

EN BANC

[A.M. No. RTJ-20-2588 [Formerly OCA I.P.I. No. 14-4336-RTJ], February 02, 2021]

ARSENIO V. DELAGUA, COMPLAINANT, VS. PRESIDING JUDGE NIÑO A. BATINGANA, BRANCH 6, REGIONAL TRIAL COURT, MATI CITY, DAVAO ORIENTAL, RESPONDENT.

DECISION

PER CURIAM:

Antecedents

Complainant Arsenio V. Delagua charged respondent Judge Niño A. Batingana with grave misconduct, immorality, and ignorance of the law relative to Special Proceeding No. 241, entitled "*In the matter of the Petition to Approve the Will of Francisco C. Delagua, Sr., Milagros V. Delagua, et al., petitioners.*"

Complainant essentially alleged:^[1] In 1995, his father Francisco C. Delagua, Sr., during his lifetime, filed the petition for probate of his will in Special Proceeding No. 241. It was raffled to respondent's sala. Following his father's death in 2006, a certain Atty. Jose Estrada filed a motion to appoint Francisco Delagua, Jr. (Delagua, Jr.) as administrator of the estate. More than six (6) years later, respondent issued his Order dated February 8, 2013 appointing Delagua, Jr. as the new Special Administrator of the estate. This notwithstanding that Delagua, Jr. was disinherited in the will itself and the motion was never heard at all. In any event, Delagua, Jr. did not submit any accounting report since his appointment. During the hearing on September 9, 2014 though respondent ordered Delagua, Jr. to submit his accounting report within fifteen (15) days therefrom.

On October 15, 2014, respondent, together with his paramour Lang Lang Dimpas and some court staff visited the Delagua's beach resort where Delagua, Jr. served them gourmet food like *lechon de leche* and lobsters. During the hearing on the following day, respondent gave Delagua, Jr. a ten-day extension to submit the required accounting report instead of enforcing his previous directive.

He later discovered that long before Delagua, Jr. got appointed as administrator, respondent had already been friends with Delagua, Jr.. Together with his paramour, respondent frequently visited Delagua, Jr.. He thus filed a motion to inhibit respondent from handling SP No. 241 and the related civil case on ground of partiality. The latter denied the motion under Resolution^[2] dated April 30, 2015.

Respondent was grossly negligent in the performance of his judicial duties for it took him more than six (6) years to finally resolve the simple motion to appoint Delagua, Jr. as administrator filed way back in 2006. Respondent's partiality made him lose

his trust and confidence in the judicial system.

Respondent countered,^[3] in the main: His actions in subject cases were in accord with the rules and applicable laws. Complainant's prior appointment as administrator was revoked for failure to submit the required accounting report despite several chances given him. Complainant's accusations were all intended to discredit and harass him. He held several hearings and accorded complainant ample time to oppose the motion to appoint Delagua, Jr. as the new administrator. As for Delagua, Jr.'s alleged disinheritance, the same had yet to be proven aside from the fact that it was not raised as a ground to disqualify the new administrator.

The Proceedings before the Office of the Court Administrator (OCA) and the Court of Appeals

The records of the OCA showed that respondent was also a respondent in nine (9) other administrative charges. Eight (8) of them were already resolved all finding respondent liable as charged, viz.:^[4]

| | OCA IPI NO. | PARTIES | NATURE | STATUS |
|---|--|----------------|-----------------------|---|
| 1 | 09- 2- 74- RTC | OCA vs | BATINGANA, Niño A. | Re: Request for extension of time to decide case by Judge Batingana guilty of delay in rendering decision FINED 25T (6-29-10) |
| 2 | RTJ- 10- 2227 (10- 1- 17- RTC) | OCA vs. | BATINGANA, Niño A. | Re: Judicial Audit SUSPENDED 6 mo. (3-2-10) |
| 3 | 05- 8- 463- RTC | OCA vs. | BATINGANA, Niño A. | Re: Request for extension of time to decide case by Judge Batingana guilty of undue delay in rendering decision in 2 cases FINED 20T (2-17-10) |
| 4 | 08- 9- 533- RTC | OCA vs. | BATINGANA, Niño A. | Re: Request for extension of time to decide case by Judge Batingana guilty of delay in deciding case FINED 10T (2-1-10) |
| 5 | 08- 2- 107- RTC | OCA vs. | BATINGANA, Niño A. | Re: Request for extension of time to decide case by Judge Batingana guilty of undue delay in rendering decision FINED 11T (2-1-10) |
| 6 | RTJ- | OCA vs. | BATINGANA, | Delay in rendering FINED 11T |

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|---|------------------------------------|---------|--------------------|--|-----------------------------------|
| | 09-2210 (07-2-101-RTC; | | Niño A. | judgment | (11-16-09) |
| 7 | RTJ-08-2150 (05-7-443-RTC) | OCA vs. | BATINGANA, Niño A. | Re: Request for extension of time to decide Criminal Case No. 4651 and Civil Case No. 1890 | Pending FINED 11T (8-2-10) |
| 8 | RTJ-08-2115 (05-09-607-RTC) | OCA vs. | BATINGANA, Niño A. | Gross inefficiency | FINED 15T (8-17-09) |
| 9 | RTJ-13-2346 (06-6-381-RTC) | OCA vs. | BATINGANA, Niño A. | Re: Request for Extension of Time | Pending |

Pursuant to the OCA's recommendation,^[5] the administrative case was referred to an Associate Justice of the Court of Appeals for investigation and report and recommendation.

