

OLGA M. SAMSON, COMPLAINANT, VS. JUDGE VIRGILIO G. CABALLERO, RESPONDENT.

A.M. No. RTJ-08-2138. August 05, 2009

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PER CURIAM:

This is an administrative complaint for dishonesty and falsification of a public document against respondent Judge Virgilio G. Caballero, Regional Trial Court (RTC), Branch 30, Cabanatuan City, Nueva Ecija.

In her complaint,[1] complainant Olga M. Samson alleged that respondent Judge Virgilio G. Caballero should not have been appointed to the judiciary for lack of the constitutional qualifications of proven competence, integrity, probity and independence[2], and for violating the Rules of the Judicial and Bar Council (JBC) which disqualifies from nomination any applicant for judgeship with a pending administrative case.[3]

According to the complainant, respondent, during his JBC interviews, deliberately concealed the fact that he had pending administrative charges against him.

She disclosed that, on behalf of Community Rural Bank of Guimba (Nueva Ecija), Inc., she had filed criminal and administrative charges for grave abuse of authority, conduct prejudicial to the best interest of the service and violation of Article 208 of the Revised Penal Code against respondent in the Office of the Ombudsman on July 23, 2003.

At that time a public prosecutor, respondent allegedly committed certain improprieties[4] and exceeded his powers by overruling the Secretary of Justice in a reinvestigation he conducted.

On March 24, 2004, the Ombudsman dismissed the charges.[5] It also denied the complainant's motion for reconsideration.[6]

Thereafter, the complainant filed a petition for review[7] on October 28, 2004 in the Court of Appeals (CA). In a decision[8] dated November 25, 2005, the appellate court held that it could not take cognizance of the criminal charges against respondent on the ground that all appeals from the decisions of the Office of the Ombudsman pertaining to criminal cases should be taken to the Supreme Court by way of a petition for certiorari.[9] As to the administrative aspect, the CA reversed and set aside the decision and joint order of the Ombudsman dismissing the charges against respondent. The CA then directed Ombudsman to file and prosecute the administrative charges against respondent.

While the complainant's petition was pending in the CA, respondent was interviewed several times in the JBC from February 2005 to August 2005 for the position of RTC judge. On August 25, 2005, he was appointed to the RTC, Branch 30, Cabanatuan City, Nueva Ecija. The complainant charged that respondent never informed the JBC of his pending cases. This, she said, made it possible for him to be nominated and, subsequently, appointed.

In his comment,[10] respondent admitted that complainant had lodged criminal and administrative cases against him in the Ombudsman. He, however, insisted that these were already dismissed by virtue of the immediately effective and executory March 24, 2004 decision of the Ombudsman. Thus, there were actually no more pending

cases against him during his interviews in the JBC from February to August 2005. Accordingly, there was no impediment to his nomination to and assumption of the position of judge. However, he insisted that he informed the JBC of the said cases.

The complainant filed a reply,[11] stating that the March 24, 2004 decision of the Ombudsman was not yet final and executory as it was timely appealed by way of a petition for review filed on October 28, 2004 in the CA. In fact, the petition was even granted.

To further support her charge of dishonesty against respondent, complainant pointed to the Personal Data Sheet (PDS) filed by respondent on March 21, 2006 in the Office of Administrative Services-Office of the Court Administrator (OAS-OCA) RTC Personnel Division.[12] According to her, respondent categorically denied ever having been charged formally with any infraction.

On the basis of the pleadings and documents presented by both parties, the OCA found respondent administratively liable for dishonesty and falsification of an official document for his false statement in his PDS. It recommended respondent's dismissal from the service with forfeiture of retirement benefits, except accrued leave credits, and with prejudice to re-employment in the government service.

We agree with the findings of the OCA that respondent is guilty of dishonesty and falsification of an official document.

We have no way of knowing whether respondent withheld information from the JBC, as both he and complainant never backed their respective allegations with concrete evidence.[13] Thus, no probative value can be given either to the charges or to the defenses.

