

## FIRST DIVISION

**[ A.M. No. RTJ-00-1567 [Formerly A.M. No. OCA-IPI-98-559-RTJ], January 19, 2001 ]**

**FERNANDO DELA CRUZ, COMPLAINANT, VS. JUDGE JESUS G. BERSAMIRA, RTC, BRANCH 166, PASIG CITY, RESPONDENT.**

### R E S O L U T I O N

**YNARES-SANTIAGO, J.:**

In a Resolution dated July 24, 2000, the Court reprimanded respondent judge and fined him Ten Thousand (P10,000.00) Pesos with a stern warning that a repetition of similar acts complained of will be dealt with more severely.

On September 12, 2000, respondent judge filed a Motion for Reconsideration insisting that -

- I. THE "MAGTOLIS REPORT" WAS TOO INCOMPLETE, SLANTED, SUBJECTIVE, MISLEADING, AND UNTRUTHFUL EVEN, IN ITS PRESENTATION OF THE CASE AGAINST RESPONDENT TO HAVE BEEN CORRECT AND JUST BASIS OF THE SUBJECT RESOLUTION.
- II. BY ADOPTING AND VALIDATING THE "MAGTOLIS REPORT", THE SUBJECT RESOLUTION CAN ONLY BE MISREAD AS AN ABANDONMENT OF THE TIME-HONORED PUBLIC POLICY THAT GOOD FAITH, NOT MALICE, MUST BE PRESUMED.

strongly insinuating that the investigating Justice was actuated by malice and was biased against him.

Using words which come close to saying that the investigating Justice prevaricated and that her factual findings are speculative fabrications, respondent judge asserts he is innocent arguing at length that the recital of the "'Magtolis Report' of the 'factual milieu' of the administrative complaint at hand, was *dishonest* and *distorted*."<sup>[1]</sup>

Respondent judge's charges of "dishonesty" and "distortion" of facts against an associate justice of the second highest court in the land, who was tasked to look into administrative indictments for wrongdoing against him, ring hollow in the absence of any evidence whatsoever showing that the investigator harbored any ill-feelings or malice toward him. Such charges not only reveal a deplorable deficiency in that degree of courteousness respondent is supposed to observe and extend towards other magistrates like him, it also betrays a character flaw which leaves the Court even more convinced that he deserves the administrative sanctions imposed on him.

A judge without being offensive in speech may endeavor to call attention to what he perceives to be erroneous findings against him. He may criticize the points he feels

are incorrect but he may not do so in an insulting manner.<sup>[2]</sup> If respondent disagrees and feels he has to express his dissent thereto, a firm and temperate remonstrance is all that he should ever allow himself.<sup>[3]</sup> Intemperate speech detracts from the equanimity and judiciousness that should be the constant hallmarks of a dispenser of justice.<sup>[4]</sup>

Those who don the judicial robe are expected to be restrained and sober in their speech. Restraint is, in fact, a trait desirable to those who dispense justice.<sup>[5]</sup> Indeed, a judge's language, both written and spoken, must be guarded and measured lest the best of intentions be misconstrued.<sup>[6]</sup> Offensive and intemperate speech directed against brethren on the bench can not be condoned and deserves reproof.

While a circumspect scrutiny of the factual findings of the investigating Justice discloses that there are indeed certain points therein which may raise a quizzical eyebrow, the said findings nevertheless do not detract from the immutable fact that respondent's conduct was anything but exemplary in this case. Contrary to respondent's bare claim that these findings "are denied, belied, contradicted by and/or nowhere at all in `the documentary evidence submitted by respondent and the record (*sic*) of the three criminal cases as well as respondent's answers to the clarificatory questionings (*sic*) of the investigator',<sup>[7]</sup> the findings of the investigating justice are, in fact, supported by the documentary evidence on record.

