

**NEGROS GRACE PHARMACY, INC., REPRESENTED BY ITS  
PRESIDENT, DR. MANUEL S. LO, COMPLAINANT, VS. JUDGE ALFREDO  
P. HILARIO, PRESIDING JUDGE, MUNICIPAL TRIAL COURT IN CITIES,  
BRANCH ...**

*A.M. No. MTJ-02-1422 (Formerly OCA IPI No. 97-436-MTJ). November 21, 2003*

Ponente: SANDOVAL-GUTIERREZ, J.

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**SANDOVAL-GUTIERREZ, J.:**

In a verified complaint[1] dated October 17, 1997 addressed to the Court Administrator, Negros Grace Pharmacy, Inc., represented by its President, Dr. Manuel S. Lo, charged Judge Alfredo P. Hilario of the Municipal Trial Court in Cities, Branch 1, Bacolod City, with serious misconduct, gross partiality, incompetence and ignorance of the law.

The complaint alleges that complainant is the defendant in Civil Case No. 23777 for illegal detainer filed with respondent's court. Respondent judge heard the case with undue haste, manifesting his extreme bias and partiality. Thus, complainant filed a motion for inhibition[2] alleging that he has lost faith and confidence in respondent judge's objectivity and impartiality. Complainant was apprehensive that in deciding the case, respondent judge would impose an exorbitant rental rate just like what he did in "Centrum/Gochangco vs. Young Auto Supply, et al." However, respondent judge denied the motion on the ground that loss of trust and confidence by complainant in his impartiality is unfounded.[3] Complainant filed a motion for reconsideration but it was also denied.[4]

The complaint further alleges that after the filing of the motion for inhibition, respondent judge became "tyrannical with vengeance and arrogance" in handling the unlawful detainer case. He expunged from the records complainant's position paper without any legal basis; denied complainant's motion to elevate to the Bar Confidant the motion for inhibition and his motion for reconsideration; and used intemperate language in his Order denying the motion for reconsideration, stating that complainant's lawyers acted "wickedly" and have "wicked minds." In his Decision, respondent judge fixed an excessive monthly rental of P100,000.00 which complainant could not afford, thus, denying him his right to appeal.[5]

In his comment[6] dated December 24, 1997, respondent judge denied the allegations in the instant administrative complaint. He explained that it is the offshoot of his Orders in Civil Case No. 23777 denying complainant's motion to dismiss the complaint and directing that his position paper be expunged from the records. He did not inhibit himself from hearing Civil Case No. 23777 considering that the grounds relied upon are unfounded and merely based on conjectures and presumptions. He decided the case with dispatch without sacrificing the rights of the parties. In fact, even if the case was covered by the Rule on Summary Procedure, it took him almost six (6) months to finally resolve the same due to complainant's numerous motions and manifestations evidently intended to delay its disposition.

In "Centrum/Gochangco vs. Young Auto Supply, Inc., et al.," the rental awarded was based on the amount claimed and proved. As to complainant's allegation that he could not afford to post the required supersedeas bond,

respondent judge explained that a supersedeas bond merely stays the execution of the Decision. Complainant's inability to post it does not deprive him of his right to appeal.

Respondent judge also explained that complainant filed this administrative complaint in order to harass him and to cover up his counsel's incompetence and gross ignorance of the Rule on Summary Procedure. He added that it was complainant who caused the delay in the disposition of the case. Instead of filing an appeal, he filed a petition for certiorari with the Court of Appeals. In resorting to certiorari and in filing this administrative complaint, he violated the rule against forum shopping. Respondent judge stressed that his Decision in Civil Case No. 23777 was affirmed by the Regional Trial Court, the Court of Appeals and eventually, by this Court, an indication of his integrity and impartiality. Thus, he prays that this administrative case be dismissed and that appropriate action be taken against complainant's lawyers for violating their oath, the Code of Professional Responsibility and Supreme Court Administrative Circular No. 04-94 on Forum Shopping.[7]

On January 6, 2000, then Court Administrator Alfredo L. Benipayo[8] submitted his Report[9] stating that respondent judge's refusal to inhibit himself from hearing the case and his intemperate language in his Order denying complainant's motion for reconsideration are not consistent with impartiality and good faith. He recommended that (1) this case be re-docketed as an administrative matter and that (2) respondent judge be "SUSPENDED from Office for six (6) months, with a warning that a repetition of the same or similar offense shall be dealt with more severely."

