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FIRST DIVISION

[A.M. No. RTJ-99-1449. January 18, 2002]

EDMUNDO & CARMELITA BALDERAMA, *complainants, vs.* **JUDGE ADOLFO F. ALAGAR,** *respondent.*

SYNOPSIS

Respondent, through force, recommended to complainants that they enter a plea of guilty to the fourth charge of estafa thru falsification of public documents so that they would not be considered habitual delinquents having been previously convicted by respondent of three cases for estafa thru falsification of public documents. In the previous cases, complainants' plea bargained and were sentenced to a penalty within the probation period. However, respondent's driver was found to have fraternized with private complainants in the criminal case without his knowledge.

The advice or opinion formed by respondent based on evidence and given by accused in the presence of accused's counsel and the private and public prosecutors does not prove personal bias.

A judge should avoid not only actual acts of impropriety, but equally also the appearance thereof in all his activities whether inside or outside the courtroom. Unfortunately, these standards were not met by respondent having tolerated unknowingly his employee to fraternize with, receive or give personal favors from party litigants. He should have exercised a greater degree of diligence in the supervision of his driver.

SYLLABUS

1. **JUDICIAL ETHICS; JUDGES; SHOULD AVOID NOT ONLY ACTUAL ACTS OF IMPROPRIETY, BUT EQUALLY ALSO THE APPEARANCE THEREOF.** — Canon 2 of the Code of Judicial Conduct mandates that a judge should avoid not only actual acts of impropriety, but equally also the appearance thereof in all his activities, whether inside or outside of the courtroom. A judge's official conduct should be free from the

Supreme Court E-Library

appearance of impropriety; and his personal behavior, not only in the bench and in the performance of judicial duties, but also in his everyday life should be beyond reproach. This is premised on the truism that a Judge's official life cannot simply be detached or separated from his personal existence and that upon a Judge's attributes depend the public perception of the Judiciary.

2. ID.; ID.; FAILURE OF RESPONDENT JUDGE IN CASE AT BAR TO EXERCISE GREATER DILIGENCE IN SUPERVISION OF HIS DRIVER WHO FRATERNIZED WITH PARTY LITIGANTS. — Unfortunately, these standards were not met by respondent Judge Alagar in this case having tolerated unknowingly his employee to fraternize, receive or give personal favors no matter how small, with party litigants in a case pending before his *sala*. Thus, while this Court finds the respondent Judge to have acted with impartiality and propriety in dealing with the complainants in Criminal Case No. 4252 , we find fault on his part in failing to supervise the conduct and behavior of his court employee for the latter's improper use of his vehicle, to the detriment of the court's image.

APPEARANCES OF COUNSEL

Fitero A. Garlitos, Jr. for complainants.

RESOLUTION

KAPUNAN, *J.*:

On April 7, 1997, Spouses Edmundo and Carmelita Balderama filed a letter-complaint dated March 21, 1997 against respondent Judge Adolfo Alagar of the Regional Trial Court, San Fernando City, La Union, Branch 66 with the Office of the Court Administrator for partiality and bias and impropriety.[1]

In their complaint, they alleged that they are the accused in Criminal Case No. 4252, entitled "*People of the Philippines vs. Spouses Edmundo and Carmelita Balderama*" for Estafa

[1] *Rollo*, pp. 3-4.

Supreme Court E-Library

thru Falsification of Public Documents pending before Judge Alagar. In one occasion, Judge Alagar called them together with their lawyer, Atty. Celso Alex M. Laudenorio, Atty. Roman Villalon, private prosecutor and Public Prosecutor Oscar Corpuz for a conference in his chamber. In the presence of the three (3) lawyers, they were forced to enter a plea of "guilty" in said criminal case. And every time there was a hearing of their criminal case, Judge Alagar would reiterate his demand which they refused to accede.

Complainants also charged respondent Judge for impropriety as he was seen fraternizing with the private complainants in the criminal case, Spouses Jamie and Bernarda Ader, who are their neighbors in Barangay Pandan, Bacnotan, La Union.