However, respondent is not to be exonerated on the basis of the foregoing alone. Regardless of whether he disclosed his pending cases during his interviews, the fact remains that he committed dishonesty when he checked the box indicating "No" to the question "Have you ever been formally charged?" in his March 21, 2006 PDS filed in the OAS-OCA RTC Personnel.[14]

Respondent's act of making an obviously false statement in his PDS was reprehensible, to say the least. It was not mere inadvertence on his part when he answered "No" to that very simple question posed in the PDS. He knew exactly what the question called for and what it meant, and that he was committing an act of dishonesty but proceeded to do it anyway. To make matters worse, he even sought to wriggle his way out of his predicament by insisting that the charges against him were already dismissed, thus, his negative answer in the PDS. However, whether or not the charges were already dismissed was immaterial, given the phraseology of the question "Have you ever been formally charged?," meaning, charged at anytime in the past or present.

In *Ratti v. Mendoza-De Castro*,[15] we held that the making of untruthful statements in the PDS amounts to dishonesty and falsification of an official document. Dishonesty, being in the nature of a grave offense, carries the extreme penalty of dismissal from the service with forfeiture of retirement benefits except accrued leave credits, and perpetual disqualification from reemployment in the government service.

Respondent, a judge, knows (or should have known) fully well that the making of a false statement in his PDS could subject him to dismissal. This Court will not allow him to evade the consequences of his dishonesty. Being a former public prosecutor and a judge now, it is his duty to ensure that all the laws and rules of the land are followed to the letter. His being a judge makes it all the more unacceptable. There was an obvious lack of integrity, the most fundamental qualification of a member of the judiciary.

Time and again, we have emphasized that a judge should conduct himself in a manner which merits the respect

and confidence of the people at all times, for he is the visible representation of the law.[16] Regrettably, we are convinced of respondent's capacity to lie and evade the truth. His dishonesty misled the JBC and tarnished the image of the judiciary. He does not even seem remorseful for what he did as he sees nothing wrong with it.

He deserves the harsh penalty of dismissal from the service.

This administrative case against respondent shall also be considered as a disciplinary proceeding against him as a member of the Bar, in accordance with AM. No. 02-9-02-SC.[17] This resolution, entitled "Re: Automatic Conversion of Some Administrative Cases Against Justices of the Court of Appeals and the Sandiganbayan; Judges of Regular and Special Courts; and Court Officials Who are Lawyers as Disciplinary Proceedings Against Them Both as Such Officials and as Members of the Philippine Bar," provides:

Some administrative cases against Justices of the Court of Appeals and the Sandiganbayan; judges of regular and special courts; and the court officials who are lawyers are based on grounds which are likewise grounds for the disciplinary action of members of the Bar for violation of the Lawyer's Oath, the Code of Professional Responsibility, and the Canons of Professional Ethics, or for such other forms of breaches of conduct that have been traditionally recognized as grounds for the discipline of lawyers.

In any of the foregoing instances, the administrative case shall also be considered a disciplinary action against the respondent justice, judge or court official concerned as a member of the Bar. The respondent may forthwith be required to comment on the complaint and show cause why he should not also be suspended, disbarred or otherwise disciplinary sanctioned as a member of the Bar. Judgment in both respects may be incorporated in one decision or resolution. (Emphasis supplied)

Before the Court approved this resolution, administrative and disbarment cases against members of the bar who were likewise members of the court were treated separately.[18] However, pursuant to the new rule, an administrative case against a judge of a regular court based on grounds which are also grounds for the disciplinary action against members of the Bar shall be automatically considered as disciplinary proceedings against such judge as a member of the Bar.[19]

This must be so as violation of the fundamental tenets of judicial conduct embodied in the new Code of Judicial Conduct for the Philippine Judiciary, the Code of Judicial Conduct and the Canons of Judicial Ethics constitutes a breach of the following Canons of the Code of Professional Responsibility (CPR):[20]

CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND FOR LEGAL PROCESSES.

Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful act.

CANON 7 - A LAWYER SHALL AT ALL TIMES UPHOLD THE INTEGRITY AND DIGNITY OF THE LEGAL PROFESSION...

CANON 10 - A LAWYER OWES CANDOR, FAIRNESS AND GOOD FAITH TO THE COURT.

Rule 10.01 - a lawyer shall not do any falsehood, nor consent to the doing of any in court; nor shall he mislead or allow the court to be misled by any artifice.

