Supreme Court E-Library

SECOND DIVISION

[A.M. No. RTJ-06-2026. March 4, 2009]
(Formerly OCA IPI No. 06-2496-RTJ)

ATTY. ANTONIO G. CAÑEDA, *complainant, vs.* **JUDGE ERIC F. MENCHAVEZ,** *respondent.*

SYLLABUS

JUDICIAL ETHICS; JUDGES; SHOULD OBSERVE DECORUM BY ACTING WITH DIGNITY AND COURTESY TO ALL THOSE PRESENT IN THE COURTROOM; CASE AT BAR. — [T]he New Code of Judicial Conduct requires "(*Judges*) *shall ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of a reasonable observer,"* and their *"behavior and conduct x x x must reaffirm the peoples' faith in the integrity of the judiciary."* The respondent violated this rule when, after a show of anger, he brought and openly displayed his gun on his courtroom table while hurling a confrontational question at the offending counsel. While the New Code of Judicial Conduct requires a magistrate to maintain order and decorum in the court, the Code itself sets limits on how a judge should do this. Section 6, Canon 6 of the Code provides: "Judges shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, witnesses, lawyers and others with whom the judge deals in an official capacity. Judges shall require similar conduct of legal representatives, court staff and others subject to their influence, direction or control." To reiterate, the judge himself must observe decorum by acting with dignity and courtesy to all those present in the courtroom. This, the respondent judge failed to do. The severity of his violation is not tampered by his allegation that the complainant himself contributed to the events that led to the respondent's show of temper. In *Juan dela Cruz (Concerned citizen of Legaspi City) v. Judge Ruben B. Carretas,* we had occasion to say: *"Equanimity and judiciousness should be the constant marks of a dispenser of justice. A judge should always keep his passion guarded. He can never allow it to run loose and overcome his reason x x x.* Similarly, in *Rowena v. Guanzon, et al. v. Judge Anastacio C. Rufon,* the Court declared –

Supreme Court E-Library

> "*although respondent judge may attribute his intemperate language to human frailty, his noble position in the bench nevertheless demands from him courteous speech in and out of court. Judges are demanded to be always temperate, patient and courteous both in conduct and in language.*"

D E C I S I O N

BRION, *J.*:

Before us is the Complaint filed on April 12, 2006 by Atty. Antonio G. Cañeda (*complainant*) against Presiding Judge Eric F. Menchavez (*respondent*) of the Regional Trial Court (*RTC*), Branch 21, Cebu City, for violation of Section 6(3), Rule 140 of the Rules of Court in relation with Canons 2.01, 3.01 and 3.03 of the Code of Judicial Conduct for the Philippine Judiciary.[1]

The Antecedents

The complainant is the counsel of one of the defendants, Virginia Borromeo Guzman, in Civil Case No. CEB-30956, entitled *Roberto Borromeo, et al. v. Heirs of Juan Borromeo*, for judicial partition, pending with the respondent's RTC Branch 21. Lawyer Pepito C. Suello is complainant's collaborating counsel in the case. Both Ms. Guzman and Atty. Suello executed affidavits in connection with the complaint.[2]

It appears from the complaint and the supporting affidavits that the respondent called the partition case for hearing on December 14, 2005 at 11 o'clock in the morning. Due to be taken up was the motion to segregate the inheritance shares of one of the plaintiffs, Roberto Borromeo.

The respondent asked the complainant at the start of the hearing if the defendants he was representing were amenable to a partition. The complainant answered in the affirmative, subject to the conditions that the counsel for the plaintiffs would

---

[1] *Rollo*, pp. 1-4.

[2] *Id.*, pp. 5-6 for Atty. Suello, and pp. 7-8 for Ms. Guzman.

Supreme Court E-Library

withdraw a pending motion for reconsideration before the Supreme Court to clear one of the areas subject to partition of squatters, and would secure a writ of execution.

Atty. Delfin V. Nacua (*Atty. Nacua*), counsel for the plaintiffs, replied that he could not withdraw the motion before the Supreme Court. At this point, the respondent asked the complainant if he was amenable to segregate only the share of Roberto Borromeo. The complainant expressed reservations about it. Instead he advanced the idea that the parties talk to each other through mediation. The respondent thereupon blurted out "*never mind mediation, walay hinundan na (it's useless*)."

When the respondent checked on the progress of the case, the complainant remarked that it was being delayed because no proper summons (*by publication*) had been served on the defendants who were residing outside the country. The respondent reacted by angrily banging his gavel and shouting, "*I said no publication period*." He banged the gavel so hard that it broke, its head flying into the air and almost hitting complainant. The respondent then slammed the table with his hand and then went inside his chambers. After a while, he came back with a holstered handgun and smashed it on the table, as he angrily shouted at complainant, "*Unsay gusto nimo? Yawa! Gahig ulo*!" (*What do you want? Devil! Hardheaded*!)

A lawyer, also attending the hearing and who was near the respondent's table, moved for a recess. A member of the respondent's staff then gave him a glass of water. The complainant apologized for causing the temper of the respondent to rise, but the respondent ignored him and called for the next case. At that point, the complainant asked for permission to leave.