1) On February 20, 1997 at about 8:30 in the morning, they saw Judge Alagar riding in his car with Plate No. ABL-368 and fetched the private complainants to attend the scheduled hearing in his *sala*. This was repeated on February 26, 1997, and March 5, 1997;

2) On March 11, 1997 at 11:30 in the morning, Judge Alagar, riding in an LTO Service Car, visited the private complainants at their residence;

3) On March 15, 1997, Judge Alagar and some of his friends attended a party at the residence of the private complainants.

They filed a Motion for Inhibition against respondent Judge Alagar which was denied.

On July 9, 1997, Court Administrator Alfredo L. Benipayo required respondent Judge to comment on the verified complaint.[2]

In his Comment,[3] respondent Judge answered that:

1) The complainants are also the same accused in Criminal Cases Nos. 3981; 3986 and 4015, entitled *"People vs. Carmelita Balderama; "People vs. Edmundo and Carmelita Balderama; and People vs. Carmelita Balderama"*

[2] *Rollo*, p. 6.

[3] *Id.*, at 10-13.

Supreme Court E-Library

respectively, all for "Estafa Thru Falsification of Public Documents" which cases have already been decided, both the accused having pleaded guilty and accordingly, they were convicted of the crimes charged;

2) In the above-mentioned three latter cases, the undersigned played an important role in the plea bargaining by convincing the complainants to agree to the plea bargaining for humanitarian reasons xxx; so that with the consent of the complainants therein, I have awarded them a sentence which is within the Probation period, when they could have actually meted higher penalty since there are three cases involved;

xxx xxx xxx

3) It is true that the undersigned have advised the accused (complainants herein) to plead guilty, albeit forcefully, but only to help them get another plea bargaining, because to the mind of this Court, if they are found guilty, they would be considered "habitual delinquents" since the Private Prosecutor has manifested that their evidences in the first three decided cases where the same accused pleaded guilty, will be the same evidences to be used in this pending case;

xxx xxx xxx

4) The allegations of accused that the undersigned had been going to the residence of private complainants in said cases for so many times as enumerated in their Complaint is pure hearsay because in truth and in fact the undersigned have (sic) not been to the residence of said complainants, but to the seashore of Barangay Pandan, Bacnotan, La Union, which undersigned came to know later (from the instant Complaint) that said place is the residence of both parties in the aforementioned Criminal Cases;

xxx xxx xxx

5) If ever my car was used by complainants as a ride in my coming to San Fernando, I am not personally aware of it; however, upon investigation after receiving the instant Complaint, I found out that my Court Aide/driver has once or twice allowed the complainants, including one or two of their relatives to ride with him while coming back from buying fish in the morning; and that he had been parking my car in

Supreme Court E-Library

> front of the complainants' house allegedly because it would be safer there since they could oversee it while he (my driver/ Court Aide) is on the seashore waiting for fishermen to dock their boats with their "fish catch" and/or while buying fish in the seashore;

Respondent Judge Alagar, thereby, moved for the dismissal of the instant complaint for lack of merit. Likewise, affidavits executed by Alpenio Q. Fontanilla and Court Aide Oscar D. Bugain were submitted by respondent Judge to bolster his claim of impartiality in dealing with the complainants in connection with the case pending before his *sala*.

On October 20, 1997, respondent Judge filed an "Addendum to Comment" attaching therein the affidavit of Atty. Celso Alex Laudenorio, former counsel of herein complainants.[4]

On June 28, 1999, the Court resolved to docket the case as a regular administrative proceedings and to require the parties to manifest whether they were willing to submit the case for decision on the basis of the pleadings filed.[5] In compliance with the resolution, respondent Judge manifested his intention to argue his case before the Court.[6]

Acting on the manifestation, the Court referred the instant case to Associate Justice Corona Ibay-Somera of the Court of Appeals for investigation, report and recommendation.[7]

On January 13, 1999, the Investigating Justice submitted her report with the following findings and recommendation:

> In sum, the undersigned Investigator finds public respondent to have acted with impartiality and propriety in dealing with the complainants in Criminal Case No. 4252 but attributes fault in failing to supervise the conduct and behavior of his court employee for the latter's improper use of his vehicle.

