indebtedness be written off for being malicious, baseless and simply intended to destroy her standing as a member of the bench.[13] She also denied flaunting the two (2) draft decisions. While she admitted that the first eight (8) pages of the purported decisions are similar to her draft, the rest of their pages differ.[14] She justified the 6 December 2006 Order as it was issued consistently with the provision of Section 11, Rule 70 of the Rules of Court which allows the issuance of an order for the purpose of clarifying certain material facts.

In a Resolution dated 8 October 2007, the Court resolved to re-docket the case as a regular administrative case and required the parties to manifest whether they are willing submit the matter for resolution on the basis of the pleadings filed.[15]

On 13 March 2008, respondent prayed that the administrative complaint be submitted for resolution[16] while on 2 April 2008, complainant manifested the submission of the case for resolution.[17]

In its Report dated 28 August 2007, the OCA recommended that respondent be found guilty of misconduct and be meted a fine of P21,000.00 with a warning that the commission of a similar offense in the future shall be dealt with more severely.[18]

The OCA held respondent accountable for contracting loans of money from persons with whom her office has official relations. It ruled that it was improper for respondent to take a loan from a party-litigant. However, the OCA considered the proof inadequate to support the allegation that the loan was extended on a promised favorable decision. With respect to the charge of delay in the resolution of Civil Case No. 590, the OCA sustained respondent's Order dated 6 December 2006. It found nothing in the records which show that clarificatory procedure was resorted to gain time for the rendition of the judgment. Neither did OCA find any irregularity in the issuance of the Order denying the motion for inhibition found by complainant.[19]

Complainant's allegations were categorized by OCA into two issues-the first relates to the charge of borrowing money and the second deals with the apparent delay in the resolution of Civil Case No. 590.

This Court shall proceed to resolve the issues in this order.

With respect to the charge of borrowing money in exchange for a favorable judgment, Rule 5.02, Canon 5 of the Code of Judicial Conduct mandates that a judge shall refrain from financial and business dealings that tend to reflect adversely on the court's impartiality, interfere with the proper performance of judicial activities, or increase involvement with lawyers or persons likely to come before the court. A judge should so manage investments and other financial interests as to minimize the number of cases giving grounds for disqualification.

Under Rule 5.04 of Canon 5, a judge may obtain a loan if no law prohibits such loan. However, the law prohibits a judge from engaging in financial transactions with a party-litigant. Respondent admitted borrowing money from complainant during the pendency of the case. This act alone is patently inappropriate.[20] The impression that respondent would rule in favor of complainant because the former is indebted to the latter is what the Court seeks to avoid. A judge's conduct should always be beyond reproach.

This Court has time and again emphasized that no government position is more demanding of moral righteousness and uprightness than a seat in the judiciary. Judges as models of law and justice are mandated to avoid not only impropriety, but also the appearance of impropriety, because their conduct affects the people's faith and confidence in the entire judicial system.[21]

Complainant also cites intentional delay on the part of respondent as a ground in her motion for inhibition, which motion was denied by respondent. The OCA however correctly disposed this issue as a judicial matter which should not be treated as administrative in character, thus:

x x x hence, the party who alleges to be aggrieved may apply for the appropriate legal remedy. In the absence of such a proceeding, the order either for or against inhibition stands.[22]

However, we do not completely agree with OCA's finding on the propriety of the issuance of 6 December 2006 order. Section 10 Rule 70 of the Revised Rules of Civil Procedure provides:

Sec. 10. Rendition of judgment.--Within thirty (30) days after receipt of the last affidavits and position papers, or the expiration of the period for filing the same, the court shall render judgment.

However should the court find it necessary to clarify certain material facts, it may, during the said period, issue an order specifying the matters to be clarified, and require the parties to submit affidavits or other evidence on the said matters within ten (10) days from receipt of said order. Judgment shall be rendered within fifteen (15) days after the receipt of the last clarificatory affidavits, or the expiration of the period for filing the same.

The court shall not resort to the clarificatory procedure to gain time for the rendition of the judgment.

The above-quoted rule explicitly mandates that should the court find it necessary to clarify certain material facts, it shall issue a clarificatory order during said period, which is construed as "within 30 days after receipt of the last affidavits or position papers, or the expiration of the periods for filing the same." The last position paper was filed by respondent in the civil case on 29 September 2006. Respondent should have issued the assailed order within 30 days counted from the receipt of the position paper.

Be that as it may, all orders relating to a motion for inhibition should not be treated as administrative in character.

Under Section 8 in relation to Section 11, Rule 140 of the Rules of Court, borrowing money or property from lawyers and litigants in a case pending before the court constitutes a serious charge punishable by any of the following sanctions:

SEC. 11. Sanctions. - A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:

- Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;
- Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or

- A fine of more than P20,000.00 but not exceeding P40,000.00

Since respondent retired from service last 22 February 2008, the penalty of fine is imposed.

WHEREFORE, in view of the foregoing, Judge Mirafe B. Valencia of the MTC of Irosin, Sorsogon is meted with a FINE of P20,000.00.

SO ORDERED.

Quisumbing, Acting C.J., Carpio Morales, Velasco, Jr., and Brion, JJ., concur.

[1] Rollo, p. 14.

[2] Id. at 9-13.

[3] Id. at 29.

[4] Id. at 30-31.

[5] Id. at 132.

[6] Id. at 134-135.

[7] Id. at 169.

[8] Id. at 225.

[9] Id. at 3-4.

[10] Id at 174.

[11] Id. at 187.

[12] Id. at 176-177.

[13] Id. at 178.

[14] Id. at 178-180.

[15] Id. at 199.

[16] Id. at 243.

[17] Id. at 272.

[18] Id. at 190.

[19] Id. at 189.

[20] Id. at 188.

[21] Adriano v. Judge Villanueva, A.M. No. MTJ-99-1232, 19 February 2003, citing Yu-Asensi v. Villanueva, 322 SCRA 255, 19 January 2000.

[22] Rollo, p. 189.

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