

**THE SPOUSES JOSE B. TIONGCO AND LETICIA M. TIONGCO,
PETITIONERS, VS. HON. SEVERIANO C. AGUILAR, JUDGE, RTC,
BRANCH 35, ILOILO CITY, AND THE SPOUSES WILFREDO AND
LORENA AGUIRRE, ...**

G.R. No. 115932. January 25, 1995

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In the resolution of 26 September 1994, this Court required ATTY. JOSE B. TIONGCO, as counsel for the petitioners, to show cause why he should not be dealt with administratively for the violation of Canon 11 of the Code of Professional Responsibility considering:

"x x x the insinuation of counsel for the petitioners that this Court did not read the petition as borne out by the following statement:

'x x x Truly, it is hard to imagine that this Honorable Court had read the petition and the annexes attached thereto and hold that the same has "failed to sufficiently show that the respondent Court had committed a grave abuse of discretion in rendering the questioned judgment" ...'

which, as earlier noted, is unfounded and malicious, and considering further his use of intemperate language in the petition, as exemplified by his characterization of the decision of the respondent Judge as having been 'crafted in order to fool the winning party'; as a 'hypocritical judgment in plaintiffs' favor'; one 'you could have sworn it was the Devil who dictated it'; or one with 'perfidious character,' although the petitioners as plaintiffs therein and who were the prevailing party in the decision did not appeal therefrom; and by his charge that the respondent Judge was a bit confused — with that confusion which is the natural product of having been born, nurtured and brought up amongst the crowded surroundings of the non-propertied class; In fact, His Honor, Respondent Judge, the Honorable Severino O. Aguilar had not owned any real property until March 5, 1974 when his Honor was already either Public-Prosecutor or RTC Judge; — in one scale of the balance, a 311 square meter lot, 6 houses from the Provincial Road, about 6 kilometers from the Iloilo City Hall of Justice, and, in the other scale, His Honor's brand-new car, impeccable attire, and dignified 'mien'; and his charge that the respondent Judge has 'joined the defendants and their counsel in a scheme to unlawfully deprive petitioners of the possession and fruits of their property for the duration of the appeal'; and with respect to the Order of 30 May 1994, by describing the respondent Judge as a 'liar,' 'perjurer,' or 'blasphemer.' "

In his 2-page Compliance, dated 11 October 1994, he alleges that:

"If the undersigned has called anyone a 'liar' 'thief' 'perfidious' and 'blasphemer' it is because he is in fact a liar, thief, perfidious and a blasphemer; 'this Honorable [sic] First Division, however, forget, that the undersigned also [sic] called him a 'robber' (Petition, pp. 13, bottom; 14, bottom), a 'rotten manipulator' (Petition, p. 11, line 26) and 'abetter' of graft and shady deals (Petition, p. 12, bottom, p. 13 top); On the other hand, if the undersigned called anybody 'cross-eyed,' it must be because he is indeed cross-eyed - particularly when he sees

but five (5) letters in an eight (8) letter-word; Indeed, it must be a lousy Code of Professional Responsibility and therefore stands in dire need of amendment which punishes lawyer who truthfully expose incompetent and corrupt judges before this Honorable Supreme Court; It is therefore, respectfully submitted, that for all his pains, the undersigned does not deserve or is entitled to the honors of being dealt with administratively or otherwise."

and prays:

"WHEREFORE, in view of the foregoing, the undersigned respectfully prays of this Honorable Supreme Court, that it forebear from turning the undersigned into a martyr to his principles."

Yet, he adds the following:

"WITH THE UNDERSIGNED'S RESPECTFUL APOLOGIES - AND UNDYING LOVE (Constitution, Preamble, 66 word)."

It must at once be noted that Atty. Tiongco did not at all show cause why he should not be dealt with administratively for violation of Canon 11 of the Code of Professional Responsibility in view of his unfounded and malicious insinuation that this Court did not at all read the petition in this case before it concluded that the petition failed to sufficiently show that the respondent court had committed a grave abuse of discretion. Moreover, while he tried to justify as true his descriptions of the respondent judge as "liar," "thief," "perfidious," and "blasphemer" he did not offer any excuse for his use of the rest of the intemperate words enumerated in the resolution. Worse, feeling obviously frustrated at the incompleteness of the Court's enumeration of the intemperate words or phrases, he volunteered to point out that in addition to those so enumerated, he also called the respondent judge a "robber," "rotten manipulator," "abettor" of graft and corruption, and "cross-eyed."

Atty. Tiongco's Compliance is unsatisfactory and is entirely unacceptable for the following reasons: first, he impliedly admitted the falsity of his insinuation that this Court did not read the petition; second, except as to the words "liar," "thief," "perfidious," and "blasphemer," he failed to address squarely the other intemperate words and phrases enumerated in the resolution of 26 September 1994, which failure amounts to an admission of their intemperateness; third, he did not indicate the circumstances upon which his defense of truth lies; and, fourth, he miserably failed to show the relevance of the harsh words and phrases to his petition.