The complainant regarded the respondent's act of challenging him inside the courtroom in the presence of many people as an act of impropriety under Section 6(3), Rule 140 of the Rules of Court, in relation with the Code of Judicial Conduct, Canons 2.01, 3.01 and 3.03. The complainant maintained that the conduct of the respondent inside the court not only tarnished the name

Supreme Court E-Library

of the judiciary he represents but constituted an insult to the law profession; that the respondent is not above the law; and that the gun is not an emblem of authority.

Additionally, complainant perceived the respondent to be biased in favor of the plaintiffs inasmuch as the respondent had been convincing him to agree to the plaintiffs' position.

In a 1st Indorsement dated April 24, 2006, the Office of the Court Administrator (*OCA*) referred the complaint to the respondent and required him to comment within ten (10) days from receipt of the indorsement. The OCA further required the respondent to comment on why no disciplinary action should be taken against him for violation of his professional responsibility.[3]

The respondent duly submitted his Comment dated May 18, 2006.[4] It was corroborated by the sworn statements of Atty. Nacua and Sandra A. Gloria (the court stenographer of RTC, Branch 21).[5]

The respondent explained that the complainant, while arguing at the hearing for his client, refused to stop talking even when signaled by the Court to stop. He told complainant that summons by publication was no longer proper because summons by personal service had already been effected on defendants. The complainant simply continued to argue and even became aggressive, belligerent and disrespectful, causing the respondent to flare up and bang his gavel.

The respondent denied that the gavel broke with its head almost hitting the complainant; the gavel is being used up to the present time and the complainant was never in danger of being hit. He simply refused to stop arguing until the atmosphere became so heated that one of the lawyers, Atty. Elias Espinosa, had to move for a recess. Thereupon, the respondent went inside his chambers, drank a glass of water to cool himself off,

---

[3] *Rollo*, p. 9.

[4] *Id.*, pp. 10-15.

[5] *Id.*, pp. 16-17 for Atty. Nacua, and pp.19-20 for Ms. Gloria.

Supreme Court E-Library

and reflected on what had just transpired. He sensed he had reason to fear for his life so he decided to equip himself with his licensed firearm and to place it on the table, preparing for the worst. He never pointed nor brandished the firearm at anyone, as it remained in its holster at all times.

The respondent likewise denied that he had smashed the gun on the table as it could fire or otherwise could have been damaged. After he asked complainant "*what do you want*?" the lawyer apologized for causing him to raise his voice and to blow his top. He ignored the complainant despite the apology and considered the incidents submitted for resolution.

The respondent also denied the allegation of bias, as allegedly shown by the offer of his chambers to the parties for possible amicable settlement talks. He did so because the parties are members of the same family and a settlement would have been the most beneficial solution. If he blew his top at all, he was led to it by the complainant's disrespect and discourtesy to the court. It was only upon seeing the gun that the complainant calmed down, behaved, and apologized to the court. He sincerely believed that under the circumstances, he employed the means necessary to maintain order in the court.

Complainant filed a reply dated June 8, 2006[6] to respondent's comment essentially reiterating the allegations of the complaint.

The OCA Report/Recommendation

In its submission dated August 25, 2006, the OCA found substantial evidence to support the conclusion that the respondent is administratively liable for conduct unbecoming a judge.[7] The OCA noted that the respondent admitted the following:

1. The aggressive, belligerent and disrespectful conduct of the complainant caused him to flare up or to blow his top and bang his gavel on the table; and

---

[6] *Rollo*, pp. 50-52.

[7] Administrative Matter for Agenda.

Supreme Court E-Library

2. He equipped himself with his gun by bringing it outside and placing it on the table, as he asked complainant, "*what do you want*?"

With the foregoing admissions, the OCA found credible the complainant's allegations that the respondent uttered such statements as "*never mind mediation, walay hinundan na" (it's useless), 'I said no publication period." "Yawa! Gahig ulo." (Devil, Hardheaded!)* in the course of his altercation with the complainant. It faulted the respondent for overstepping the norms of propriety demanded of a member of the bench by losing his cool and uttering intemperate language during the hearing. It opined that the belligerent, aggressive and disrespectful language of complainant was no excuse for what he said to the complainant.

The OCA also characterized as highly irresponsible and improper the respondent's acts of bringing his handgun into the courtroom, placing it on his table, and threateningly asking the complainant, "*what do you want*?" This reaction was uncalled for as the respondent has ample powers to address any hostile or unfriendly situation in his court.

The OCA recommended that the respondent be made liable for conduct unbecoming a judge and fined in the amount of ₱5,000.00, with a warning against the commission of the same or a similar infraction in the future.

The Court's Ruling

This case highlights the limits that a judge must observe in responding to situations he perceives to be abusive in his court.