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[4] *Rollo*, pp. 22-23.

[5] *Id.*, at 29.

[6] *Id.*, at 32.

[7] *Id.*, at 34.

Supreme Court E-Library

In view of the foregoing premises, the undersigned Investigator respectfully recommends that respondent Judge be REMINDED to strictly observe and maintain competence in his bounden duty to supervise his court personnel and to be more circumspect in his actuation bearing in mind that his conduct in and outside the courtroom is under constant observation and scrutiny.[8]

We adopt the findings of the Investigating Justice.

In resolving the instant administrative case, the Investigating Justice pointed out two (2) issues which are as follows:

I. WHETHER OR NOT THERE IS A REASONABLE GROUND TO BELIEVE THAT THE PROCEEDINGS CONDUCTED BY THE RESPONDENT JUDGE IN CRIMINAL CASE NO. 4252 IS TAINTED WITH PREJUDICE BY HIS ACT OF FORCING THE COMPLAINANTS TO ENTER INTO A PLEA BARGAINING AGREEMENT.

II. WHETHER OR NOT THERE IS A REASONABLE GROUND TO BELIEVE THAT RESPONDENT JUDGE TRANSGRESSED THE HIGH STANDARD OF MORAL ETHICS MANDATED OF MAGISTRATES BY ALLOWING HIMSELF TO BE SEEN AT THE RESIDENCE OF THE PRIVATE COMPLAINANTS.[9]

Anent the first issue, it is admitted that Judge Alagar indeed tried to convince the Spouses Balderama to plead guilty to the offense charged but with a reason. At the time of the filing of this complaint, the Spouses Balderama had already been previously found guilty by the respondent Judge of "Estafa through Falsification of Public Documents" in Criminal Case Nos. 3981, 3986 and 4015. These cases were all tried before respondent Judge. He explained that he had advised the complainants to plead guilty, albeit forcefully,

x x x [O]nly to help them get another plea bargaining, because to the mind of this Court, if they be found guilty, they would be considered "habitual delinquents" since the Private Prosecutor has manifested that their evidences in the first three (3) decided cases

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[8] Recommendation, p. 13.

[9] *Id.*, at 6-7.

Supreme Court E-Library

where the same accused pleaded guilty, will be the same evidences to be used in this pending case.[10]

The probability of another conviction was not all too far-fetched considering the fact that at the time the advice was given, the prosecution had already manifested to the court that the same evidence presented in the earlier cases against them, would again be presented in the pending case before his *sala*. It was out of compassion that respondent Judge urged the complainants to enter a plea of guilty for their benefit.

It is also important to point out that during these in-chambers sessions with respondent Judge Alagar, counsel of the complainants was also present which very well show that Spouses Balderama were not at all really prejudiced in their rights by virtue of such advice of the respondent Judge. It was proven that during every conference held inside respondent Judge Alagar's chambers, the Spouses Balderama were always accompanied by their counsel, and the public and private prosecutors, among others. In some cases, it was not only respondent Judge Alagar but the Spouses Balderama's own counsel, as well, who advised them to enter a guilty plea. In such a case, the Spouses Balderama cannot therefore say that they had been forced or intimidated into doing anything against their own will or interest.

The case at bar must be distinguished from other cases as in the case of *Capuno vs. Jaramillo, Jr.*, where this Court cautioned against in-chambers sessions with judges, but only when the other party and their counsel are not present.[11] In the instant case, respondent Judge had been rather open with the parties as to his advice in entering a plea of guilty. It was not an offer clandestinely made. In the complaint, it was admitted that:

> Judge Adolfo Alagar called us for conference into his chamber together with our counsel Atty. Celso Alex M. Laudenorio, Atty. Roman Villalon, private prosecutor, and Public Prosecutor Oscar

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[10] *Rollo*, p. 11.