We do not then hesitate to rule that by falsely and maliciously insinuating that this Court did not at all read the petition in this case, Atty. Tiongco not only exhibited his gross disrespect to and contempt for this Court and exposed his plot to discredit the Members of the First Division of the Court and put them to public contempt or ridicule; he, as well, charged them with the violation of their solemn duty to render justice, thereby creating or promoting distrust in judicial administration which could have the effect of "encouraging discontent which, in many cases, is the source of disorder, thus undermining the foundation on which rests the bulwark called judicial power to which those who are aggrieved turn for protection and relief" (Salcedo vs. Hernandez, 61 Phil. 724 [1935]).

In using in the petition in this case intemperate and scurrilous words and phrases against the respondent judge which are obviously uncalled for and entirely irrelevant to the petition and whose glaring falsity is easily demonstrated by the respondent judge's decision in favor of Atty. Tiongco and his wife in their case for recovery of possession and damages, and by the dismissal of the instant petition for failure of the petitioners to sufficiently show that the respondent judge committed grave abuse of discretion, Atty. Tiongco has equally shown his disrespect to and contempt for the respondent judge, thereby diminishing public confidence in the latter and, eventually, in the judiciary, or sowing mistrust in the administration of justice.

Consequently, Atty. Tiongco has made out a strong case for a serious violation of Canon 11 of the Code of

Professional Responsibility which reads as follows:

"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."

This duty is closely entwined with his vow in the lawyer's oath "to conduct himself as a lawyer with all good fidelity to the courts"; his duty under Section 20(b), Rule 138 of the Rules of Court "[t]o observe and maintain the respect due to the courts of justice and judicial officers"; and his duty under the first canon of the Canons of Professional Ethics "to maintain towards the courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance."

In *Rheem of the Philippines vs. Ferrer* (20 SCRA 441, 444 [1967]), this Court said:

"By now, a lawyer's duties to the Court had become commonplace. Really, there could hardly be any valid excuse for lapses in the observance thereof. Section 20(b), Rule 138 of the Rules of Court, in categorical terms, spells out one such duty: 'To observe and maintain the respect due to the courts of justice and judicial officers.' As explicit is the first canon of legal ethics which pronounces that '[i]t is the duty of the lawyer to maintain towards the Courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance.' That same canon, as a corollary, makes it peculiarly incumbent upon lawyers to support the courts against 'unjust criticism and clamor.' And more. The attorney's oath solemnly binds him to a conduct that should be 'with all good fidelity x x x to the courts.' Worth remembering is that the duty of an attorney to the courts 'can only be maintained by rendering no service involving any disrespect to the judicial office which he is bound to uphold.' [*Lualhati vs. Albert*, 57 Phil. 86, 92].

We concede that a lawyer may think highly of his intellectual endowment. That is his privilege. And, he may suffer frustration at what he feels is others' lack of it. That is his misfortune. Some such frame of mind, however, should not be allowed to harden into a belief that he may attack a court's decision in words calculated to jettison the time-honored aphorism that courts are the temples of right. He should give due allowance to the fact that judges are but men; and men are encompassed by error, fettered by fallibility."

Expounding further on the lawyer's duty to the courts, this Court, in *Surigao Mineral Reservation Board vs. Cloribel* (31 SCRA 1, 16-17 [1970]), stated:

"A lawyer is an officer of the courts; he is, 'like the court itself, an instrument or agency to advance the ends of justice.' [*People ex rel. Karlin vs. Culkin*, 60 A.L.R. 851, 855]. His duty is to uphold the dignity and authority of the courts to which he owes fidelity, 'not to promote distrust in the administration of justice.' [*In re Sotto*, 82 Phil. 595, 602]. Faith in the courts a lawyer should seek to preserve. For, to undermine the judicial edifice 'is disastrous to the continuity of the government and to the attainment of the liberties of the people.' [*Malcolm Legal and Judicial Ethics*, 1949 ed., p. 160]. Thus has it been said of a lawyer that '[a]s an officer of the court, it is his sworn and moral duty to help build and not destroy unnecessarily that high esteem and regard towards the courts so essential to the proper administration of justice.' [*People vs. Carillo*, 77 Phil. 572, 580]. (See also *In re: Rafael C. Climaco*, 55 SCRA 107 [1974])."

It does not, however, follow that just because a lawyer is an officer of the court, he cannot criticize the courts. That is his right as a citizen, and it is even his duty as an officer of the court to avail of such right. Thus, in *In Re: Almacen* (31 SCRA 562, 579-580 [1970]), this Court explicitly declared:

"Hence, as a citizen and as an officer of the court, a lawyer is expected not only to exercise the right, but also to consider it his duty to avail of such right. No law may abridge this right. Nor is he 'professionally answerable for a scrutiny into the official conduct of the judges, which would not expose him to legal animadversion as a citizen.' (Case of *Austin*, 28 Am Dec. 657, 665).

