

THIRD DIVISION

[A.M. No. MTJ-11-1801 (Formerly OCA I.P.I. No. 11-2438 MTJ), February 27, 2013]

**ANONYMOUS, COMPLAINANT, VS. JUDGE RIO C. ACHAS,
MUNICIPAL TRIAL COURT IN CITIES, BRANCH 2, OZAMIZ CITY,
MISAMIS OCCIDENTAL, RESPONDENT.**

R E S O L U T I O N

MENDOZA, J.:

Before the Court is an anonymous letter-complaint,^[1] dated August 2, 2010, alleging immorality and conduct unbecoming of a judge against respondent Judge Rio C. Achas (*Judge Achas*), Presiding Judge, Municipal Trial Court in Cities, Branch 2, Ozamiz City, Misamis Occidental.

The letter calls on the Court to look into the morality of respondent Judge Achas and alleges that: (1) it is of public knowledge in the city that Judge Achas is living scandalously with a woman who is not his wife; (2) he lives beyond his means; (3) he is involved with illegal activities through his connection with bad elements, the *kuratongs*; (4) he comes to court very untidy and dirty; (5) he decides his cases unfairly in exchange for material and monetary consideration; and (6) he is involved with cockfighting/gambling.

In the Indorsement,^[2] dated September 30, 2010, the Office of the Court Administrator (OCA) referred the matter to Executive Judge Miriam Orquieza-Angot (*Judge Angot*) for Discreet Investigation and Report.

In her Report,^[3] dated November 26, 2010, Judge Angot found that Judge Achas had been separated from his legal wife for quite some time and they are living apart; and that he found for himself a young woman with whom he would occasionally go out with in public and it was not a secret around town. Anent the allegations that Judge Achas was living beyond his means and was involved in illegal activities, Judge Angot reported that she could not be certain whether such were true, and only ascertained that he had established friendships or alliances with people of different social standings from around the city. Judge Angot opined that the allegation that Judge Achas would come to court untidy and dirty was a matter of personal hygiene and in the eye of the beholder. Lastly, she found the charge that Judge Achas decided cases unfairly in exchange for consideration to be vague and unsubstantiated.

In his Comment,^[4] dated February 4, 2011, Judge Achas denied all the allegations against him and claimed that they were hatched to harass him, pointing to disgruntled professionals, supporters and local candidates who lost during the May 2010 elections. He asserted that after 28 years in the government service, he had remained loyal to his work and conducted himself in a righteous manner.

In the Resolution, dated December 14, 2011, the Court resolved to re-docket the case as a regular administrative matter and to refer the same to the Executive Judge of the Regional Trial Court of Ozamiz City for investigation, report and recommendation.

In her Report,^[5] dated April 4, 2012, Executive Judge Salome P. Dungog (*Judge Dungog*) stated that an investigation was conducted. Judge Achas and his two witnesses testified in his defense, namely, his Branch Clerk of Court, Renato Zapatos; and his Process Server, Michael Del Rosario. The anonymous complainant never appeared to testify. During the investigation, Judge Achas again denied all the charges but admitted that he was married and only separated *de facto* from his legal wife for 26 years, and that he reared game cocks for leisure and extra income, having inherited such from his forefathers. Judge Dungog found that "it is not commendable, proper or moral per Canons of Judicial Ethics to be perceived as going out with a woman not his wife,"^[6] and for him to be involved in rearing game cocks.

In its Memorandum, dated December 17, 2012, the OCA recommended that Judge Achas be reprimanded as to the charge of immorality. It was further recommended that he be ordered to refrain from going to cockpits or avoid such places altogether, with a warning that the same or similar complaint in the future shall be dealt with more severely. The other charges were recommended to be dismissed for lack of merit.

The Court agrees, with modification.

Under Section 1 of Rule 140 of the Rules of Court, anonymous complaints may be filed against judges, but they must be supported by public records of indubitable integrity. Courts have acted in such instances needing no corroboration by evidence to be offered by the complainant. Thus, for anonymous complaints, the burden of proof in administrative proceedings which usually rests with the complainant, must be buttressed by indubitable public records and by what is sufficiently proven during the investigation. If the burden of proof is not overcome, the respondent is under no obligation to prove his defense.^[7]

In the present case, no evidence was attached to the letter-complaint. The complainant never appeared, and no public records were brought forth during the investigation. Respondent Judge Achas denied all the charges made against him, only admitting that he was separated *de facto* from his wife and that he reared fighting cocks.

The charges that he (1) lives beyond his means, (2) is involved with illegal activities through his connection with the *kuratongs*, (3) comes to court very untidy and dirty, and (4) decides his cases unfairly in exchange for material and monetary consideration were, therefore, properly recommended dismissed by the OCA for lack of evidence.

The charges that (1) it is of public knowledge that he is living scandalously with a woman not his wife and that (2) he is involved with cockfighting/gambling are, however, another matter.