[11] 234 SCRA 212 (1994).

Supreme Court E-Library

Corpuz, in said conference, Judge Alagar forced us to plead guilty to the crime charged against us, *in the presence of said three (3)* lawyers, however, we insist that we will not plead guilty.x x x[12]

During the hearing of this administrative case, Carmelita Balderama testified that during those times when respondent Judge Alagar impressed upon them to plead guilty, her lawyer or other people were present:

ATTY. PACQUING:

> Ms. Witness, during those hearings that you said, that there was a demand allegedly by the Judge. Was your lawyer present there? The month for her to plead guilty?

WITNESS:

> I was with my husband. There were several times that he called me on some occasions that I was with other persons, sir.

Q. What dates were those occasions that you were assisted by your lawyer or your lawyer was present then?

A. Everytime there was a hearing we were invided (sic) inside the chambers of the Judge, sir.

J. SOMERA:

> What do you mean by "We." Who was your companion?

WITNESS:

> My lawyer, Atty. Celso Laudenorio; sometimes the policemen of Bacnotan; sometimes also with other person outside, Your Honor.

xxx xxx xxx[13]

Furthermore, the records also disclose that it was not only respondent Judge who advised the couple to plead guilty but also the complainants' counsel himself. Edmundo Balderama testified, to wit:

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[12] *Rollo*, p. 3.

[13] TSN, September 29, 1999, Testimony of Carmelita Balderama, pp. 19-20.

Supreme Court E-Library

ATTY. PACQUING:

What was your lawyer said? (sic)

WITNESS:

My lawyer also told us just to plead guilty because our children will be affected we could just concentrate on taking care of our children, sir.

Q. Who told you that?
A. My lawyer, sir.

Q. In short it was upon the advise of your lawyer?
A. And also because the Judge said so that there will be no more case sir.

Q. In addition to that your lawyer advised you to plead guilty?
A. Yes, my lawyer said so because there was already an agreement between my lawyer and the lawyer of the other party, sir.[14]

Noteworthy is the statement of Atty. Celso Alex M. Laudenorio, the complainants' lawyer in Criminal Case Nos. 3981, 3986 and 4015, whose sworn affidavit was presented in the "Addendum to Comment" of respondent Judge Alagar dated October 20, 1997. Therein, he stated that when he acted as defense counsel in the first three (3) cases for Estafa through Falsification of Public Documents against the Spouses Balderama, "Judge Adolfo F. Alagar had acted with fairness and impartiality and with justice."[15]

Given these facts and circumstances, Investigating Justice Ibay-Somera observed that "the fact that he has aired his advice in the presence of the parties and their counsels tends to eliminate the idea that he only suggested the same for his personal gains."[16] There is sufficient evidence to prove that

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[14] TSN, September 29, 1999, Testimony of Edmundo Balderama, pp. 50-51.

[15] *Rollo*, p. 23.

[16] Recommendation of Associate Justice Ibay-Somera, Adm. Matter No. RTJ-99-1449 dated January 6, 2000, p. 9.

Supreme Court E-Library

respondent Judge Alagar's actuations were motivated by good faith.

To the mind of the undersigned Investigator, given the above factual milieu, the advise (sic) or opinion formed by herein respondent Judge in the course of judicial proceedings, even if erroneous, as long as it is based on the evidence presented and conduct personally observed by him, does not prove personal bias on his part. Albeit, the opinion given by the respondent Judge on the complainants is not so gross and patent as to produce an ineluctable influence of bad faith and malice. Public respondent has reasonable ground to believe that his misinterpreted opinion would even (sic) more beneficial to the complainants x x x.[17]

