

## SECOND DIVISION

[ **A.M. No. RTJ-04-1891 (Formerly OCA IPI No. 04-2093-RTJ), July 28, 2005** ]

**RE: ANONYMOUS COMPLAINT AGAINST JUDGE EDMUNDO T. ACUÑA, REGIONAL TRIAL COURT, CALOOCAN CITY, BRANCH 123.**

### DECISION

**CALLEJO, SR., J.:**

On November 21, 2003, the Office of the Court Administrator (OCA) received a Letter<sup>[1]</sup> dated November 3, 2003 from "Concerned citizens of the lower court" reporting the alleged "practices" of Judge Edmundo T. Acuña, Regional Trial Court, Caloocan City, Branch 123. According to the letter, the respondent Judge conducted trials, signed orders and even sentenced accused while on official leave from August 15, 2001 to September 15, 2001. Among the decided cases were as follows:

1. Crim. Case No. C-63250 People v. Alex Sabayan;
2. Crim. Case No. C-63261-62 People v. Renato Simo;
3. Crim. Case No. C-61323 People v. Elizabeth Canaberal;
4. Crim. Case No. C-63238 People v. Narciso Asistio, *et al.*; and
5. Crim. Case No. C-63238 People v. Marlon Duritan.

The letter went on to question whether the respondent had authority to impose such sentences, issue orders and conduct hearings. Aside from listing the respondent's "dialogues," his "favorite expressions" were likewise listed, as follows:

1. Putris
2. Anak ng pating
3. Putang Ina
4. Pogi, beauty
5. Tulungan nyo naman ako, hirap na hirap na ko.
6. Mali ka na naman.

According to the unknown complainants, the respondent Judge also "spends much of his energy talking" and loves to berate and embarrass people, not caring whether he speaks in open court, as long as he has an audience. The complainants further stated that the respondent's decisions usually take about seven to ten drafts, as he "changes his mind so many times." It was further alleged that the respondent loves to "glorify himself," and that his behavior was weird.

In his comment, the respondent averred that the writers of the letter were actuated by improper motive, and sent the letter with no other purpose than to harass him. Furthermore, the allegations in the letter were fabricated, exaggerated, or misquoted.

Anent the allegation that he conducted trials, signed orders and issued sentences while he was on official leave, the respondent alleged that he was issued an Authority to Travel<sup>[2]</sup> dated August 14, 2001 duly approved and signed by then Acting Court Administrator Zenaida Elepaño allowing him to travel to Toronto, Canada to visit his brother, who unfortunately passed away before he could leave. As evidenced by the entries in the daily time records/logbook,<sup>[3]</sup> he was not yet on leave from August 15, 2001 to August 21, 2001. As such, he had the "right and duty to come to court and conduct trials, sign orders and issue sentences." His application<sup>[4]</sup> for a thirty-day leave was from August 21, 2001 to September 21, 2001, duly approved by Deputy Court Administrator Jose P. Perez.

On the allegation that he exhibited weird behavior, he explained that he was still mourning the loss of his eldest son who died of a fatal aneurism last December 21, 2002. His son, who was at the prime of his life, had just taken the 2002 bar examinations and was employed at a law firm. The respondent Judge surmised that the unknown complainants may have seen and observed him at the "second phase of his recovery," a time when he was depressed and angry.

As to the alleged humiliating statements that he made, the respondent Judge admitted having made some of them while he was discussing the performance ratings of his staff. He insisted, however, that he had been misquoted, and dismissed as mere fabrication some of the statements attributed to him. He admitted, however, that "*putris, putang-ina, beauty and poggi*" were among his favorite expressions, but clarified that he did not use them often, certainly not in open court.

In its Report dated September 17, 2004, the OCA recommended that the instant administrative case be re-docketed as a regular administrative matter, and that the respondent be reprimanded for ignorance of a policy on leave of absence expressed through the ruling of the Court in *Paz v. Tiong*,<sup>[5]</sup> where it was held that a judge on leave of absence "would have absolutely no authority to discharge his duties or exercise the powers of a judge." The OCA made the following evaluation:

Official records culled from the OCA Office of Administrative Services indicate that Judge Acuña had an approved application for leave covering the period from 21 August 2001 to 21 September 2001. This application for leave of absence was approved on 3 August 2001. In view of this approved application for leave, it was a natural expectation that Judge Acuña would cease from exercising his functions during the said period.

However, per verification with the clerk-in-charge at RTC Branch 123, Caloocan City, respondent Judge Acuña presided over the following cases on 21 August 2001:

1. Criminal Case No. C-63250 entitled "*People v. Alex Sibayan*";
2. Criminal Case No. 63261-62 entitled "*People v. Renato Simo*"; and
3. Criminal Case No. 61323 entitled "*People v. Canaberal*".

In his Comment dated 19 January 2004, the respondent judge admitted reporting for work on 21 August 2001 and presiding over two (2) criminal cases. He even took pride in the fact that he did not go on leave that day, pointing to the court's logbook as proof of his attendance.

The admission by Judge Acuña confirms the allegation in the anonymous letter that he performed his functions on a day when he was already on leave of absence. The reference made by the respondent judge to the logbook only serves to establish that he indeed performed his duties on 21 August 2001 - the first day of his official leave. We state that not even his overzealousness to work can shield him from administrative liability for ignorance of the consequences of his approved application for leave of absence.<sup>[6]</sup>

In a Resolution<sup>[7]</sup> dated December 8, 2004, the Court resolved to refer the matter to Court of Appeals Associate Justice Monina Arevalo-Zeñarosa for investigation, report and recommendation. The respondent manifested that he was going to file an extended comment, which the Investigating Justice allowed.

In his supplemental comment, the respondent alleged that he decided to defer his leave for another week as his siblings who would be going with him to Canada had not yet secured their visas. The respondent alleged that he was even uncertain if this could be done by amending his travel authority. Jenny Rivera-Baliton, the clerk in charge of criminal cases in the respondent's *sala*, informed him that this would take another week or so. Ms. Rivera-Baliton executed an affidavit attesting to the veracity of the respondent's claim. Thus, the respondent decided not to defer his leave anymore, and no longer reported for work beginning August 22, 2001. On the issue of hearing cases on August 21, 2001 despite his approved travel authority and approved leave, the respondent claimed, thus:

. . . I was not actuated by any evil or improper motive. Neither was I motivated by any monetary consideration or otherwise except by my desire to discharge my sworn duty to administer justice expeditiously. I acted in good faith and in the honest belief that I had the right to defer the effectivity of my leave chargeable against the 30-day forfeitable leave benefit. I wish to reiterate at this juncture what I stated in my original comment that the leave I applied for in 2001 was my first full availment of the 30-day forfeitable leave. Previously, and even after 2001, I went on forfeitable leave only for several days and never consumed the complete 30 days leave accorded to judges. In hearing cases on August 21, 2001, I did not receive any extra remuneration for it. The public service was not prejudiced thereby. I had in mind only the interest of the accused who were in detention. I had no intention of violating any rule, nor was it ever my intention to prejudice anybody. On that day, as in the past, I had a heavy case load, involving detention prisoners as I [my court is] a Drugs Court. (My court is also a commercial [law] and [Intellectual Property Law] Court, the only branch in Caloocan City which is that). Had I not heard the cases of the accused who pleaded guilty on that day, they would have waited for my return after 30 days.

If I committed any infraction of the rules on leave, in all sincerity, to reiterate, there was no intention at all on my part to so disregard the rules. If I committed any infraction, I plead for the leniency of this Court with a promise that I will not commit a repetition thereof anymore.<sup>[8]</sup>