

FIRST DIVISION

[A.M. RTJ-20-2600 (Formerly OCA IPI No. 19-4952-RTJ), January 12, 2021]

ROBERTO L. OBIEDO, COMPLAINANT, VS. HON. SOLIMAN M. SANTOS, JR., PRESIDING JUDGE, BRANCH 61, REGIONAL TRIAL COURT, NAGA CITY, CAMARINES SUR, RESPONDENT.

D E C I S I O N

ZALAMEDA, J.:

Before this Court is a Verified Complaint^[1] accusing respondent Judge Soliman M. Santos, Jr. (respondent Judge), Presiding Judge of Branch 61, Regional Trial Court (RTC), Naga City of gross ignorance of the law and gross violation of the Code of the Judicial Conduct, and seeking his dismissal from the service.

Antecedents

Complainant Roberto L. Obiedo (Obiedo) filed a case for Estafa against the Spouses Nino Rico and Mary Anne Nery (Nery Spouses). The case, docketed as Criminal Case No. 2012-0426, was raffled to respondent Judge's sala.

After trial on the merits, respondent Judge rendered a Judgment dated 17 December 2018,^[2] acquitting the Nery Spouses, but finding them civilly liable to Obiedo viz:

WHEREFORE, premises considered, judgment is hereby rendered ACQUITTING the accused spouses NINO RICO NERY and MARY ANNE NERY from the offense charged of Estafa under Article 315 of the Revised Penal Code for failure of the prosecution to prove their guilt beyond reasonable doubt. The said accused spouses NERY are however ordered to PAY private complainant Robert L. Obiedo **actual damages** in the amount of ONE MILLION TWO HUNDRED NINETY THOUSAND PESOS (P1,290,000.00) and **moral damages** in the amount of ONE HUNDRED THOUSAND PESOS (P100,000.00), or **total civil damages** in the amount of ONE MILLION THREE HUNDRED NINETY THOUSAND PESOS (P1,390,000.00). The amount of damages awarded is subject further to interest of six (6%) percent per annum from the date of finality of this judgment until it is fully paid.^[3]

After the promulgation of judgment, respondent Judge sent the parties' respective counsels^[4] a text message that reads:^[5]

GUD A.M. EDGAR, CC EDWIN, 2 REPEAT, I WAS MORE DEN FAIR WD NERY, ACQUITTING HIM DESPYT WANING HIS EVID PRESENTATN. **MY LEGAL RESEARCHER ACTUALLY RECOMMENDED A CONVICTION 4 'OTHER DECEITS' BASED ON NERY'S ASURANS OF HS 'CLEAN TITLE' TO**

OBIEDO & TURIANO. **CONVICTN MYT BCOM A POSIBILITY F U MR & APPEAL KASI D PA FINAL C ACQUITAL.** I AM BANKIN ON U 2 GYD NERY TO UNDERSTND & ACEPT MY DISPOSITN. LETS B PRACTICAL ABT D SALE KASI WALA NAMAN TRANSFR OF TITLE & POSESION 2 OBIEDO. 4 OL INTENTS & PURPOSES, IT S USELES 2 OBIEDO. IF NIDED, **A DOC 2 REVOKED SALE KAN & SHD B WRKD OUT BY U & EDWIN.** BUT **NERY SHD PAY D ACTUAL DAMAGES NA REDUCD NA NGA, KASI NO REIMB SA COMISN & ATTY'S FEES, PLUS SOM MORAL DAMAGES NAMAN TO OBIEDO, ACTUALLY CONSUELO DE BOBO.** B FAIR ON FD & END IT NA. DS WL B MY LAST WORD ON DIS. KAMO NA NI EDWIN AN MAGULAY AS 2 GUD SPECIMENS OF LEGAZP AND NAGA ATTYS. **NEVERMIND D JUDG HU DAS NOT MAKE HOMETOWN DECISNS. TNX & MERI XMAS.** [Underscoring in the original]

On 11 June 2019, Obiedo, through another counsel, filed the present Verified Complaint before this Court alleging that respondent Judge committed gross violation of the Code of Judicial Conduct and gross ignorance of the law. He asserted that respondent Judge should not have sent the text message to the parties' counsels. Instead, he should have just allowed his judgment to speak for itself. By sending such a text message, respondent Judge appeared to be justifying his ruling, giving the impression there something erroneous about it, so he had to make the same "better" or more "palatable" for the parties.