CANON 11 - A LAWYER SHALL OBSERVE AND MAINTAIN THE RESPECT DUE TO THE COURTS AND TO JUDICIAL OFFICERS AND SHOULD INSIST ON SIMILAR CONDUCT BY OTHERS.

Since membership in the bar is an integral qualification for membership in the bench, the moral fitness of a judge also reflects his moral fitness as a lawyer. A judge who disobeys the basic rules of judicial conduct also violates his oath as a lawyer.[21] In this particular case, respondent's dishonest act was against the lawyer's oath to "do no

falsehood, nor consent to the doing of any in court."

Respondent's misconduct likewise constituted a contravention of Section 27, Rule 138 of the Rules of Court, which strictly enjoins a lawyer from committing acts of deceit, otherwise, he may be suspended or disbarred. Thus:

SEC. 27. Disbarment and suspension of attorneys by Supreme Court, grounds therefor. - A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice, or for a willful disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice. (Emphasis supplied)

This Court did not hesitate to apply the provisions of A.M. No. 02-9-02-SC in a plethora of cases.[22] Of particular importance to this case is our decision in *Cañada v. Suerte*[23] where we applied the rule to its fullest extent: automatic disbarment.

In *Cañada v. Suerte*, complainant charged respondent Judge Suerte with grave abuse of authority, grave misconduct, grave coercion, dishonesty, harassment, oppression and violation of Article 215 of the Revised Penal Code (RPC) and the Canons of Judicial Ethics. The complaint alleged, among others, that respondent tried to sell a dilapidated cargo pick-up truck and Daewoo car to complainant. The latter refused. Their friendship later on turned sour when they failed to reach an agreement on the commission respondent was supposed to receive as agent-broker for the contemplated sale of complainant's beach lot. The complainant voiced out his fear that respondent would use his judicial power to persecute him for what respondent may have perceived as complainant's infractions against him.

In his comment, respondent denied offering to sell the vehicles to complainant since, according to him, he never owned a dilapidated cargo pick-up truck nor could he recall if he had a Daewoo car in 1998.

However, a perusal of respondent's Statements of Assets and Liabilities for the years 1998-2001 revealed that among his personal properties were a Daewoo car acquired in 1996 and an L-200 double cab acquired in 1998. Accordingly, we found respondent guilty of dishonesty for having falsely denied that he ever owned the aforementioned vehicles. For his infraction, respondent judge was fined in the amount of P40,000. He would have been dismissed from the service were it not for the fact that he had already been dismissed therefrom because of an earlier case.[24]

Significantly, pursuant to A.M. No. 02-9-02-SC, we deemed respondent Judge Suerte's administrative case as disciplinary proceedings for disbarment as well, and proceeded to strip him of his membership in the Integrated Bar of the Philippines.

Under the same rule, a respondent "may forthwith be required to comment on the complaint and show cause why he should not also be suspended, disbarred or otherwise disciplinary sanctioned as member of the Bar." The rule does not make it mandatory, before respondent may be held liable as a member of the bar, that respondent be required to comment on and show cause why he should not be disciplinary sanctioned as a lawyer separately from the order for him to comment on why he should not be held administratively liable as a member of the bench.[25] In other words, an order to comment on the complaint is an order to give an explanation on why he should not be held administratively liable not only as a member of the bench but also as a member of the bar. This is the fair and reasonable meaning of "automatic conversion" of administrative cases against justices and judges[26] to

disciplinary proceedings against them as lawyers. This will also serve the purpose of A.M. No. 02-9-02-SC to avoid the duplication or unnecessary replication of actions by treating an administrative complaint filed against a member of the bench[27] also as a disciplinary proceeding against him as a lawyer by mere operation of the rule. Thus, a disciplinary proceeding as a member of the bar is impliedly instituted with the filing of an administrative case against a justice of the Sandiganbayan, Court of Appeals and Court of Tax Appeals or a judge of a first- or second-level court.[28]

It cannot be denied that respondent's dishonesty did not only affect the image of the judiciary, it also put his moral character in serious doubt and rendered him unfit to continue in the practice of law. Possession of good moral character is not only a prerequisite to admission to the bar but also a continuing requirement to the practice of law.[29] If the practice of law is to remain an honorable profession and attain its basic ideals, those counted within its ranks should not only master its tenets and principles but should also accord continuing fidelity to them. The requirement of good moral character is of much greater import, as far as the general public is concerned, than the possession of legal learning.[30]

A parting word.