What appears certain to us is that there were basic disagreements on approaches and issues in the partition case. In the courtroom, a lawyer makes submissions before a judge whose role is to hear and consider the submissions, and subsequently rule on the matter. It is not a situation where two equals, such as the opposing counsels, argue against each other. The respondent apparently had a misplaced concept of what a courtroom situation should ideally be, so that he was

effectively arguing with counsel as shown by his clearly contentious stance when he made his ruling. This was the respondent's first error; he should have coolly ruled and allowed counsel to respond to his ruling, instead of proceeding in a manner that invited further arguments. The complainant, however, also erred since he continued to argue despite the respondent's ruling. The respondent judge's response, under this situation, should have been to direct the complainant to wind up his arguments under pain of direct contempt if this warning would be disregarded. Thereafter, he could have declared the complainant in direct contempt if he persisted in his arguments. A direct contempt, of course, is not enforced by a judge's act of bringing out his weapon and asking counsel the direct question "What do you want?" This confrontational manner – shown usually in the western genre of movies – has no place in our present justice system. There are agents of the law, specifically, officers of the court and the police who can be called upon to implement contempt orders and restore order as needed.

Since the alternative recourses available to the respondent did not take place, we share the OCA's observation that the respondent overreacted in his handling of the situation before his court. Bringing out a gun for everyone present in the court to see, even for purposes of maintaining order and decorum in the court, is inexcusable in the absence of overt acts of physical aggression by a party before the court.

As the OCA aptly pointed out, the New Code of Judicial Conduct[8] requires "*(Judges) shall ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of a reasonable observer.*" and their "*behavior and conduct x x x must reaffirm the peoples' faith in the integrity of the judiciary.*"[9] The respondent violated this rule when, after a show of anger, he brought and openly displayed his gun on his courtroom table while hurling a confrontational

[8] *Adopting the New Code of Judicial Conduct for the Philippine Judiciary*, A.M. No. 03-05-01-SC, April 27, 2004.

[9] *Id.*, Sections 1 and 2, Canon 2.

Supreme Court E-Library

question at the offending counsel. While the New Code of Judicial Conduct requires a magistrate to maintain order and decorum in the court,[10] the Code itself sets limits on how a judge should do this. Section 6, Canon 6 of the Code provides:

> Judges shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, witnesses, lawyers and others with whom the judge deals in an official capacity. Judges shall require similar conduct of legal representatives, court staff and others subject to their influence, direction or control.

To reiterate, the judge himself must observe decorum by acting with dignity and courtesy to all those present in the courtroom. This, the respondent judge failed to do. The severity of his violation is not tampered by his allegation that the complainant himself contributed to the events that led to the respondent's show of temper.

In *Juan dela Cruz (Concerned citizen of Legazpi City) v. Judge Ruben B. Carretas*,[11] we had occasion to say: "*Equanimity and judiciousness should be the constant marks of a dispenser of justice. A judge should always keep his passion guarded. He can never allow it to run loose and overcome his reason x x x.*"

Similarly in *Rowena v. Guanzon, et al. v. Judge Anastacio C. Rufon*,[12] the Court declared—"*although respondent judge may attribute his intemperate language to human frailty, his noble position in the bench nevertheless demands from him courteous speech in and out of court. Judges are demanded to be always temperate, patient and courteous both in conduct and in language.*"

In view of the foregoing, we find the respondent liable for vulgar and unbecoming conduct defined under Section 10, Rule 140, as amended, of the Rules of Court as a light charge punishable by a fine of not less than ₱1,000.00 but not exceeding ₱10,000.00.

---

[10] Rule 3, Canon 3.

[11] A.M. No. RTJ-07-2043, September 5, 2007.

[12] A.M. No. RTJ-07-2038, October 19, 2007.

Supreme Court E-Library

In light of the severity of the respondent judge's transgression affecting as it does, not only the judge himself but his court and the image and reputation of the whole judiciary, we find the maximum fine of ₱10,000.00 to be merited.

WHEREFORE, premises considered, Judge *ERIC F. MENCHAVEZ,* of the Regional Trial Court, Branch 21, Cebu City, is hereby declared *LIABLE* for vulgar and unbecoming conduct as a judge. Accordingly, a fine of ₱10,000.00 is imposed upon him with a *WARNING* that a repetition of the same or similar infraction will be dealt with more severely. The complainant is given the *ADMONITION* that in representing his clients, he should ever be mindful of the respect due to the court and avoid actions bordering on disrespect.

SO ORDERED.

Quisumbing (Chairperson), Carpio Morales, Velasco, Jr., and *Nachura,*[*] *JJ.,* concur.

FIRST DIVISION

[G.R. No. 139672. March 4, 2009]

GREGORIO ARANETA UNIVERSITY FOUNDATION, *petitioner, vs.* **THE REGIONAL TRIAL COURT OF KALOOKAN CITY, BRANCH 120, REGISTER OF DEEDS OF KALOOKAN CITY, NATIONAL HOUSING AUTHORITY, HEIRS OF GREGORIO BAJAMONDE AND SATURNINA MENDOZA, and THE REMINGTON REALTY DEVELOPMENT, INC.,** *respondents.*

---

[*] Designated additional member of the Second Division per Special Order No. 571 dated February 12, 2009.