In his Report dated July 6, 2017,^[6] Investigating Justice Louis P. Acosta (Justice Acosta) found respondent guilty of immorality and gross misconduct in violation of the New Code of Judicial Conduct. Justice Acosta recommended respondent's suspension from office for not less than three (3) but not exceeding six (6) months, without pay, and with warning that a repetition of the same or similar offense will warrant the imposition of a more severe penalty. Giving credence to the testimonies of complainant and Melencio Bartolome (Bartolome), Justice Acosta concluded that respondent, together with his alleged paramour and some court staff indeed visited Delagua, Jr. several times at the Delagua's beach resort. There, respondent received money from Delagua, Jr.. These acts constitute a violation of Canons 2, 3 and 4 of the New Code of Judicial Conduct. While there was no direct proof of an illicit affair between respondent and Dimpas, respondent's corrupt inclinations, associating himself with, and accepting money and favors from, a party-litigant who had a pending case in his sala also constitute immorality. Justice Acosta, however, found respondent not liable for ignorance of the law for complainant's failure to

substantiate the same.

Ruling

The Court adopts the findings of Justice Acosta but modifies his conclusion and recommendation.

Gross Misconduct

The *Code of Judicial Ethics* mandates that the conduct of a judge must be free of any whiff of impropriety not only in regard to his discharge of judicial duties, but also to his behavior outside his office and even as a private individual. Judges should be extra prudent in associating with litigants and counsel who have matters pending before them to avoid even the mere perception of possible bias or partiality.
[7]

In ***Re: Godofredo B. Abul, Jr.***,^[8] the Court decreed that it is immaterial whether the judge actually demanded money in exchange for the liberty of the accused because by simply meeting and talking with the accused whose cases were then pending in his sala, the Judge already transgressed ethical norms and compromised his integrity and impartiality as the trial judge. The Court ruled that the judge's actuations flagrantly violated the norms and Canons 2, 3 and 4 of the New Code of Judicial Conduct for the Philippine Judiciary. The judge was found guilty of gross misconduct for which he would have been meted the extreme penalty of dismissal had he not died.

Here, complainant and Bartolome testified that respondent frequently visited Delagua, Jr. in their beach resort which was the property subject of the probate case pending before his sala. On October 15, 2014, Bartolome helped Delagua, Jr. prepare food for respondent and the latter's court staff and alleged paramour. Bartolome actually saw respondent accept a pad of One Thousand Peso (P1,000.00) bills from Delagua, Jr. at the beach resort and securing the same inside his pocket. Apart from his bare denial, respondent failed to adduce any competent and conclusive proof to controvert complainant's evidence.

Verily, although the money was not directly proven to be a bribe in connection with the cases pending before respondent's sala, respondent's frequent association with and accepting money and favors from party litigant Delagua, Jr. amounts to grave misconduct, a violation of the New Code of Judicial Conduct for the Philippine Judiciary, specifically Section 1 of Canon 2,^[9] Section 2 of Canon 3,^[10] and Section 1 of Canon 4.^[11] It taints his integrity and impartiality for it reveals his corrupt inclination and clear intent to disregard these ethical principles enjoining judges to always act with integrity, propriety and impartiality.

Immorality

Complainant asserted that respondent brought and flaunted his alleged mistress, Dimpas, at Delagua's beach resort. Although complainant and Bartolome testified that Dimpas was one of respondent's companions during his visits at Delagua's beach resort, there was no substantial proof that the two (2) had an illicit affair.

Hence, the charge of immorality against respondent must fail.

Ignorance of the law

The appointment of a special administrator rests on the sound discretion of the trial court.^[12] Respondent found Delagua, Jr. qualified to be a special administrator for the latter did not exhibit any of the disqualifications set by law for an administrator.^[13] If complainant believed that the appointment was erroneous, he should have challenged respondent's Order dated February 8, 2013. But complainant did not.

For respondent's act to be considered gross ignorance of the law, petitioner must prove that the purported erroneous Order is contrary to existing law and jurisprudence and its issuance was prompted by bad faith, fraud, dishonesty, corruption, or deliberate intent to do an injustice.^[14] This, complainant failed to do. Hence, respondent cannot be held administratively liable for gross ignorance of the law either.

Penalty

Under Section 8^[15] of A.M. No. 01-8-10-SC or the Amendment to Rule 140 of the Rules of Court (Re: Discipline of Justices and Judges), gross misconduct constitutes a serious offense under the Code of Judicial Conduct. Section 11 thereof provides the following penalties:

SEC. 11. Sanctions. - A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:

1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;
2. Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
3. A fine of more than P20,000.00 but not exceeding P40,000.00.

Judges are held to higher standards of integrity and ethical conduct than other persons not vested with public trust and confidence. They should uplift the honor of the judiciary rather than bring it to disrepute. Respondent miserably failed to measure up to these stringent judicial standards. His association with, and acceptance of money and favors from, a party-litigant who has a pending case before him, corrode the people's respect for the law and the courts, specifically because they were committed by a judge tasked to administer the law and render justice.^[16]

In **Sy v. Judge Dinopol**,^[17] where respondent judge was found guilty of gross