

SECOND DIVISION

[A.M. No. RTJ-13-2366 [Formerly OCA IPI No. 11-3740-RTJ], February 04, 2015]

JILL M. TORMIS, COMPLAINANT, VS. JUDGE MEINRADO P. PAREDES, RESPONDENT.

D E C I S I O N

MENDOZA, J.:

For consideration is the Report and Recommendation^[1] of Justice Maria Elisa Sempio Diy (*Justice Diy*), Court of Appeals, Cebu City, submitted to this Court pursuant to its January 14, 2013 Resolution,^[2] referring the complaint filed by Jill M. Tormis (*Jill*) against respondent Judge Meinrado P. Paredes (*Judge Paredes*), Presiding Judge, Branch 13, Regional Trial Court (*RTC*), Cebu City, for investigation, report and recommendation.

The Facts

In her Affidavit/Complaint,^[3] dated September 5, 2011, Jill charged Judge Paredes with grave misconduct. Jill was a student of Judge Paredes in Political Law Review during the first semester of school year 2010-2011 at the Southwestern University, Cebu City. She averred that sometime in August 2010, in his class discussions, Judge Paredes named her mother, Judge Rosabella Tormis (*Judge Tormis*), then Presiding Judge of Branch 4, Municipal Trial Court in Cities (*MTCC*), Cebu City, as one of the judges involved in the marriage scams in Cebu City. Judge Paredes also mentioned in his class that Judge Tormis was abusive of her position as a judge, corrupt, and ignorant of the law.

Jill added that Judge Paredes included Judge Tormis in his discussions not only once but several times. In one session, Judge Paredes was even said to have included in his discussion Francis Mondragon Tormis (*Francis*), son of Judge Tormis, stating that he was a "court-noted addict."^[4] She was absent from class at that time, but one of her classmates who was present, Rhoda L. Litang (*Rhoda*), informed her about the inclusion of her brother. To avoid humiliation in school, Jill decided to drop the class under Judge Paredes and transfer to another law school in Tacloban City.

Jill also disclosed that in the case entitled "*Trinidad O. Lachica v. Judge Tormis*"^[5] (*Lachica v. Tormis*), her mother was suspended from the service for six (6) months for allegedly receiving payment of a cash bail bond for the temporary release of an accused for the warrant she had issued in a case then pending before her sala. Judge Paredes was the one who reviewed the findings conducted therein and he recommended that the penalty be reduced to severe reprimand.

Jill, however, claimed that Judge Paredes committed an offense worse than that

committed by her mother. She averred that on March 13, 2011, Judge Paredes accepted a cash bail bond in the amount of Six Thousand Pesos (P6,000.00) for the temporary release of one Lita Guioguo in a case entitled, "*People of the Philippines v. Lita Guioguo*," docketed as Criminal Case No. 148434-R,^[6] then pending before Branch 8, MTCC, Cebu City (*Guioguo case*).

Thus, she prayed that Judge Paredes be administratively sanctioned for his actuations.

Comment of Judge Paredes

In his Comment,^[7] dated October 28, 2011, Judge Paredes denied the accusations of Jill. He stated that Judge Tormis had several administrative cases, some of which he had investigated; that as a result of the investigations, he recommended sanctions against Judge Tormis; that Judge Tormis used Jill, her daughter, to get back at him; that he discussed in his class the case of *Lachica v. Tormis*, but never Judge Tormis' involvement in the marriage scams nor her sanctions as a result of the investigation conducted by the Court; that he never personally attacked Judge Tormis' dignity and credibility; that the marriage scams in Cebu City constituted a negative experience for all the judges and should be discussed so that other judges, court employees and aspiring lawyers would not emulate such misdeeds; that the marriage scams were also discussed during meetings of RTC judges and in schools where remedial law and legal ethics were taught; that he talked about past and resolved cases, but not the negative tendencies of Judge Tormis; that there was nothing wrong in discussing the administrative cases involving Judge Tormis because these cases were known to the legal community and some were even published in the Supreme Court Reports Annotated (SCRA) and other legal publications; and that when he was the executive judge tasked to investigate Judge Tormis, he told her to mend her ways, but she resented his advice.

