

## **SPECIAL FIRST DIVISION**

**[ A.M. NO. MTJ-05-1609, February 28, 2006 ]**

**TRINIDAD O. LACHICA, COMPLAINANT, VS. JUDGE ROSABELLA  
M. TORMIS, MUNICIPAL TRIAL COURT IN CITIES,  
PROMULGATED: BRANCH 4, CEBU CITY, RESPONDENT.**

### **RESOLUTION**

**YNARES-SANTIAGO, J:**

This resolves the Memorandum/Supplement to the Manifestation of respondent Judge Rosabella M. Tormis seeking for a reinvestigation of the administrative case filed against her and to be allowed to present additional evidence thereto.

In the Court's Decision dated September 20, 2005, respondent judge was found guilty of gross misconduct, suspended from office for six months without salary and other benefits and sternly warned that a repetition of the same or similar acts shall be dealt with more severely.

The record shows that the case was initially referred to Executive Judge Simeon P. Dumdum, Jr. of the Regional Trial Court of Cebu City for investigation, report and recommendation in a Resolution dated August 02, 2004.<sup>[1]</sup>

In compliance with the foregoing directive, the Investigating Judge submitted the Report dated November 18, 2004<sup>[2]</sup> with the recommendation that respondent judge be fined P20,000.00 or suspended for three months.<sup>[3]</sup>

The Office of the Court Administrator (OCA) concurred with the findings of the Investigating Judge but recommended that respondent judge be suspended for three months.<sup>[4]</sup>

Thereafter, the Court issued a Resolution dated August 3, 2005 requiring the parties to manifest within five days from notice if they were willing to submit the case for resolution based on the pleadings filed.<sup>[5]</sup>

Subsequently, the Court issued a Resolution dated September 14, 2005<sup>[6]</sup> where it resolved to re-docket the case as a regular administrative case; and dispense with the manifestations of both parties submitting the case for resolution based on the pleadings filed.

On September 20, 2005, the Court promulgated its Decision<sup>[7]</sup> finding respondent judge guilty of gross misconduct and suspending her from office for six months.

It appears from the record<sup>[8]</sup> that even before her receipt of a copy of the above-mentioned judgment, the same had been downloaded from the web site of the Court

and disseminated to the local media. Indeed, respondent judge was apprised by her staff that her six-month suspension was bannered by the *Freeman*, a local newspaper, in its September 23, 2005 issue.<sup>[9]</sup> The *Banat News*, a sister publication of the *Freeman* published in the local dialect likewise made reference to the decision and called for respondent's ouster from the judiciary in its September 24, 2005 issue.<sup>[10]</sup> These publications compelled respondent to send a letter addressed to the Clerk of Court of the First Division requesting for a certified true copy of the judgment.<sup>[11]</sup>

In the afternoon of September 28, 2005, respondent judge received a copy of the Resolution dated August 3, 2005<sup>[12]</sup> requiring the parties to manifest whether they were willing to submit the case for resolution based on the pleadings filed. This led respondent judge to conclude that the case had not yet been resolved and the judgment promulgated, thus, she filed a Manifestation on the same date<sup>[13]</sup> praying for a reinvestigation and to be allowed to adduce evidence thereat.<sup>[14]</sup>

On October 7, 2005,<sup>[15]</sup> the Court received a copy of respondent's Memorandum/Supplement to the Manifestation<sup>[16]</sup> dated October 3, 2005 explaining in detail her reasons for seeking a reinvestigation.

It must be stressed that the essence of due process in administrative proceedings is the opportunity to explain one's side or seek a reconsideration of the action or ruling complained of.<sup>[17]</sup> Owing to the foregoing confluence of events aggravated by the delay in our postal system, the Court is inclined to grant the request of respondent judge.

In an administrative case, if the respondent judge must be disciplined for grave misconduct or any grave offense, the evidence against the miscreant magistrate should be competent and should be derived from direct knowledge.<sup>[18]</sup> The Judiciary to which the respondent belongs demands no less. Before any of its members could be faulted, it should only be after due investigation and after presentation of the required quantum of evidence especially because the charge is punitive by nature.<sup>[19]</sup>

Any administrative complaint leveled against a judge must be examined with a discriminating eye for its consequential effects are by nature penal in character, such that the respondent judge stands to face the sanction of dismissal, disbarment, or suspension. As champion – at other times tormentor – of trial and appellate judges, this Court must be unrelenting in weeding the judiciary of unscrupulous magistrates, but it must also be quick in dismissing administrative complaints which serve no other purpose than to harass them.<sup>[20]</sup>

It has been said "[t]he wheels of justice would run smoothly not only if the judiciary is purged of the debilitating presence of recreant judges, but also importantly, if the members who perform their functions conscientiously are not hampered by groundless and vexatious charges. In its attempt to cleanse the Aegean stables, so to speak, this Court must tread on with utmost circumspection and prudence to make sure that only the guilty is denounced and the innocent absolved."<sup>[21]</sup> It must be stressed in this regard that in cases where the charges involved are misconduct