

EN BANC

[A.M. No. RTJ 98-1400, February 01, 1999]

**CARLOS DIONISIO, COMPLAINANT, VS. HON. ZOSIMO V.
ESCANO, RESPONDENT.**

DECISION

PER CURIAM:

In a letter-complaint^[1] dated October 8, 1997, herein complainant Carlos Dionisio charged herein respondent Judge Zosimo Escano with allegedly using court facilities (bulletin board) in advertising for attractive waitresses and personable waiters and cooks for possible employment in their restaurant business. In addition, respondent judge is also said to have caused the construction of an extension office along the corridor called "Office of Negotiable Cases" after respondent Judge acquitted a certain Hung.^[2]

Meanwhile, in an October 19, 1997 Manila Bulletin issue, the advertisement^[3] of Fontana Café & Restaurant appeared accepting applications for attractive waitresses and female vocalists which reads:

"URGENTLY NEEDED

Attractive Waitresses

Female Vocalists

Bartenders-Male/Female

Fontana Café & Restaurant

Dampa, Ninoy Aquino Avenue

Parañaque, Metro Manila

or

RTC, Branch 259

Parañaque Municipal Hall

Tel. 825-57-32/826-00-11 loc. 226

Taking note of this advertisement, a staff member of ABS-CBN's public service show

"Hoy Gising!" disguised as an applicant was sent to conduct a videotaped investigation on the veracity of the advertisement. The incidents of the investigation were aired live on television in their regular program. This tape was also made part of the complaint submitted to the Office of the Court Administrator. The aforesaid staff member was able to ferret out the following admissions from respondent Judge Escano inside his chamber at RTC, Branch 259, Parañaque Municipal Hall where he conducted the interview:

As to the ownership of the said establishment, respondent admitted:
'Ako ang may-ari. Ako mismo ang owner.'

As to the nature of the business establishment, respondent Judge has this to say: *'Ngayon, ang concept nitong pubhouse, lalo itong lugar ko, itong pangalan ay Fontana Café, ang ano ay we will be catering to classes A and B.'* He further added: *'Yung mga lalake target natin, may come on tayo diyan.'*

Respondent Judge even continued to say: *'I will be requiring yung mga waitresses, yung medyo naka-mini or depende sa mga uniporme. Tapos yung medyo paseksi din dito (respondent was making gestures on the upper part of his body, obviously referring to just above the breast). Yung konti lang naman, yung medyo paduda, alam mo na, I hope you are getting me, yung medyo nakaano nang konti yon.'*

He further elucidates: *'May mga customers tayo na mga DOM. Medyo hahawak-hawak sa kamay.'* For singers, he explained, *'Pagkanta mo ron, hindi yung nakaganyan ka, kwan ka. Magsuot ka ng medyo makatawag pansin sa mga lalaki. Siempre lalake, mga crowd natin lalaki. Kung umikot makikita pati panty, pati ano. Paseksihan na yon, eh. That's the Entertainment World Today.'*

When respondent Judge was asked to give his comment on the news report against him, he admitted the contents of the interview but clarified that the business establishment is merely a restaurant, a sort of watering hole for some friends.

In answer to the complaint filed by Carlos Dionisio, respondent Judge explained that after his wife was issued a Certificate of Registration of Business from the Department of Trade and Industry^[4] and before the construction of the restaurant was about to be finished, his wife requested his assistance for the hiring of its personnel. He thought that, considering the difficulty of locating their residence which is about three (3) kilometers from the main gate of Better Living Subdivision, it would be convenient for him to conduct the screening of the applicants in his office. With this arrangement, respondent Judge posted the notice at the Court bulletin board without realizing that it may later on create in the minds of some people the perception that he was misusing the court facilities. However, when the said matter was brought to his attention, respondent Judge immediately ordered the removal of said posters.

On the allegation of an Office of "Negotiable Cases," respondent Judge clarified that the structure was constructed by the Municipal Government of Parañaque to utilize the open space in front of Branch 259. The said office now serves as stockroom and as office for the Clerk of Court, Legal Researcher, Interpreter, the Sheriff and all

other male personnel of the court who used to work inside the courtroom.

As regards the complainant's allusion to the case of *People vs. Xiao Jia Hung, et al.*, respondent Judge pointed out that the acquittal of the accused was anchored mainly on the absolute absence of hard evidence and proof worthy to overturn the presumption of innocence.

On March 3, 1998, respondent Judge supplemented the aforesaid Answer contending therein that he has been fair and just in rendering his decisions as a special criminal court Judge. To manifest such impartiality, he attached his performance record for the year 1997 with comparative data^[5] from other branches of the RTC, Parañaque, photocopies of his decisions in *People vs. Richard Ong, et.al.*^[6] and *People vs. Xiao Jia Hung, et al.*^[7]

Subsequently, this administrative matter was referred to the Court of Appeals for investigation, report and recommendation on January 19, 1998^[8] which was later on assigned to Justice Minerva P. Gonzaga-Reyes.

During the investigation, Justice Minerva P. Gonzaga-Reyes was able to establish, *inter alia*, that the respondent Judge posted the advertisement for "attractive waitresses and personable waiters" for the restaurant in the court bulletin board for more than a week, even two weeks; that he removed the notices when his attention was called by some lawyers; that he was able to interview about five applicants; that the suggestions he made to the applicants during the screening regarding the wearing of dresses with short skirts and low necklines which were recorded on videotape by the personnel of the "Hoy Gising!" program were true; and that the establishment was originally intended as a "pub" or drinking place, but is now operated as a café.

Based on the foregoing findings, the Investigating Justice submitted her report and recommendation, the pertinent portion of which reads:

"x x x, the plea of Judge Escano that he merely wanted to help his wife to establish a legitimate business to help augment his judge's income, the apologies tendered to the Supreme Court and his peers in the judiciary for any embarrassment (he) might have caused the institution, and the fact that the infraction was committed for a short time, as he promptly desisted when his attention was called, may mitigate the penalty which is hereby recommended to be a fine of P15,000.00.

"With respect to the charge that Judge Escano is maintaining an Office of Negotiable Cases, which he denied, the same is not substantiated and is recommended for dismissal.

"Respectfully submitted."^[9]

Time and again we have adhered to the rule that one who occupies an exalted position in the administration of justice must pay a high price for the honor bestowed upon him, for his private as well as his official conduct must at all times be free from the appearance of impropriety.^[10] Because appearance is as important as reality in the performance of judicial functions, like Ceasar's wife, a judge must