

HEIRS OF THE LATE REV. FR. JOSE O. ASPIRAS, COMPLAINANTS, VS. JUDGE CLIFTON U. GANAY, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 31, AGOO, LA UNION, RESPONDENT.

A.M. No. RTJ-07-2055. December 17, 2009

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

The instant administrative case stemmed from an unsigned letter-complaint[1] dated June 6, 2005, filed by the heirs of the late Reverend Father Jose O. Aspiras addressed to the Court Administrator, requesting that an investigation be conducted by the Office of the Court Administrator (OCA) on the alleged abuse of authority of respondent Judge Clifton U. Ganay, Presiding Judge, Regional Trial Court, Branch 31, Agoo, La Union in connection with Special Proceeding Case No. A-1026, entitled "In the Matter of the Guardianship of Rev. Fr. Jose O. Aspiras."

In the letter, the heirs of the late Rev. Fr. Aspiras state the following:

That the judge in the above mentioned case has been abusing his authority as observed by the Heirs of the late Rev. Fr. Jose O. Aspiras as he previously ordered to withdraw the amount of P50,000.00 in his favor from the bank account of the late Rev. Fr. Jose O. Aspiras on December 17, 2004 for him to purchase law books. As per his order, he alleged that, 'In the spirit of this Yuletide season and considering the efforts of the Judge of this Court, the guardians in the above entitled case deemed it best to give him fifty thousand pesos (P50,000.00) worth of law books to aid him in his work as a judge.' The truth of the matter is that this has been the idea of Judge Ganay, himself, and was never consented by the guardians. For your reference, attached is a photocopy of this order.

There are still other orders issued by Judge Ganay ordering the bank to release certain amounts from the bank account of the late Rev. Fr. Jose O. Aspiras in his favor without the written consent of the guardians. Unfortunately, photocopies of these orders cannot be attached for your reference as no copies of these orders were sent to the guardians. The copies can be found in the records of the case being kept by the said court.

The OCA conducted a surprise investigation and examination of the records of SP Case No. A-1026 from August 30 to September 2, 2005. The investigating team selected pertinent documents relative to the anonymous complaint in order to verify the irregularities allegedly committed by respondent Judge Ganay.

From the documents gathered, the investigating team found that the Order[2] dated December 17, 2004 was indeed issued by respondent Judge Ganay. For the money received from the said order, respondent Judge Ganay even issued an Acknowledgement Receipt[3] dated December 22, 2004. The team also discovered that on several occasions, respondent Judge Ganay issued numerous orders[4] directing the manager of the Philippine National Bank (PNB), Agoo, La Union Branch, to draw checks from the account of the late Rev. Fr. Aspiras amounting to several thousands of pesos in the name of the Officer-in-Charge/Branch Clerk of Court Precilla Olympia P. Eslao (OIC-Clerk of Court Eslao) for the purpose of purchasing cellular phone prepaid cards. The said cards were

received by respondent Judge Ganay and OIC-Clerk of Court Eslao as evidenced by acknowledgement receipts[5] signed by them on several dates.

The investigating team also discovered two other orders[6] issued by respondent Judge Ganay directing the manager of PNB, Agoo, La Union Branch to draw from the account of the late Rev. Fr. Aspiras checks in the amount of forty thousand pesos (P40,000.00) each for the purpose of purchasing three (3) cellular phones. Thereafter, OIC-Clerk of Court Eslao submitted a Report on Expenses[7] dated March 1, 2005 enumerating in detail how the money was spent for buying three (3) cellular phones.

In a Resolution[8] dated January 17, 2006, this Court resolved to:

(a)

DIRECT Judge Clifton S. Ganay and Officer-in-Charge/Branch Clerk of Court Precilla Olympia P. Eslao, both of RTC, Branch 31, Agoo, La Union, to submit their respective comments on the letter-complaint dated June 6, 2005 of the Heirs of the Late Rev. Fr. Jose O. Aspiras and the report dated September 22, 2005 of Attys. Reynan M. Dollison and Kenneth P. Fulton, Legal Office, OCA, and to show cause why no disciplinary action should be taken against them, both within ten (10) days from notice hereof;

(b)

AUTHORIZE the Office of the Court Administrator to secure the complete records of Special Proceeding Case No. A-1026, entitled In the Matter of the Guardianship of Rev. Fr. Jose O. Aspiras; and

(c)

DIRECT Executive Judge Samuel R. Martires, RTC, Branch 32, Agoo, La Union, to safekeep immediately the case records of Special Proceeding Case No. A-1026, consisting of three (3) volumes, and thereafter, surrender the same to a duly authorized representative of the Office of the Court Administrator.