Judge Paredes further stated that when Jill was still his student, she did not complain about or dispute his discussions in class regarding the administrative liabilities of her mother; that the matter was not also brought to the attention of the Dean of Southwestern University or of the local authorities; that he admitted saying that Judge Tormis had a son named Francis who was a drug addict and that drug dependents had no place in the judiciary; and that he suggested that Francis should be removed from the judiciary.

He denied, however, having stated that Francis was appointed as court employee as a result of the influence of Judge Tormis. She is not an influential person and it is the Supreme Court who determines the persons to be appointed as court employees. Judge Tormis, however, allowed her drug dependent son to apply for a position in the judiciary.

Regarding the specific act being complained of, Judge Paredes admitted that he personally accepted a cash bail bond of P6,000.00 for the temporary release of Lita Guioguo on March 13, 2011. He claimed though that the approval of the bail bond was in accordance with Section 14, Chapter 5 of A.M. No. 03-8-62-SC which allowed executive judges to act on petitions for bail and other urgent matters on weekends, official holidays and special days. Judge Paredes explained that he merely followed the procedure. As Executive Judge, he issued a temporary receipt and on the

following business day, a Monday, he instructed the Branch Clerk of Court to remit the cash bond to the Clerk of Court. The Clerk of Court acknowledged the receipt of the cash bond and issued an official receipt. It was not his fault that the Clerk of Court acknowledged the receipt of the cash bond only in the afternoon of March 21, 2011.

Lastly, Judge Paredes averred that the discussions relative to the administrative cases of Judge Tormis could not be the subject of an administrative complaint because it was not done in the performance of his judicial duties.

Reply of the Complainant

In her Verified-Reply,^[8] dated November 23, 2011, Jill countered that her mother had nothing to do with the filing of the present complaint; that she was forced to leave her family in Cebu City to continue her law studies elsewhere because she could no longer bear the discriminating and judgmental eyes of her classmates brought about by Judge Paredes' frequent discussions in class of her mother's administrative cases; that her mother was indeed one of the judges implicated in the marriage scams, but when Judge Paredes discussed the matter in his classes, the case of her mother was not yet resolved by the Court and, thus, in 2010, it was still premature; and that Judge Paredes was aware that administrative cases were confidential in nature.

Jill claimed that the intention to humiliate her family was evident when Judge Paredes branded her brother, Francis, as a "drug addict."

Rejoinder of Judge Paredes

In his Rejoinder,^[9] dated December 2, 2011, Judge Paredes asserted that it was not premature to discuss the marriage scams in class because the scandal was already disclosed by Atty. Rullyn Garcia and was also written in many legal publications, and that the drug addiction of Francis was known in the Palace of Justice of Cebu City.

In its Report,^[10] dated September 12, 2012, the Office of the Court Administrator (OCA) stated that the conflicting allegations by the parties presented factual issues that could not be resolved based on the evidence on record then. Considering the gravity and the sensitive nature of the charges, a full-blown investigation should be conducted by the CA.

On January 14, 2013, pursuant to the recommendation of the OCA, the Court referred the administrative complaint to the Executive Justice of the CA, Cebu Station, for investigation, report and recommendation within sixty (60) days from receipt of the records.^[11]

On March 26, 2013, the case was raffled to, and the records were received by, Justice Diy. Thereafter, the appropriate notices were issued and the confidential hearings were conducted. Afterwards, Justice Diy received the respective memoranda of the parties.

In her memorandum,^[12] Jill contended that Judge Paredes' act of discussing Judge Tormis' cases in class where she was present was an open display of insensitivity,

impropriety and lack of *delicadeza* bordering on oppressive and abusive conduct, which fell short of the exacting standards of behavior demanded of magistrates. She asserted that the defense of Judge Paredes that he could not be made administratively liable as the act was not made in the performance of his official duties did not hold water because a judge should be the embodiment of what was just and fair not only in the performance of his official duties but also in his everyday life.