Stated differently, the points raised by respondent judge will not cleanse him of the whiff of impropriety in this case. The Court pointed out in *Dawa v. De Asa*<sup>[8]</sup> that the people's confidence in the judicial system is founded not only on the magnitude of legal knowledge and the diligence of the members of the bench, but also on the highest standard of integrity and moral uprightness they are expected to possess.<sup>[9]</sup> It is towards this sacrosanct goal of ensuring the people's faith and confidence in the judiciary that the Code of Judicial Conduct mandates the following:

CANON 2 - A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES.

RULE 2.01 - A judge should so behave at all times to promote public confidence in the integrity and impartiality of the judiciary.

CANON 3 - A JUDGE SHOULD PERFORM OFFICIAL DUTIES HONESTLY, AND WITH IMPARTIALITY AND DILIGENCE.

By the very nature of the bench, judges, more than the average man, are required to observe an exacting standard of morality and decency. The character of a judge is perceived by the people not only through his official acts but also through his private morals as reflected in his external behavior. It is therefore paramount that a judge's personal behavior both in the performance of his duties and his daily life, be free from the appearance of impropriety as to be beyond reproach.<sup>[10]</sup> Only recently, in *Magarang v. Judge Galdino B. Jardin, Sr.*,<sup>[11]</sup> the Court pointedly stated that:

While every public office in the government is a public trust, no position exacts a greater demand on moral righteousness and uprightness of an individual than a seat in the judiciary. Hence, judges are strictly

mandated to abide by the law, the Code of Judicial Conduct and with existing administrative policies in order to maintain the faith of the people in the administration of justice.<sup>[12]</sup>

Judges must adhere to the highest tenets of judicial conduct. They must be the embodiment of competence, integrity and independence.<sup>[13]</sup> A judge's conduct must be above reproach.<sup>[14]</sup> Like Caesar's wife, a judge must not only be pure but above suspicion.<sup>[15]</sup> A judge's private as well as official conduct must at all times be free from all appearances of impropriety, and be beyond reproach.<sup>[16]</sup>

In *Vedana vs. Valencia*,<sup>[17]</sup> the Court held:

The Code of Judicial Ethics mandates that the conduct of a judge must be free of a whiff of impropriety not only with respect to his performance of his judicial duties, but also to his behavior outside his sala as a private individual. There is no dichotomy of morality: a public official is also judged by his private morals. The Code dictates that a judge, in order to promote public confidence in the integrity and impartiality of the judiciary, must behave with propriety at all times. As we have recently explained, a judge's official life can not simply be detached or separated from his personal existence. Thus:

Being the subject of constant public scrutiny, a judge should freely and willingly accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen.

A judge should personify judicial integrity and exemplify honest public service. The personal behavior of a judge, both in the performance of official duties and in private life should be above suspicion.

As stated earlier, in Canon 2 of the Code of Judicial Conduct, a judge should avoid impropriety and the appearance of impropriety in all his activities.<sup>[18]</sup> A judge is not only required to be impartial; he must also *appear* to be impartial.<sup>[19]</sup> Public confidence in the judiciary is eroded by irresponsible or improper conduct of judges.<sup>[20]</sup>

Viewed *vis-à-vis* the factual landscape of this case, it is clear that respondent judge violated Rule 1.02,<sup>[21]</sup> as well as Canon 2,<sup>[22]</sup> Rule 2.01<sup>[23]</sup> and Canon 3.<sup>[24]</sup> In this connection, the Court pointed out in *Joselito Rallos, et al. v. Judge Ireneo Lee Gako Jr., RTC Branch 5, Cebu City*,<sup>[25]</sup> that:

Well-known is the judicial norm that "judges should not only be impartial but should also appear impartial." Jurisprudence repeatedly teaches that litigants are entitled to nothing less than the cold neutrality of an impartial judge. The other elements of due process, like notice and hearing, would become meaningless if the ultimate decision is rendered by a partial or biased judge. Judges must not only render just, correct and impartial decisions, but must do so in a manner free of any suspicion as to their fairness, impartiality and integrity.