Respondent Judge Ganay sent a letter[9] dated March 3, 2006 to the Clerk of Court stating that he had yet to receive a copy of the letter-complaint dated June 6, 2005 of the heirs of the late Rev. Fr. Aspiras against him and the report dated September 22, 2005 made by the OCA lawyers who conducted a surprise inspection and examination of the records of Special Proceeding Case No. A-1026. He further stated that he should be given a medal for effecting a speedy settlement of the estate of the late Rev. Fr. Aspiras among his heirs. Respondent Judge Ganay maintained that all his actions merely implemented the orders of the two (2) property guardians of the late Rev. Fr. Aspiras.

Respondent Judge Ganay, together with OIC-Clerk of Court Eslao, subsequently filed a Motion to Furnish Copies dated March 13, 2006 reiterating his earlier manifestation that he had not yet received copies of the documents that he was directed to comment on through the Resolution dated January 17, 2006. Respondent Judge Ganay again moved that they be furnished copies of the said documents so that they could properly and intelligently comment thereon.

And again on March 22, 2006, respondent Judge Ganay filed a Manifestation[10] dated March 21, 2006, submitting an Advance Comment[11] dated March 21, 2006, despite the fact that he had not yet received copies of the documents that he was directed to comment on. According to respondent Judge Ganay, he was submitting his Advance Comment "to show to the Supreme Court that its foot soldier of Branch 31, RTC, AGOO, La Union deserves a MEDAL, not a disciplinary action."

In his Advance Comment dated March 21, 2006, respondent Judge Ganay explained that the cellular phones were purchased upon the orders of the two (2) property guardians of the late Rev. Fr. Aspiras. He further explained that

the communication devices were for the fast networking of information for the late Rev. Fr. Aspiras who was then the ward of the court. Respondent Judge Ganay also narrated that the property guardians persistently asked him to take a vacation in the United States, which he declined. According to him, they kept on asking him what they could do to help the court. He, in reply, mentioned that lawbooks would enhance the appearance of his office and make it look scholarly and presentable. They then appropriated fifty thousand (P50,000.00) pesos for the purchase of books.

Respondent Judge Ganay expounded on the system of checks and balances that he devised for the handling of the late Rev. Fr. Aspiras' funds, thus:

I am just the implementor of the orders of the guardians. In the case of the property guardians, I only implement if the order is unanimous, i.e., if both property guardians assent.

Why? Because in order to safeguard Reverend Aspiras' wealth, one property guardian not taking advantage of the other, it was arranged that I would be the implementor of their orders. And so if the guardian over the ward's person says that the ward should have a wheelchair and the property guardians say okay, I issue an order directed to the bank manager where the ward's moneys are to release the stated amount (after a choice of wheel-chair was made by the guardian over the ward's person). The bank issues a check and have it delivered to the OIC-Branch Clerk of Court, from which the guardian over the person retrieves. That way there will be no lamangan, no gulangan between the two (2) property guardians belonging to opposite camps.

In a Resolution[12] dated April 18, 2006, this Court granted respondent Judge Ganay's motion that he be furnished with copies of the letter-complaint dated June 6, 2005 and the report dated September 22, 2005.

In another Manifestation[13] dated May 16, 2006, respondent Judge Ganay again stated that he and OIC-Clerk of Court Eslao had not yet received copies of the documents they were required to comment on. This prompted the Court to issue another Resolution[14] dated July 11, 2006, directing the Office of the Clerk of Court to furnish respondent Judge Ganay and OIC-Clerk of Court Eslao copies of the said documents.

OIC Clerk of Court Eslao submitted her Comment[15] dated August 22, 2006 and explained, thus:

The prepaid cell cards were purchased upon the knowledge and approval of the property guardians.

There were 7 cellphones which were regularly fed with prepaid cell cards. These were automatic expenses on a regular basis. The regularity was every 2 months because the lifetime of a prepaid card is 60 days. Hence, the amount of regular expenses for prepaid cards was something like P21,000.00 annually. For 2 years, the regular amount was something like P42,000.00.

The 3 cellphones mentioned in the Memorandum (November 2004) were the replacement cellphones of the 3 guardians.

My position as OIC-Branch Clerk of Court functioned as the clearinghouse so that there could be monitoring of the activities regarding the ward in this special proceeding.

