

FIRST DIVISION

**[A.M. No. RTJ-02-1697 [formerly A.M. OCA IPI
No. 01-1153-RTJ], October 15, 2003]**

**EUGENIO K. CHAN, COMPLAINANT, V. JUDGE JOSE S.
MAJADUCON, REGIONAL TRIAL COURT, GENERAL SANTOS CITY,
BRANCH 23, RESPONDENT.**

D E C I S I O N

CARPIO, J.:

The Case

These are complaints for non-feasance, impropriety, partiality, and inefficiency filed against respondent Jose S. Majaducon, former ^[1] Presiding Judge, Regional Trial Court, Branch 23, General Santos City.

The Facts

In an undated letter, a "concerned citizen" charged respondent Judge Jose S. Majaducon ("respondent judge") with "not wearing [a] black robe during court sessions" and with being habitually tardy. ^[2]

In another complaint, dated 3 November 2000, complainant Eugenio K. Chan ("complainant") charged respondent judge with committing "acts of improprieties [and] irregularities." Complainant alleged that respondent judge —

1. xxx starts his hearings at 10:00 o'clock in the morning and 2:30-3:00 o'clock in the afternoon.
2. xxx does not wear his robe despite the requirement of the Supreme Court xxx;
3. xxx entertains lawyer[s] in his sala despite the absence of the opposing lawyer[s];
4. xxx continued to hear cases despite obvious appearance of impartiality [sic]. He insist [sic] to hear the case despite the fact that her [sic] daughter being [sic] involved in the defendant bank;
5. xxx was already reprimanded by the Honorable Supreme Court and he is a subject of adverse write ups in the newspapers;
6. xxx does not prepare or study the cases. He reads the cases during the hearing time. ^[3]

The Court required respondent judge to submit his Comment on the complaints. In his Indorsement dated 5 February 2001, respondent judge controverts the allegations against him as follows:

1. *On his refusal to wear the judicial robe during court sessions.* Respondent judge states that upon his doctor's advice, he stopped wearing the judge's robe during court sessions because doing so allegedly triggers and aggravates his hypertension. He promised to resume wearing the robe once his blood pressure had stabilized.
2. *On conducting hearings behind schedule.* Respondent judge admits that he takes breaks from court sessions at 10 a.m. and 3:30 p.m. to take *merienda* or attend to personal needs. However, respondent judge claims that he starts the hearings in his court on time and that his sessions sometimes even last for more than eight hours in a day. According to respondent judge, if ever his hearings started late, it was either because he had to attend to other equally pressing matters such as signing/revising Orders/Resolutions or because the litigants and/or their counsels were late.
3. *On entertaining counsels/litigants in his chambers.* Respondent admits entertaining litigants and their counsels with pending cases in his sala as his "chamber's two doors are always open." He claims, however, that he never discusses with his visitors the merits of their cases and that he has never been "influenced" by them.
4. *On "studying" cases during hearings.* Respondent judge explains that while he does consult the records of cases during hearings, it is only to verify contested matters. He states that this is necessary, as he cannot memorize all the details of cases, especially the voluminous ones that he had inherited from the previous judge.

Respondent judge claims that complainant, who had sought his inhibition from a case, [4] may have wanted to get back at him (respondent judge) for his refusal to inhibit himself. Respondent judge also suspects that complainant's counsel, a certain Atty. Fontanilla, is the "concerned citizen" who filed the anonymous complaint against him. [5]

On 30 January 2001, complainant withdrew his complaint against respondent judge, stating that he had "realized that [respondent judge] is only rightly doing his job." [6]

On 16 May 2001, respondent judge informed the Court that since February 2001, he had resumed wearing the judicial robe as his blood pressure had stabilized. [7]

In his Memorandum of 27 February 2003, respondent judge reiterated the reasons for his earlier refusal to wear the judicial robe during court sessions.

The OCA's Report and Recommendation

In its Report of 11 March 2002 ("Report"), the Office of the Court Administrator ("OCA") found respondent judge liable for violation of Administrative Circular No. 25 and Rule 1.01 of the Code of Judicial Conduct. However, the OCA recommends the

dismissal of the other charges against respondent judge for lack of merit. The OCA recommends that respondent judge be fined P5,000. The Report reads:

Complainant herein accuses respondent Judge of starting the hearings late at 10:00 o'clock in the morning and 2:30-3:00 o'clock in the afternoon. In his comment, respondent Judge denies the same contending that he conducts hearings [for] four (4) hours, mornings and afternoons. In view of the absence of proof in support of the accusation against him, respondent Judge enjoys the presumption of regularity in the performance of duty.

As regards the non-wearing of a black robe during trials, respondent Judge should be reminded of Administrative Circular No. 25 dated 9 June 19^[8]9 Re: Use of Black Robes by Trial Judges xxx.

Based on the aforecited circular, trial judges are enjoined to wear the black robe during court sessions. In the instant case, prudence dictates that respondent Judge should have informed the [C]ourt, through the Office of the Court Administrator, of his health problems and requested exemption from said circular. Admittedly, he took it upon himself to dispense with the wearing of a black robe due to hypertension. Although his reason may be considered in his favor, it could not entirely exculpate him from administrative responsibility for clear violation of the circular.

As to the charge that respondent entertains lawyers in his sala despite [the] absence of the opposing lawyer, respondent candidly admits the same by saying that for purposes of transparency he allows lawyers and litigants to freely enter his chambers to ask about their cases without however discussing the merits thereof. This is [a] highly xxx improper practice. In-chambers sessions without the presence of the other party and his counsel must be avoided (Capuno vs. Jaramillo, 243 SCRA 213). The prohibition is to maintain impartiality. Judges should not only be impartial but should appear impartial (Fernandez vs. Presbitero, 79 SCRA 60). The court should administer justice free from suspicion of bias and prejudice; otherwise, parties-litigants might lose confidence in the judiciary and destroy its nobleness and decorum (Nestle Phils., Inc. vs. Sanchez, 154 SCRA 542).

The charge that respondent continues to hear cases despite obvious appearance of partiality must fail as complainant failed to specify the cases being alluded to and in what manner respondent appeared to be partial.

Finally, as to the charge that respondent does not prepare for or study the cases and merely reads the cases during trial, we find his explanation thereon satisfactory because referral to court records are at times unavoidable.

In sum, respondent is found to have violated Circular No. 25 xxx, but the fact that he had been suffering from hypertension shall be taken in his favor. He is also found to have violated Rule 1.02 of the Code of Judicial