After a close review of the records, we find that complainant failed to substantiate his allegation that respondent judge acted with bias and partiality. At most, such allegation is a mere suspicion or conjecture. Mere suspicion that a judge is partial is not enough.[10] There should be clear and convincing evidence to prove the charge of bias and partiality.[11] Bias and prejudice cannot be presumed especially if weighed against a judge's sacred obligation under his oath of office to administer justice without respect to the person and do equal right to the poor and rich.[12] In *People vs. Court of Appeals*,[13] we held:

"To disqualify a judge on the ground of bias and prejudice, the movant must prove the same by clear and convincing evidence. Mere allegation and perception of bias from the tenor and the language of a judge alone is insufficient to show prejudgment. Neither can the perception that the pleading of the parties have become personal and loaded with insulting innuendos be the basis for the inhibition. Allowing inhibition for these reasons would open the flood gates to forum shopping. Unless there is concrete proof that a judge has a personal interest in the case and his bias is shown to have stemmed from an extra-judicial source, this Court shall always commence from the presumption that a judge shall decide on the merits of a case with an unclouded vision of facts."

We likewise find baseless complainant's charge that respondent judge committed gross ignorance of the law. To constitute gross ignorance of the law, the acts complained of must not only be contrary to existing law and jurisprudence, but were motivated by bad faith, fraud, dishonesty and corruption.[14] Bad faith is described as follows:

"Bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of a sworn duty through some motive or intent or ill-will; it partakes of the nature of fraud (*Spiegel vs. Beacon Participation*, 8 NE 2[nd] Series, 895, 1007). It contemplates a state of mind affirmatively operating with furtive design or some motive of self-interest or ill-will for ulterior purposes (*Air France vs. Carrasco*, 18 SCRA 155, 166-167 (1966). Evident bad faith connotes a manifest deliberate intent on the part of the accused to do wrong or cause damage."[15]

Bad faith is not presumed and he who alleges the same has the onus of proving it.[16] The record is devoid of any showing that respondent judge was moved by ill-will or bad faith in issuing the challenged Orders. Even assuming

that such Orders are erroneous, respondent judge may not be held administratively liable. In *Santos vs. Judge Orlino*,<sup>[17]</sup> we held:

"The fundamental propositions governing responsibility for judicial error were more recently summarized in *In Re: Joaquin T. Borromeo*, 241 SCRA 405-467(1995). There, this Court stressed inter alia that given the nature of judicial function and the power vested in the Constitution in the Supreme Court and the lower courts established by law, administrative or criminal complaints are neither alternative nor cumulative to judicial remedies where such are available, and must wait on the result thereof. Existing doctrine is that judges are not liable to respond in a civil action for damages, and are not otherwise administratively responsible for what they may do in the exercise of their judicial functions when acting within their legal powers and jurisdiction (*Alzua v. Johnson*, 21 Phil. 308, 326; Sec. 9, Act 190). Certain it is that a judge may not be held administratively accountable for every erroneous order or decision he renders (*Rodrigo vs. Quijano, etc.*, 79 SCRA 10 [1977]). To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment (See *Lopez v. Corpuz*, 78 SCRA 374 [1977]; *Pilipinas Bank v. Tirona Liwag*, 190 SCRA 834 [1990]). The error must be gross or patent, deliberate and malicious, or incurred with evident bad faith (*Quizon v. Balthazar, Jr.*, 65 SCRA 293 [1975])."

We find, however, that respondent judge used intemperate language in his Order dated September 15, 1997 by stating that complainant's lawyers acted "wickedly" and possessed "wicked minds."<sup>[18]</sup> A judge who is commanded at all times to be mindful of his high calling and his mission as a dispassionate and impartial arbiter of justice<sup>[19]</sup> is expected to be "a cerebral man who deliberately holds in check the tug and pull of purely personal preferences which he shares with his fellow mortals."<sup>[20]</sup> Being a dispenser of justice, respondent judge should have demonstrated finesse in his choice of words as normally expected of men of his stature. Here, the language used by respondent judge is hardly the kind of circumspect words expected of a magistrate.

Judges must observe judicial decorum which requires a magistrate to be at all times temperate in his language,<sup>[21]</sup> refraining from inflammatory or excessive rhetoric<sup>[22]</sup> or from resorting "to language of vilification."<sup>[23]</sup> It is, therefore, essential that they live up to the high standards demanded by the Code of Judicial Conduct.<sup>[24]</sup>

Respondent judge needs to be reminded that government service is people oriented.<sup>[25]</sup> Patience is an essential part of dispensing justice and courtesy is a mark of culture and good breeding.<sup>[26]</sup> Belligerent behavior has no place in the judiciary where members are enjoined to act with self-restraint and civility at all times even when confronted with rudeness and insolence.

The Court Administrator, without specifying the offense committed by respondent judge, recommended that he be suspended from office for six (6) months.