There was nothing irregular in all these purchases because they were upon the written orders of Judge Ganay, who, in turn, was himself requested-ordered by the property guardians.

BESIDES, the parties had long ago buried the hatchet as of August 22, 2005 even before the 2 OCA lawyers came to this Court (August 31, 2005).

This is a case of a false alarm.

Respondent Judge Ganay again submitted an Extended Comment[16] dated August 22, 2006 and narrated the peculiar circumstances in connection with Special Proceeding Case No. A-1026, entitled "In the Matter of the

Guardianship of Rev. Fr. Jose O. Aspiras," to wit:

When Father Aspiras suffered a stroke sometime in September of 2001, paralyzing a portion of his body, his sister Gloria Aspiras Mamaril filed a petition for guardianship asking the Court that she be appointed guardian primarily because she is a sister. This was opposed by Helen Grace Canlas, a daughter of Alejandro Aspiras (brother of Father Aspiras). After several hearings that established the legal incompetency of Father Aspiras, the heirs including those with stakes to protect (numbering more than 25 in all) agreed that the personal guardian should be, as she was appointed by the Court eventually, HELEN GRACE CANLAS. The property guardians who were appointed were the living brother and sister of Father Aspiras, namely Gloria Aspiras Mamaril and Alejandro Aspiras. Both Gloria Aspiras Mamaril and Alejandro Aspiras are retired public servants, Gloria, being a retired DEPED elementary school teacher while Alejandro, a retired Navy man. After 2 years or so as one of the property guardians, because he could no longer come up to the third floor where Branch 31 RTC holds office, Alejandro Aspiras begged off, to be substituted by one of his learned daughters, Professor Mercedita A. Mabutas. She was appointed later in lieu of her father. She is a Professor of Don Mariano Marcos Memorial State University (DMMMSU) based in AGOO, La Union.

Normally, a ward of a Court has only one guardian. But the ward of this Court, Father Jose Aspiras, had three (3) guardians. This is because I had to accommodate both warring camps to avert a continuing war that would not redound to the benefit of the ward of the Court.

X X X

It was agreed that no withdrawals from the bank account of Father Aspiras shall be allowed without a written order from me.

In order that not one of the 3 guardians could act independently of the other, a system was developed whereby the judge (and that's me) only could order the manager of the bank to issue a check in such amount that will cover and answer for a certain need (see, also pages 8-9, ADVANCE COMMENT, March 21, 2006).

In other words, I and I alone, by agreement with the guardians, held the key to the bank vault.

While I held the key to the bank, the property guardians were the ones who could request-order me to instruct the manager of the bank to draw or issue a check.

X X X

Contrary to what the writer of that Letter-Complaint dated June 6, 2005, every order for the withdrawal of moneys have been all highly REGULAR. There was nothing that was irregular.

That's why after the heirs have chosen to peacefully settle among themselves in the last week of July 2005, I was prevailed upon by the heirs to stay a little longer so that I can make orders to the bank manager for the eventual, which was a certainty, distribution of the moneys for the heirs. On August 22, 2005, after the filing of the inventory of properties by the property guardians, on the same date (August 22, 2005), the heirs executed an EXTRAJUDICIAL SETTLEMENT AND ARRANGEMENT OF ESTATE, which wrote finis to the squabble among the heirs and the sub-heirs. Eventually their shares in money were distributed. I was hailed as a hero, savior, Santa Claus, godfather. Some of the heirs adopted me a member of their family. All of them gave balatos one way or another all due to the fast distribution of their shares. Those who came from Australia, Tarlac and outlying areas beyond the Province of La Union were most grateful.

Respondent Judge Ganay also addressed the allegation that he and his cohorts were attempting to "withdraw at least the amount of about FOUR MILLION FOUR HUNDRED PESOS (P4,400.00.00)" (sic) from the bank account of the late Rev. Fr. Aspiras. According to him, he could do it since he held the key to the bank, but he

could not and would not do it for the following reasons:

xxx First, I fear God and the Supreme Court. Second, I was not raised that way by my poor but dignified parents (mother: retired DEPED public school principal; father: deceased, municipal employee). Third, I am satisfied with my present earning. Fourth, I have no need for that kind of sum. Fifth, I have a name to protect, being the recipient of many awards. And sixth, I am an automatic applicant to the Court of Appeals by virtue of R.A. 6713.

In a Resolution[17] dated August 29, 2006, this Court referred the instant case to the OCA for evaluation, report and recommendation.