Moreover, Obiedo contended that in suggesting the filing of a motion for reconsideration or appeal, respondent Judge was doing any or all of the following: (1) "selling crap" to his counsel; (2) unsure whether his decision is correct; or (3) waiting who between the parties would give him the best offer.

Obiedo further claimed that his case was doomed to fail from the beginning since respondent Judge admitted in the same text message that he does not render "hometown decisions," a clear bias against Naga City residents like himself.^[6]

Respondent Judge's actions, Obiedo argues, violate Rule 1.01,^[7] Rule 2.01,^[8] and Rule 2.04^[9] of the Code of Judicial Conduct. Thus, Obiedo prays that these violations, taken with respondent Judge's previous administrative infractions, be taken by the court as grounds for dismissing the erring respondent from the service.

In his Comment,^[10] respondent Judge defended his action, explaining that his approach to problem solving is "more practical" rather than "overly legalistic,"^[11] preferring alternative dispute resolution over adversarial litigation.^[12] He avers that his text message should not be an issue in this day and age where lawyers indicate their cellphone numbers and email addresses in their pleadings for no purpose than to ensure "speedier communications." He countered that he felt that he could candidly communicate with the parties' counsels since he knew them from his previous private practice.

Further, contrary to Obiedo's claim, he did not suggest the filing of a motion for reconsideration; in fact, he was dissuading the parties from doing so. He sent the message not because he was unsure of his judgment, but because he wanted to end the litigation in the best interest of both parties. The statement that he does not make "hometown decisions" did not mean that he was biased against Naga City

residents but that he is impartial and that his decisions are still based on the facts, the evidence, and the law, not whether a party or counsel hails from Naga City.^[13]

Lastly, respondent Judge claims that the present complaint is a form of vendetta by Atty. Epifanio Ma. J. Terbio, Jr. (Atty. Terbio), Obiedo's counsel in the present case but not in the Estafa case under question.^[14] He underscores Atty. Terbio's "disrespectful language" in the complaint and in other communications with the respondent. He also points out that Atty. Terbio misreads the subject decision, which clearly sets out the legal and factual basis of the judgment.

Report and Recommendation of the OCA

In its Report^[15] dated 04 September 2020 the Office of the Court Administrator (OCA) found respondent Judge liable for impropriety.^[16] The OCA held that respondent Judge's act of sending a text message to the parties' counsel after promulgating his decision to be highly inappropriate because it is not part of the proceedings. Respondent Judge should have allowed the decision to stand on its own merits. After all, the decision itself laid out the factual and legal basis for the verdict. Moreover, respondent judge's act cast doubt over his integrity, impartiality, and competence in rendering the assailed decision.

The OCA likewise noted that respondent Judge had previously been penalized by this Court in two instances.^[17] In *Susan R. Elgar v. Judge Soliman M. Santos, Jr. (Elgar)*,^[18] the Court found respondent Judge guilty of violating Supreme Court rules, directives and circulars, simple misconduct, gross inefficiency or undue delay and gross ignorance of the law. He was meted the following fines:

- (1) Php12,000.00 for failure to refer the case to the Philippine Mediation Center as prescribed in A.M. No. 01-10-5-SC-PHILJA;
- (2) Php20,000.00 for pressing the parties to enter into an amicable settlement through means that exceeded the bounds of propriety;
- (3) Php12,000.00 for causing undue delay in terminating the preliminary conference amounting to gross inefficiency;
- (4) Php12,000.00 for issuing the Extended Order unduly castigating complainant's counsel after the withdrawal of the petition, thereby exceeding the bounds of propriety; and
- (5) Php22,000.00 for giving the oppositor the option of submitting his pre trial brief in contravention of its mandatory nature as stated in Section 6, Rule 18 of the Rules of Court.

Meanwhile, in *Peter U. Borromeo v. Judge Soliman M. Santos, Jr. (Borromeo)*,^[19] the Court held respondent Judge liable for gross misconduct for which he was admonished with stern warning.^[20]

Thus, the OCA made the following recommendations: (1) that the administrative complaint be re-docketed as a regular administrative matter; (2) respondent Judge should be found guilty of impropriety and fined Twenty Thousand Pesos (Php20,000.00); and (3) respondent Judge be reminded to be more circumspect in

the performance of his duties and warned that a repetition of the same act shall be dealt with more severely.

Issue

The lone issue for the Court's resolution is whether or not respondent Judge should be held administratively liable for violation of the Code of the Judicial Conduct.

