

**ELIZABETH ALEJANDRO, ROMEO C. ALEJANDRO, LILIA P. SEROMA
AND FRANCISCO SEROMA, COMPLAINANTS, VS. HON. SERGIO A.
PLAN, IN HIS CAPACITY AS PRESIDING JUDGE OF THE MUNICIPAL
TRIAL C...**

A.M. No. MTJ-00-1330 (Formerly A.M. OCA IPI 99-721-MTJ). October 27, 2000

Ponente: PUNO, J.

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PUNO, J.:

In May 1999, complainants filed before this Court an administrative complaint against respondent judge for partiality and acts unbecoming of a judge. The complaint alleged that complainants were the accused in criminal Case No. 97-3610 & 3611 entitled "People of the Philippines vs. Romeo Alejandro, et al." for grave oral defamation and malicious mischief, then pending before the Municipal Trial Court of Cauayan, Isabela presided by respondent judge. Complainants claimed that every time there was a hearing on the case, respondent judge would pleasantly talk with Simon Aquino, the complaining witness in the criminal case, inside his chambers. On one occasion, the scheduled hearing was postponed and complainants asked respondent judge the reason for the postponement. Respondent judge sarcastically replied, "What do I care. You ask your counsel." Then he yelled to complainants, "Do not talk to me!" The complainants further alleged that respondent judge tried to persuade them to surrender the land being claimed by Simon Aquino so that the latter would withdraw the cases filed against them. When the complainants declined, respondent judge flared up and warned them that he would prolong the resolution of their case.[1]

Respondent judge denied all the charges against him and branded the complaint as mere harassment. He claimed that he never talked to litigants regarding cases pending before his sala unless they were with their counsel. He also alleged that the complaint was part of complainants' effort to remove him from the judiciary. Moreover, he stated that complainants should be discredited for they have the propensity to malign people as they have, in fact, been convicted of libel by the Regional Trial Court of Cauayan, Isabela.[2]

During the pendency of this administrative complaint, on September 13, 1999, respondent judge optionally retired from the service.

On February 9, 2000, the Court referred the case to Executive Judge Henedino P. Eduarte, Regional Trial Court, Cauayan, Isabela, for investigation, report and recommendation.[3]

Judge Eduarte heard the case on April 26 and 27, 2000.

Romeo Alejandro and Elizabeth Alejandro testified for the complainants.

Romeo Alejandro testified that he is one of the complainants in his administrative case against respondent judge; that he had a case pending before the sala of respondent judge; that every time their case was set for hearing, he would see the adverse party, Simon Aquino, come out of the chambers of respondent judge and after the hearing, said party would stay behind and talk with respondent judge; that the scheduled hearings on their case were

always postponed; that when they asked respondent judge the reason for the postponements, he rudely said that he had nothing to do with that and immediately turned his back on them; that he saw Simon Aquino give an ice chest containing fresh fish to the staff of respondent judge during a Christmas party held in his office; that the fish was a bribe for respondent judge to render a decision favorable to Simon Aquino; that on several occasions, respondent judge talked to him and his co-accused and told them to give up the land being claimed by Simon Aquino so that all their problems would be solved; that when he refused, respondent judge raised his voice and told them that he would delay the resolution of their case.[4]

Corroborating Romeo Alejandro's testimony, Elizabeth Alejandro testified that in 1998, she saw respondent judge at the old municipal building at Cauayan, Isabela. She approached him and asked if it were true that Simon Aquino asked the governor of Isabela about the latter's rumored intervention in the case filed against Romeo Alejandro. Respondent judge yelled at her and accused her of being a liar, and left. Also in the same year, respondent judge talked to her and her co-accused twice to convince them to give in to the demands of Simon Aquino. When they refused, respondent judge told them that he would delay their case pending before him.[5]

For his defense, respondent judge presented two witnesses: Anselma Meris, an employee at the Municipal Trial Court of Cauayan, Isabela, and respondent himself.

Anselma Meris testified that complainants were the accused in a criminal case filed by Simon Aquino for malicious mischief, grave oral defamation and grave threat. These cases, however, have been settled and dismissed by Judge Bernabe Mendoza after the retirement of respondent judge. Meris also testified that in December 1998, Simon Aquino gave 10 kilos of tilapia to the court staff for their Christmas party. Respondent judge, however, was on leave at that time. She further testified that she was present at the chambers of respondent judge when Simon Aquino came and talked to him. She said that respondent judge instructed her to accompany Simon Aquino to the staff's office and attend to him. Simon Aquino requested for a resetting of the case and made a follow up of the other cases he filed against Josephine Rivera for violation of BP 22. Meris stated that respondent judge calls her every time a party enters his chambers and orders her to assist them. She also testified that complainants went to see respondent judge in his chambers to make a follow up of the trial calendar and to get a copy of the complaint in the three criminal cases.[6]