In its Report[18] dated March 12, 2007, the OCA rejected the explanations of respondent Judge Ganay and found him guilty of violating Sections 13 and 14 of Canon 4 of the New Code of Judicial Conduct for the Philippine Judiciary. The OCA recommended the following actions:

RECOMMENDATION: Respectfully submitted for the consideration of the Honorable Court are our recommendations that:

- a) the instant administrative case be REDOCKETED;
- b) Judge Clifton U. Ganay, Presiding Judge, Regional Trial Court, Branch 31, Agoo, La Union, be FINED the amount of FIVE THOUSAND PESOS (P5,000.00);
- c) Likewise, OIC-Clerk of Court Precilla Olympia P[.] Eslao, be FINED the amount of Five Thousand Pesos (P5,000.00); [and]
- d) The records of Special Proceeding Case No. A-1026, consisting of three (3) volumes, under the custody of the Office of the Court Administrator, (per resolution dated January 17, 2006) shall be returned back to the Regional Trial Court of Branch 31, Agoo, La Union.

After a judicious review of the record of this administrative matter, we find that respondent Judge Ganay has indeed violated Sections 13 and 14, as well as Section 15, of Canon 4 of the New Code of Conduct for the Philippine Judiciary.[19] The aforesaid provisions on Propriety state:

SEC. 13. Judges and members of their families shall neither ask for, nor accept, any gift, bequest, loan or favor in relation to anything done or to be done or omitted to be done by him or her in connection with the performance of judicial duties.

SEC. 14. Judges shall not knowingly permit court staff or others subject to their influence, direction or authority, to ask for, or accept, any gift, bequest, loan or favor in relation to anything done or to be done or omitted to be done in connection with their duties or functions.

SEC. 15. Subject to law and to any legal requirements of public disclosure, judges may receive a token gift, award or benefit as appropriate to the occasion on which it is made provided that such gift, award or benefit might not reasonably be perceived as intended to influence the judge in the performance of judicial duties or otherwise give rise to an appearance of partiality.

Propriety and the appearance of propriety are essential to the performance of all the activities of a judge. Lower court judges, such as respondent Judge Ganay, play an important role in the promotion of the people's faith in the judiciary. They are front-liners who give human face to the judicial branch at the grassroots level in their interaction with litigants and those who do business with the courts. Thus, the admonition that judges must avoid not only impropriety but also the appearance of impropriety is more sternly applied to them.[20]

In *Dulay v. Lelina, Jr.*,[21] the Court held:

Although every office in the government is a public trust, no position exacts greater demand on moral righteousness and uprightness of an individual than a seat in the judiciary. A magistrate of law must comport himself at all times in such manner that his conduct, official or otherwise, can bear the most searching scrutiny of the public. The New Code of Judicial Conduct for the Philippine Judiciary prescribes that judges shall ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of a reasonable observer. Thus, judges are to avoid impropriety and the appearance of impropriety in all their activities. Likewise, they are mandated not to allow family, social or other relationships to influence judicial conduct or judgment, nor convey or permit others to convey the impression that they are in a special position to influence the judge. The Code clearly prohibits judges or members of their families from asking for or accepting, any gift, bequest, loan or favor in relation to anything done or to be done or omitted to be done by him or her in connection with the performance of judicial duties.

Respondent Judge Ganay clearly fell short of the exacting standards set by the New Code of Judicial Conduct for the Philippine Judiciary. His acts of receiving lawbooks worth fifty thousand pesos, cellular phones and monthly cellular phone prepaid cards from the property guardians of the late Rev. Fr. Aspiras, who was then the ward of the court, constitute impropriety which the Court cannot allow. Respondent Judge Ganay's act of issuing Orders directing the manager of the PNB, La Union Branch to draw checks amounting to thousands of pesos from the account of the late Rev. Fr. Aspiras creates the impression of impropriety and subjects the court to suspicion of irregularities in the conduct of the proceedings.

This Court finds unsatisfactory the explanations propounded by respondent Judge Ganay for his actuations in connection with Special Proceeding Case No. A-1026. He tried justifying his act of receiving cellular phones and monthly cellular phone prepaid cards from the property guardians of the late Rev. Fr. Aspiras as necessary for the networking of information about the ward of the court. He likewise rationalized his acceptance of the lawbooks worth fifty thousand pesos from the property guardians as his way of showing them that he "appreciate[d] their show of appreciation of [his] judicial work for the ward and to all other cases." Respondent Judge Ganay explained that he did not want the property guardians "to feel resentful ('tampo'), frustrated or shamed ('mapahiya') if [he] would refuse their generosity."