The first step towards the successful implementation of the Court's relentless drive to purge the judiciary of morally unfit members, officials and personnel necessitates the imposition of a rigid set of rules of conduct on judges. The Court is extraordinarily strict with judges because, being the visible representation of the law, they should set a good example to the bench, bar and students of the law. The standard of integrity imposed on them is - and should be - higher than that of the average person for it is their integrity that gives them the right to judge.

WHEREFORE, we find respondent Judge Virgilio G. Caballero of the Regional Trial Court, Branch 30, Cabanatuan City, GUILTY of dishonesty and falsification of an official document. He is ordered DISMISSED from the service, with forfeiture of all benefits and privileges, except accrued leave credits, if any, with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.

Respondent is likewise DISBARRED for violation of Canons 1 and 11 and Rules 1.01 and 10.01 of the Code of Professional Responsibility and his name STRICKEN from the Roll of Attorneys.

Let a copy of this resolution be entered into respondent's records in the Office of the Bar Confidant and notice of the same be served on the Integrated Bar of the Philippines and on the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED.

Puno, C.J., Ynares-Santiago, Carpio, Corona, Carpio Morales, Chico-Nazario, Nachura, Leonardo-De Castro, Brion, Peralta and Bersamin, JJ., concur.

Quisumbing, J., on official leave.

Velasco, Jr., J., no part due to prior action in OCA.

[1] Dated July 18, 2006. Rollo, pp. 11-15.

[2] Section 7, Article VIII of the Constitution provides:

SEC. 7. (1) No person shall be appointed member of the Supreme Court or any lower collegiate court unless he is a natural-born citizen of the Philippines. A member of the Supreme Court must be at least forty years of age, and must have been for fifteen years or more a judge of a lower court or engaged in the practice of law in the

Philippines.

(2) The Congress shall prescribe the qualifications of judges of lower courts, but no person may be appointed judge thereof unless he is a citizen of the Philippines and a member of the Philippine Bar.

(3) A member of the judiciary must be a person of proven competence, integrity, probity and independence. (Emphasis supplied)

[3] Section 5, Rule 4 of the Rules of the Judicial and Bar Council provides:

SEC. 5. Disqualification. - The following are disqualified from being nominated or appointment to any judicial post or as Ombudsman or Deputy Ombudsman:

- Those with pending criminal or regular administrative cases;
- Those with pending criminal cases in foreign courts or tribunals; and
- Those who have been convicted in any criminal case; or in an administrative case, where the penalty imposed is at least a fine of more than P10,000, unless he has been granted judicial clemency. (Emphasis supplied)

[4] Complainant averred that respondent violated therein petitioner's constitutional right to due process when he (a) conducted the reinvestigation without informing petitioner; (b) did not give the petitioner a chance to file a motion for reconsideration as he immediately filed a motion to dismiss in the trial court on the very same day he (respondent) rendered a joint resolution; and (c) filed the motion to dismiss without notifying petitioner and setting it for hearing.

[5] Annex A. Decision penned by Graft Investigation and Prevention Officer Ismaela B. Boco and approved by Deputy Ombudsman for Luzon Victor C. Fernandez. Rollo, pp. 87-90.

[6] Joint order dated September 30, 2004.

[7] Under Rule 43 of the Rules of Court.

[8] Annex C. Penned by Associate Justice Jose L. Sabio, Jr. and concurred in by Associate Justices Jose C. Mendoza and Arturo G. Tayag of the Sixteenth Division of the Court of Appeals; Rollo, pp. 133-152.

[9] Under Rule 65 of the Rules of Court.

[10] Dated November 15, 2006. Rollo, pp. 42-44.

[11] Dated January 29, 2007. Id., pp. 77-86.

[12] Complainant mistakenly referred to the PDS as the one filed by respondent in the JBC. Id., pp. 7-9.