Respondent judge also testified for himself. He denied the charges against him and said that they are purely harassment. He stated that complainants sought the withdrawal of the cases filed by Simon Aquino against them, but he ignored their request. He also denied that he talked to Simon Aquino in his chambers. He said that when Simon Aquino came to his chambers, he called a member of his staff, Anselma Meris, to attend to him. He said that the complainants also went to his office to inquire about the status of their cases long pending before his court. He told them that the delay in the resolution of their cases was due to their fault because they did not have a counsel. As regards the allegation that he talked to the complainants in a loud and harassing voice, respondent explained that it was natural for him, having come from the North, to talk in a loud voice. He reiterated that complainants were incensed by his refusal to settle the case filed by Simon Aquino. They have, in fact, been telling other people that they want respondent judge removed from the judiciary because of his arrogance. Respondent judge also pointed out that complainants have the propensity for maligning people as they have in fact been convicted of libel by the Regional Trial Court of Cauayan, Isabela.[7]

Meanwhile, on May 2, 2000, the Third Division of this Court granted the request of respondent judge for the release of his retirement benefits pending resolution of OCA IPI 99-721-MTJ and OCA IPI 99-725-MTJ, provided that the amount of fifty thousand pesos (P50,000.00) be retained to answer for any administrative liability that may be imposed against him in said cases.

In a resolution dated June 28, 2000, the First Division of this Court dismissed for lack of merit AM OCA IPI 99-725-MTJ.

Judge Eduarte submitted his report and recommendation to this Court on June 16, 2000. He found respondent judge guilty of using intemperate language as well as fraternizing with litigants and recommended that respondent be fined in the amount of P2,000.00.[8]

The Office of the Court Administrator affirmed the recommendation of the investigating judge in its memorandum dated August 23, 2000.

Faced with the conflicting versions of complainants and respondent judge, we give more weight to the allegations and testimony of complainants who testified clearly and consistently before the investigating judge. We find it difficult to give credence to the allegation of respondent judge that complainants were moved by ill motive in filing this administrative complaint because he ignored their plea to withdraw the criminal case filed against them. The records do not show that complainants filed a motion to quash the information while it was pending before the sala of respondent judge. Neither did the complaining witness file an affidavit of desistance at that time. Moreover, respondent judge's claim that complainants have been telling people that they want him removed from the judiciary does not inspire belief as respondent judge failed to present any of these people as witness during the investigation.

Time and again, we have admonished judges not only to be impartial but also to appear to be so, for appearance is an essential manifestation of reality.[9] Canon 2 of the Code of Judicial Conduct enjoins judges to avoid not just impropriety in their conduct but even the mere appearance of impropriety. This is true not only in the performance of their judicial duties but in all their activities, including their private life. They must conduct themselves in such a manner that they give no ground for reproach.[10] Respondent judge's act of pleasantly talking with the complaining witness in a case pending before him inside his chambers, in contrast with his rude attitude toward the accused in the same case, creates an impression that he favors one party over the other. This impression is reinforced by the fact that respondent judge talked with said accused, the complainants herein, to convince them to surrender their rights over the land claimed by said complaining witness. These acts of respondent judge violate the rule that a judge should administer justice impartially and without delay.[11] As the visible representation of law and justice, judges are expected to conduct themselves in a manner that would enhance the respect and confidence of the people in the judicial system. It is incumbent upon them to so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.[12]

IN VIEW WHEREOF, a FINE of TWO THOUSAND PESOS (P2,000.00) is hereby imposed on respondent judge for violation of the Code of Judicial Conduct.

SO ORDERED.

Davide, Jr., CJ., (Chairman), Pardo, and Ynares-Santiago, JJ., concur.

Kapunan, J., On leave.

[1] Rollo, pp. 3-5.

[2] Id., pp. 10-11.

[3] Id., p. 24.

- [4] TSN, April 26, 2000, pp. 4-9.
- [5] TSN, April 27, 2000, pp. 3-12.
- [6] Id., pp. 17-24.
- [7] Id., pp. 26-30.
- [8] Rollo, pp. 107-112.
- [9] *Espiritu v. Jovellanos*, 280 SCRA 579 (1997).
- [10] *San Juan vs. Bagalacsa*, 283 SCRA 416 (1997).
- [11] Rule 1.02, Code of Judicial Conduct.
- [12] *Office of the Court Administrator vs. de Guzman, Jr.*, 267 SCRA 291 (1997).

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