Jill also averred that Judge Paredes violated the *subjudice* rule when he discussed the marriage scam involving Judge Tormis in 2010 because at that time, the case was still being investigated; that the administrative case relative to the marriage scam was decided only on April 2, 2013; that Judge Paredes was not the Executive Judge of the MTCC when he received the cash bail bond in the *Guiguio* case; that he could not prove that the executive judge of the MTCC was unavailable before accepting the cash bail bond; and that the assertion of Judge Paredes of his being an anti-corruption judge and a lone nominee of the IBP Cebu City Chapter to the Foundation of Judicial Excellence did not exculpate him from committing the acts complained of.

In his Reply-Memorandum,^[13] Judge Paredes reiterated the allegations contained in his previous pleadings. He added that the marriage scams scandalized the Judiciary and became public knowledge when Atty. Rullyn Garcia of the OCA held a press conference on the matter; that, hence, every citizen, including him, may comment thereon; that in the hierarchy of rights, freedom of speech and expression ranked high; that Judge Tormis never intervened in the present case; that if he indeed made derogatory remarks against Judge Tormis, she should have filed a criminal action for oral defamation; and that calling for the ouster of drug addicts could not be considered an abuse, but was meant for the protection of the Judiciary.^[14]

In her Report and Recommendation, Justice Diy found Judge Paredes guilty of conduct unbecoming of a judge. She opined that his use of intemperate language during class discussions was inappropriate. His statements in class, tending to project Judge Tormis as corrupt and ignorant of the laws and procedure, were obviously and clearly insensitive and inexcusable.

Justice Diy disregarded the defense of Judge Paredes that his discussions of the administrative case of Judge Tormis in class was an exercise of his right to freedom of expression. She cited the New Code of Judicial Conduct for the Philippine Judiciary^[15] which urged members of the Judiciary to be models of propriety at all times. She quoted with emphasis Section 6 which stated that "*Judges, like any other citizen, are entitled to freedom of expression, belief, association and assembly, but in exercising such rights, they shall always conduct themselves in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary.*"^[16]

Justice Diy likewise rejected Judge Paredes' position that he could not be held administratively liable for his comments against Judge Tormis and Francis as these were uttered while he was not in the exercise of his judicial functions. Jurisprudence,^[17] as well as the New Code of Judicial Conduct, required that he conduct himself beyond reproach, not only in the discharge of his judicial functions, but also in his other professional endeavors and everyday activities.

Justice Diy found merit in Jill's allegation that Judge Paredes violated the *subjudice* rule when the latter discussed the marriage scams involving Judge Tormis in 2010 when the said issue was still being investigated. She cited, as basis for Judge Paredes' liability, Section 4, Canon 3 of the New Code of Judicial Conduct.

As regards Judge Paredes' receipt of the cash bail bond in relation to the *Guioguio* case, Justice Diy absolved him of any liability as the charge of grave misconduct was not supported by sufficient evidence. She accepted Judge Paredes' explanation that he merely followed the procedure laid down in Section 14, Chapter 5 of A.M. No. 03-8-02-SC when he approved the bail bond.

Based on these findings, Justice Diy came up with the following recommendations, thus:

The undersigned Investigating Justice finds that indeed Judge Paredes is guilty of conduct unbecoming of a judge. Conduct unbecoming of a judge is classified as a light offense under Section 10, Rule 140 of the Revised Rules of Court, penalized under Section 11 (c) thereof by any of the following: (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.

Inasmuch as this is Judge Paredes' first offense and considering the factual milieu and the peculiar circumstances attendant thereto, it is respectfully recommended that Judge Paredes be meted out with the penalty of **REPRIMAND** with a warning that a repetition of the same or a similar offense will be dealt with more severely.^[18]

The Court's Ruling

The Court adopts the findings and recommendations of Justice Diy except as to the penalty.

Misconduct is defined as a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer. The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law, or to disregard established rules, which must be established by substantial evidence. As distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in a charge of grave misconduct. Corruption, as an element of grave misconduct, consists in the act of an official or fiduciary person who unlawfully and wrongfully uses his station or character to procure some benefit for himself or for another person, contrary to duty and the rights of others.^[19]

To constitute misconduct, the act or acts must have a direct relation to and be connected with the performance of his official duties.^[20] Considering that the acts complained of, the remarks against Judge Tormis and Francis, were made by Judge Paredes in his class discussions, they cannot be considered as "misconduct." They are simply not related to the discharge of his official functions as a judge. Thus,