[13] In his comment, respondent merely stated: " x x x [I]t could be said that he did not keep secret from the Judicial and Bar Council that he had [a]dministrative and [c]riminal cases before the Ombudsman because he showed the copy of the [r]esolution by the Ombudsman dismissing both said cases during his [p]anel [i]nterview with the Judicial and Bar Council sometime in February 2005." Id., p. 43.

To this, respondent replied, "Allegations must be proved, not simply averred. x x x There must be evidence presented by Judge Caballero before this Honorable Office to support his allegation x x x." Id., p. 81.

[14] Id., p. 9.

[15] A.M. No. P-04-1844, 23 July 2004, 435 SCRA 11. In this case, respondent-court stenographer answered "No" to the questions: "Have you ever been convicted for violating any law, decree, ordinance or regulations by

any court or tribunal?..." and "Do you have any pending administrative/criminal cases? If you have any, give particulars." See also Judge Jose S. Sañez v. Carlos B. Rabina, 458 Phil. 68 (2003), where a utility worker was dismissed under similar circumstances.

[16] Cañada v. Suerte, A.M. No. RTJ-04-1884, 22 February 2008, 546 SCRA 414, 425.

[17] Resolution dated 17 September 2002. It took effect on 1 October 2002.

[18] Heck v. Santos, 467 Phil. 798, 813.

[19] Cañada v. Suerte, supra note 16, at 426, citing Maddela v. Gallong-Galicinao, 490 Phil. 437, 442.

[20] Cañada v. Suerte, supra note 16, at 426-427, citing Juan dela Cruz v. Carretas, A.M. No. RTJ-07-2043, 5 September 2007, 532 SCRA 218, 232.

[21] I, _____ do solemnly swear that I will maintain allegiance to the Republic of the Philippines; I will support its Constitution and obey the laws as well as the legal orders of the duly constituted authorities therein; I will do no falsehood, nor consent to the doing of any in court; I will not wittingly or unwittingly promote or sue any groundless, false or unlawful suit, nor give aid nor consent to the same; I will delay no man for money or malice, and will conduct myself as a lawyer according to the best of my knowledge and discretion, with all good fidelity as well to the courts as to my clients; and I impose upon myself this voluntary obligation without any mental reservation or purpose of evasion. So help me God. (Emphasis supplied)

[22] See Mariano v. Nacional, A.M. No. MTJ-07-1688, 10 February 2009; Heirs of Olorga v. Beldia and Villanueva, A.M. No. RTJ-08-2137, 10 February 2009; Ogka Benito v. Balindong, A.M. No. RTJ-08-2103, 23 February 23 2009; Chuan and Sons, Inc. v. Peralta, A.M. No. RTJ-05-1917, 16 April 2009; Juan dela Cruz v. Carretas, supra note 20; Dela Cruz v. Luna, A.M. Nos. P-04-1821 and P-05-2018, 2 August 2007, 529 SCRA 34; Re: Absence Without Official Leave of Atty. Marilyn B. Joyas, A.M. No. 06-5-286-RTC, 2 August 2007, 529 SCRA 28; and Avanceña v. Liwanag, 454 Phil. 20.

[23] Supra note 16.

Cañada v. Suerte is not the only case where we automatically disbarred a member of the judiciary or a court official or personnel as a consequence of his dismissal from the service (also see Dela Cruz v. Luna and Avanceña v. Liwanag, supra). However, we chose to cite and discuss Cañada as its factual milieu is closest to that of the facts of this case.

[24] See Re: Report on the Judicial Audit Conducted in the RTC, Branch 60, Barili, Cebu, 488 Phil. 250 (2004). In that case, we found Judge Suerte guilty of gross misconduct, gross ignorance of the law and incompetence for gross violations of the express directive of the Court embodied in A.O. No. 36-2004. The Court likewise held that the special interest shown by Judge Suerte in several cases filed before him constitutes grave misconduct.

[25] Or as a court official or employee.

[26] And court officials and employees who are lawyers.

[27] As well as a court official or employee who is also a lawyer.

[28] Or a court official or employee who is also a lawyer.

[29] Dela Cruz v. Luna, supra note 22, at 45, citing Heck v. Santos, supra note 18, at 823.

[30] Id., citing Ferancullo v. Ferancullo, A.C. No. 2714, 30 November 2006, 509 SCRA 1, 16.

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