We find respondent judge guilty of vulgar and unbecoming conduct, classified as a light charge under Section 10 (1), Rule 140 of the Revised Rules of Court. Under Section 11 (C) of the same Rule, any of the following sanctions may be imposed upon him: (1) a fine of not less than P1,000.00 but not exceeding P10,000.00; (2) censure; (3) reprimand; and (4) admonition with warning.

In *Echano vs. Suñga*<sup>[27]</sup> we "admonished" the respondent judge who "did not comport himself in a manner that befits one who holds the exalted office of dispenser of justice which requires serenity and the ability to keep one's cool." Also, in *Turqueza vs. Hernando*,<sup>[28]</sup> we "admonished" the respondent judge who failed "to exercise proper care and restraint in his language" which "betrays a lack of judicial decorum x x x."

WHEREFORE, respondent Judge Alfredo P. Hilario is hereby found guilty of vulgar and unbecoming conduct and is **ADMONISHED** with a warning that a repetition of a similar offense in the future shall be dealt with more severely.

**SO ORDERED.**

Vitug, (Chairman), Corona, and Carpio Morales, JJ., concur.

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[1] Rollo at 1-24.

[2] Annex "A", Complaint, id. at 25-31.

[3] Annex "B", id. at 32-35.

[4] Annex "D", id. at 51.

[5] Supplemental Complaint dated December 24, 1997, id. at 169-177.

[6] Rollo at 61-69.

[7] Supplement to the Comment dated December 24, 1997, id. at 288-289.

[8] Now Solicitor General.

[9] Rollo at 314-322.

[10] De Guzman vs. Pamintuan, A.M. No. RTJ-02-1736, June 26, 2003; Sinnot vs. Barte, A.M. No. RTJ-99-1453, December 14, 2001, 372 SCRA 282; Lu vs. Siapno, A.M. MTJ-99-1199, July 6, 2000, 335 SCRA 181; People vs. Court of Appeals, G.R. No. 129120, July 2, 1999, 309 SCRA 705; Flores vs. Court of Appeals, G.R. No. 97556, July 29, 1996, 259 SCRA 618.

[11] Gonhu vs. Court of Appeals, G.R. No. 128230, October 13, 2000, 343 SCRA 114; Te vs. Court of Appeals, G.R. No. 126746, November 29, 2000, 346 SCRA 327.

[12] Go vs. Court of Appeals, G.R. No. 106087, April 7, 1993, 221 SCRA 397; People vs. Tuazon, G.R. No. L-74799, March 28, 1998, 159 SCRA 315; Beltran vs. Garcia, G.R. Nos. 86587-93, July 25, 1989, 175 SCRA 569; Pimentel vs. Salanga, G.R. No. L-27934, September 18, 1967, 21 SCRA 160.

[13] G.R. No. 129120, July 2, 1999, 309 SCRA 705.

[14] Rollo at 314-322.

[15] Canson vs. Garchitorena, SB-99-9-J, July 28, 1999, 311 SCRA 268, citing Llorente, Jr., vs. Sandiganbayan, G.R. No. 122166, March 11, 1998, 287 SCRA 382, citing Marcelo vs. Sandiganbayan, G.R. No. 69983, March 14, 1990, 185 SCRA 346.

[16] Ford, Philippines vs. Court of Appeals, G.R. No. 99039, February 3, 1997, 267 SCRA 320, citing Chua vs. Court of Appeals, G.R. No. 112660, March 14, 1995, 242 SCRA 341.

[17] A.M. No. RTJ-98-1418, September 25, 1998, 296 SCRA 101.

[18] Annex "D", Rollo at 51.

[19] Royeca vs. Animas, G.R. No. L-39584, May 3, 1976, 71 SCRA 1.

[20] Azucena vs. Munoz, A.C. No. 130-J, June 30, 1970, 33 SCRA 722.

[21] Turqueza vs. Hernando, G.R. No. L-51626, April 30, 1980, 97 SCRA 483.

[22] Royeca vs. Animas, *supra*, p. 6.

[23] Id. at 9.

[24] Agunday vs. Tresvalles, A.M. No. MTJ-99-1236, November 25, 1999, 319 SCRA 134. Rule 3.04 of the Code of Judicial Conduct mandates that "A judge should be patient, attentive and courteous to all lawyers, especially the inexperienced, to litigants witnesses, and others appearing before the court. A judge should avoid unconsciously falling into the attitude of minds that the litigants are made for the courts instead of the courts for the litigants."

[25] De Luna vs. Ricon, A.M. P-94-1093, November 16, 1995, 250 SCRA 1.

[26] Pineda E.L., Legal and Judicial Ethics, 1995 ed. at 354-355.

[27] A.M. No. 1578-CFI, February 20, 1981, 102 SCRA 738.

[28] Supra.

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