

EN BANC

[IPI No. 12-205-CA-J, December 10, 2013]

**RE: VERIFIED COMPLAINT OF TOMAS S. MERDEGIA AGAINST
HON. VICENTE S.E. VELOSO, ASSOCIATE JUSTICE OF THE COURT
OF APPEALS, RELATIVE TO CA G.R. SP No. 119461.**

[A.C. No. 10300]

**RE: RESOLUTION DATED OCTOBER 8, 2013 IN OCA IPI No. 12-
205-CA-J AGAINST ATTY. HOMOBONO ADAZA II.**

RESOLUTION

BRION, J.:

On October 8, 2013, we issued a Resolution^[1] dismissing the administrative complaint of Tomas S. Merdegia against Court of Appeals Associate Justice Vicente S.E. Veloso. In this same Resolution, we also directed Atty. Homobono Adaza II, Merdegia's counsel, to show cause why he should not be cited for contempt.

After considering Atty. Adaza's explanation,^[2] we find his account insufficient, and find him guilty of indirect contempt.

According to Atty. Adaza, he should not be punished for indirect contempt as he was merely performing his duty as Merdegia's counsel when he assisted him in preparing the administrative complaint against Justice Veloso. Atty. Adaza asserted that both he and his client observed Justice Veloso's partiality during the oral arguments, but instead of immediately filing an administrative complaint against him, he counseled Merdegia to first file a Motion to Inhibit Justice Veloso from the case. However, upon finding that Justice Veloso refused to inhibit himself, Merdegia repeated his request to file an administrative complaint against Justice Veloso, to which Atty. Adaza acceded. Thus, Atty. Adaza pleaded that he should not be faulted for assisting his client, especially when he also believes in the merits of his client's case.

Atty. Adaza's explanation, read together with the totality of the facts of the case, fails to convince us of his innocence from the contempt charge.

As Atty. Adaza himself admitted, he prepared the administrative complaint **after** Justice Veloso refused to inhibit himself from a case he was handling. The complaint and the motion for inhibition were both based on the same main cause: the alleged partiality of Justice Veloso during the oral arguments of Merdegia's case. **The resolution dismissing the motion for inhibition should have disposed of the issue of Justice Veloso's bias.** While we do not discount the fact that it was Justice Veloso who penned the resolution denying the motion for inhibition, we note that he was allowed to do this under the 2009 Internal Rules of the Court of Appeals.^[3] **Had Merdegia and Atty. Adaza doubted the legality of this**

resolution, the proper remedy would have been to file a petition for certiorari assailing the order denying the motion for inhibition. The settled rule is that administrative complaints against justices cannot and should not substitute for appeal and other judicial remedies against an assailed decision or ruling.^[4]

While a lawyer has a duty to represent his client with zeal, he must do so within the bounds provided by law.^[5] He is also duty-bound to impress upon his client the propriety of the legal action the latter wants to undertake, and to encourage compliance with the law and legal processes.^[6]

A reading of Merdegia's administrative complaint^[7] shows an apparent failure to understand that cases are not always decided in one's favor, and that an allegation of bias must stem from an extrajudicial source other than those attendant to the merits and the developments in the case.^[8] In this light, we cannot but attribute to Atty. Adaza the failure to impress upon his client the features of our adversarial system, the substance of the law on ethics and respect for the judicial system, and his own failure to heed what his duties as a professional and as an officer of the Court demand of him in acting for his client before our courts.

To be sure, deciding administrative cases against erring judges is not an easy task. We have to strike a balance between the need for accountability and integrity in the Judiciary, on the one hand, with the need to protect the independence and efficiency of the Judiciary from vindictive and enterprising litigants, on the other. Courts should not be made to bow down to the wiles of litigants who bully judges into inhibiting from cases or deciding cases in their favor, but neither should we shut our doors from litigants brave enough to call out the corrupt practices of people who decide the outcome of their cases. Indeed, litigants who feel unjustly injured by malicious and corrupt acts of erring judges and officials should not be punished for filing administrative cases against them; neither should these litigants be unjustly deterred from doing so by a wrong signal from this Court that they would be made to explain why they should not be cited for contempt when the complaints they filed prove to be without sufficient cause.

What tipped the balance against Atty. Adaza, in this case, is the totality of the facts of the case that, when read together with the administrative complaint he prepared, shows that his complaint is merely an attempt to malign the administration of justice. We note Atty. Adaza's penchant for filing motions for inhibition throughout the case: **first**, against Judge Ma. Theresa Dolores C. Gomez Estoesta of the Regional Trial Court of Manila, who issued an order unfavorable to his client; and **second**, against all the justices of the Court of Appeals division hearing his appeal, for alleged bias during the oral arguments on his case. These indicators, taken together with the baseless administrative complaint against Justice Veloso after he penned an order adverse to Atty. Adaza's client, disclose that there was more to the administrative complaint than the report of legitimate grievances against members of the Judiciary.

In *Re: Verified Complaint of Engr. Oscar L. Ongjoco, etc.*,^[9] we cited a litigant in indirect contempt of court for his predisposition to indiscriminately file administrative complaints against members of the Judiciary. We held that this conduct degrades the judicial office, interferes with the due performance of their