'Above all others, the members of the bar have the best opportunity to become conversant with the character and efficiency of our judges. No class is less likely to abuse the privilege, or no other class has as great an interest in the preservation of an able and upright bench.' (State Board of Examiners in Law vs. Hart, 116 N.W. 212, 216).

To curtail the right of a lawyer to be critical of the foibles of courts and judges is to seal the lips of those in the best position to give advice and who might consider it their duty to speak disparagingly. 'Under such a rule,' so far as the bar is concerned, 'the merits of a sitting judge may be rehearsed, but as to his demerits there must be profound silence.' (State vs. Circuit Court (72 N.W. 196))."

Nevertheless, such a right is not without limit. For, as this Court warned in *Almacen*:

"But it is a cardinal condition of all such criticism that it shall be bona fide, and shall not spill over the walls of decency and propriety. A wide chasm exists between fair criticism, on the one hand, and abuse and slander of courts and the judges thereof, on the other. Intemperate and unfair criticism is a gross violation of the duty of respect to courts. It is such a misconduct that subjects a lawyer to disciplinary action.

X X X

The lawyer's duty to render respectful subordination to the courts is essential to the orderly administration of justice. Hence, in the assertion of their clients' rights, lawyers - even those gifted with superior intellect - are enjoined to rein up their tempers."

Elsewise stated, the right to criticize, which is guaranteed by the freedom of speech and of expression in the Bill of Rights of the Constitution, must be exercised responsibly, for every right carries with it a corresponding obligation. Freedom is not freedom from responsibility, but freedom with responsibility. In *Zaldivar vs. Gonzales* (166 SCRA 316, 353-354 [1988]), it was held:

"Respondent *Gonzales* is entitled to the constitutional guarantee of free speech. No one seeks to deny him that right, least of all this Court. What respondent seems unaware of is that freedom of speech and of expression, like all constitutional freedoms, is not absolute and that freedom of expression needs an occasion to be adjusted to and accommodated with the requirements of equally important public interests. One of these fundamental public interests is the maintenance of the integrity and orderly functioning of the administration of justice. There is no antimony between free expression and the integrity of the system of administering justice. For the protection and maintenance of freedom of expression itself can be secured only within the context of a functioning and orderly system of dispensing justice, within the context, in other words, of viable independent institutions for delivery of justice which are accepted by the general community."

Proscribed then are, inter alia, the use of unnecessary language which jeopardizes high esteem in courts, creates or promotes distrust in judicial administration (*Rheem, supra*), or tends necessarily to undermine the confidence of the people in the integrity of the members of this Court and to degrade the administration of justice by this Court (*In re: Sotto*, 82 Phil. 595 [1949]); or of offensive and abusive language (*In re: Rafael Climaco*, 55 SCRA 107 [1974]); or abrasive and offensive language (*Yangson vs. Salandanan*, 68 SCRA 42 [1975]); or of disrespectful, offensive, manifestly baseless, and malicious statements in pleadings or in a letter addressed to the judge (*Baja vs. Macandog*, 158 SCRA 391 [1988], citing the resolution of 19 January 1988 in *Phil. Public Schools Teachers Association vs. Quisumbing*, G.R. No. 76180, and *Ceniza vs. Sebastian*, 130 SCRA 295 [1984]); or of disparaging, intemperate, and uncalled-for remarks (*Sangalang vs. Intermediate Appellate Court*, 177 SCRA 87 [1989]).

That Atty. *Tiongco* had exceeded the bounds of decency and propriety in making the false and malicious insinuation against this Court, particularly the Members of the First Division, and the scurrilous characterizations

of the respondent judge is, indeed, all too obvious. Such could only come from anger, if not hate, after he was not given what he wanted. Anger or hate could only come from one who "seems to be of that frame of mind whereby he considers as in accordance with law and justice whatever he believes to be right in his own opinion and as contrary to law and justice whatever does not accord with his views" (Montecillo vs. Gica, 60 SCRA 234, 238 [1974]). When such anger or hate is coupled with haughtiness or arrogance as when he even pointed out other intemperate words in his petition which this Court failed to incorporate in the resolution of 26 September 1994, and with seething sarcasm as when he prays that this Court "forebear[s] from turning ... [him] into a martyr to his principles" and ends up his Compliance with the "RESPECTFUL APOLOGIES - AND UNDYING LOVE" (Constitution - Preamble, 66th word)," nothing more can extenuate his liability for gross violation of Canon 11 of the Code of Professional Responsibility and of his other duties entwined therewith as earlier adverted to.

WHEREFORE, for such violation, ATTY. JOSE B. TIONGCO is hereby ordered to pay a Fine of FIVE THOUSAND PESOS (P5,000.00) and WARNED that the commission of the same or similar acts in the future shall be dealt with more severely.

Let a copy of this resolution be attached to the record of Atty. Jose B. Tiongco in this Court.

SO ORDERED.

Padilla, (Chairman), Quiason, and Kapunan, JJ., concur.

Bellosillo, J., no part.

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