Ruling of the Court

The Court adopts the recommendation of the OCA, with a modification as to the penalty.

*Respondent Judge is guilty of
impropriety and violations of
the Code of Judicial Conduct*

Sections 1 and 3 of Canon 4 of the New Code of Judicial Conduct for the Philippine Judiciary provide:

Canon 4

Propriety and the appearance of propriety are essential to the performance of **all the activities** of a judge.

Section 1

Judges shall **avoid impropriety** and the appearance of impropriety in **all of their activities**.

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Section 3

Judges shall, in their personal relations with individual members of the legal profession who practice regularly in their court, **avoid situations** which might reasonably give rise to the **suspicion** or appearance of favoritism or partiality. (Emphasis supplied)

Judges must adhere at all times to the highest tenets of judicial conduct. They must be the embodiment of competence, integrity, and independence. Like Caesar's wife, a judge must not only be pure but above suspicion.^[21] Being the visible representation of the law and the embodiment of the people's sense of justice, a judge should constantly keep himself away from any act of impropriety, not only in the performance of his official duties but also in his everyday actuations.^[22] The ethical principles and sense of propriety of a judge are essential to the preservation of the people's faith in the judicial system.^[23]

The admonition in Canon 4 that "[p]ropriety and the appearance of propriety are essential to the performance of all the activities of a judge" must continuously be emphasized. Thus, it matters not whether a case remains pending, has been decided, or has attained finality.^[24] A judge remains duty-bound to observe propriety in all his acts, for magistrates remain under constant public scrutiny and the termination of a case will not deter public criticisms for acts which may cast suspicion on the disposition or resolution of a case.^[25]

The Code does not require that judges live in seclusion. However, a judge in pending or prospective litigation before him should be scrupulously careful to steer clear of any act that may reasonably tend to raise the suspicion that his social or business relations or friendship constitute an element in determining his judicial course^[26] for public confidence in the judiciary is eroded by the irresponsible or improper conduct of judges.^[27] In *Pertierra v. Judge Lerma*,^[28] this Court found it improper for a judge to be having lunch with the counsel of one of the parties whose case was pending before him. On the other hand, the Court, in *In re Justice Ong*^[29] dismissed an Associate Justice of the Sandiganbayan from the service for, among other things, visiting the office of the accused subsequent to the latter's acquittal in a case heard by that same magistrate.

In the case at bar, there is sufficient basis to find respondent guilty of impropriety for sending the parties' respective counsels his text message supposedly explaining his judgment. It was certainly unnecessary for respondent Judge to elaborate on the rationale for his disposition because his promulgated judgment should already speak for itself. Respondent Judge's supposed intent to discourage the parties from appealing cannot justify his text message to their lawyers because his judgment itself had already included such a discussion on this matter.^[30]

As correctly noted by the OCA, his message effectively cast doubt over his impartiality, integrity, and competence in rendering his judgment. It is of no moment that he sent his message after the decision was promulgated because the termination of the case will not preclude public criticism for acts which may render the disposition of a case suspect.

Moreover, respondent Judge's violation of the Code of Judicial Conduct constitutes gross misconduct, punishable under Rule 140 of the Rules of Court. In *Tan v. Rosete*,^[31] the Court held the judge's acts of meeting litigants and of sending a staff member to talk to complainant outside office premises after office hours "violate[d] the standard of judicial conduct required to be observed by members of the Bench."

Meanwhile, respondent judge in *J. King & Sons Company, Inc. v. Hontanosas*^[32] was held liable for meeting with a litigant at his home and in the karaoke bar the latter owned. The Court, in *Tuldague v. Pardo*,^[33] likewise found therein respondent Judge guilty of gross misconduct for having a "drinking spree" in his home with litigant with a pending application for probation before his sala.

When the judge himself becomes the transgressor of any law which he is sworn to apply, he places his office in disrepute, encourages disrespect for the law and impairs public confidence in the integrity and impartiality of the judiciary itself. It is therefore paramount that a judge's personal behavior both in the performance of his duties and his daily life, be free from any appearance of impropriety as to be beyond reproach.^[34]

Canon 2 of the New Code of Judicial Conduct specifically deals with integrity in those holding judicial positions: "Integrity is essential not only to the proper discharge of the judicial office but also to the personal demeanor of judges." Section 1, Canon 2 further exhorts judges to "ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of a reasonable observer."