This Court has always stressed that a judge should avoid impropriety and even the appearance of impropriety in all activities, and that he should perform his duties honestly and with impartiality and diligence. Also, a judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.[22] Since respondent Judge Ganay occupied an exalted position in the administration of justice, he should pay a high price for the honor bestowed upon him; and his official, as well as his private, conduct must at all times be free from the appearance of impropriety[23].

As held in *Edaño v. Asdala*: [24]

As the visible representation of the law and justice, judges, such as the respondent, are expected to conduct themselves in a manner that would enhance the respect and confidence of the people in the judicial system. The New Code of Judicial Conduct for the Philippine Judiciary mandates that judges must not only maintain their independence, integrity and impartiality; but they must also avoid any appearance of impropriety or partiality, which may erode the people's faith in the judiciary. Integrity and impartiality, as well as the appearance thereof, are deemed essential not just in the proper discharge of judicial office, but also to the personal demeanor of judges. This standard applies not only to the decision itself, but also to the process by which the decision is made. Section 1, Canon 2, specifically mandates judges to 'ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of reasonable observers.' Clearly, it is of vital importance not only that independence, integrity and impartiality have been observed by judges and reflected in their decisions, but that these must also appear to have been so observed in the eyes of the people, so as to avoid any erosion of faith in the justice system. Thus, judges must be circumspect in their actions in

order to avoid doubt and suspicion in the dispensation of justice. xxx

With regard to the recommendation of the OCA to impose a fine of Five Thousand (P5,000.00) Pesos on OIC-Clerk of Court Eslao, this Court finds the same to be without basis. In her Comment dated August 22, 2006, OIC-Clerk of Court Eslao sufficiently explained that she merely followed the official orders of respondent Judge Ganay in issuing the Acknowledgment Receipts for the prepaid cards for the cellular phones. Moreover, nowhere in the OCA Report dated March 12, 2007 is a discussion regarding OIC-Clerk of Court Eslao's participation in the alleged irregularities in Special Proceeding Case No. A-1026.

WHEREFORE, for violating Sections 13, 14 and 15 of Canon 4 of the New Code of Judicial Conduct for the Philippine Judiciary, respondent Judge Clifton U. Ganay is FINED in the amount of Twenty Thousand Pesos (P20,000.00) with a stern warning that a repetition of similar infractions shall be dealt with more severely.

Let the records of Special Proceeding Case No. A-1026, consisting of three (3) volumes, under the custody of the Office of the Court Administrator (per resolution dated January 17, 2006), be returned to Branch 31 of the Regional Trial Court of Agoo, La Union.

SO ORDERED.

Puno, C.J., Carpio, Corona, Carpio Morales, Velasco, Jr., Nachura, Peralta, Bersamin, Del Castillo, Abad, and Villarama, JJ., concur.

Brion, J., on leave.

[1] Rollo, p. 7.

[2] Id. at 9.

[3] Id. at 10.

[4] Orders dated June 20, 2003, March 4, 2005, March 7, 2005, and April 21, 2005, id. at 11-14.

[5] Acknowledgment Receipts dated March 8, 2005 and April 26, 2005, signed by respondent Judge Ganay; and Acknowledgment Receipts dated June 24, 2003, July 16, 2004, September 27, 2004, November 16, 2004, March 8, 2005, and April 26, 2005, signed by OIC-Clerk of Court Eslao, id. at 15-20.

[6] Orders dated November 25, 2004 and November 30, 2004, id. at 21.

[7] Id. at 22-23.

[8] Id. at 26-27.

[9] Id. at 29-39.

[10] Id. at 56-59.

[11] Id. at 60-113.

[12] Id. at 114-115.

[13] Id. at 116.

[14] Id. at 118.

[15] Id. at 120-121.

[16] Id. at 122-151.

[17] Id. at 184.

[18] Id. at 186-197.

[19] A.M. No. 03-05-01-SC, promulgated on April 27, 2004 and made effective on June 1, 2004.

[20] Chan v. Majaducon, A.M. No. RTJ-02-1697, October 15, 2003, 413 SCRA 354, 361.

[21] A.M. No. RTJ-99-1516, July 14, 2005, 463 SCRA 269, 275-276.

[22] Rule 2.01, Canon 2, Code of Judicial Conduct.

[23] Co v. Plata, A.M. No. MTJ-03-1501, March 14, 2005, 453 SCRA 326, 340.

[24] A.M. No. RTJ-06-1974, July 26, 2007, 528 SCRA 212, 220-221.

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