As to the second issue, the following facts have been established: (1) respondent Judge Alagar sent his driver with his car twice or three times a week, to buy fish at the seashore of Barangay Pandan, Bacnotan, La Union, which place was near the residence of both Spouses Balderama and the Spouses Ader, the private complainants in all the aforementioned criminal cases for Estafa through Falsification filed against herein complainants;[18] (2) on at least two occasions Oscar D. Bugain, driver of respondent Judge Alagar, offered the Spouses Ader a ride to the court wherein they had a hearing before the *sala* of respondent Judge,[19] (3) there were also times when Oscar D. Bugain would park respondent Judge Alagar's car in front of the Spouses Ader's residence while buying fish in the area.[20]

What has not been clearly proven, however, was whether or not Judge Alagar had knowledge of his driver's actuations, and also whether or not he ever personally went to the Spouses Ader's residence or fetched them for a hearing any time. Notwithstanding this lack of direct proof of fraternizing with the party litigants in a case pending before his *sala*, this Court

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[17] *Id.*, at 8.

[18] *Rollo*, pp. 11-12.

[19] *Id.*, at 17.

[20] *Id.*

Supreme Court E-Library

holds that Judge Alagar should nonetheless have exercised a greater degree of diligence in the supervision of his driver, Oscar Bugain. Investigating Justice Ibay-Somera was correct when she stated:

> It should be added likewise that it is of no legal consequence whether or not it was actually Mr. Bugain who gave a free lift to the private complainants on board public respondent's vehicle on his way to the courtroom. The fact remains that respondent Judge's vehicle has been positively identified by the complainants and on this score, it is an elementary tenet that a judge is tasked and enjoined to closely supervise his employees (*Fernandez vs. Imbing,* 260 SCRA 586). As such, he is responsible for the proper discharge of the official functions of his court personnel (*Yaranon vs. Rulloda,* 242 SCRA 522), monitors their activities and behavior from time to time to ensure that no vestige of partiality, corruption, irregularity would be alluded to the court of justice which will erode and undermine the faith of the people in the system.x x x[21]

Canon 2 of the Code of Judicial Conduct mandates that a judge should avoid not only actual acts of impropriety, but equally also the appearance thereof in all his activities, whether inside or outside of the courtroom. A judge's official conduct should be free from the appearance of impropriety; and his personal behavior, not only in the bench and in the performance of judicial duties, but also in his everyday life should be beyond reproach.[22] This is premised on the truism that a Judge's official life cannot simply be detached or separated from his personal existence and that upon a Judge's attributes depend the public perception of the Judiciary.[23]

Unfortunately, these standards were not met by respondent Judge Alagar in this case having tolerated unknowingly his employee to fraternize, receive or give personal favors no matter how small, with party litigants in a case pending before his *sala.*

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[21] Recommendation penned by Associate Justice Corona Ibay-Somera, Adm. Matter No. RTJ-99-1449, p. 12.

[22] *Galang vs. Santos,* 307 SCRA 582 (1999).

[23] *Javier vs. De Guzman, Jr.* 192 SCRA 434 (1990).

Supreme Court E-Library

Thus, while this Court finds the respondent Judge to have acted with impartiality and propriety in dealing with the complainants in Criminal Case No. 4252, we find fault on his part in failing to supervise the conduct and behavior of his court employee for the latter's improper use of his vehicle, to the detriment of the court's image.

IN VIEW OF THE FOREGOING, this Court resolved to *REPRIMAND* Judge Adolfo F. Alagar, with a warning that a repetition of the same or similar offense shall be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Puno, Pardo, and *Ynares-Santiago, JJ.,* concur.

FIRST DIVISION

[G. R. No. 126243. January 18, 2002]

MANILA ELECTRIC COMPANY, *petitioner, vs.* **MACRO TEXTILE MILLS CORPORATION,** *respondent.*

SYNOPSIS

Respondent, customer of petitioner, was assessed by petitioner in the amount of ₱2,015,630.18 for unregistered consumption due to tampering of electric meter. Threatened with disconnection for its refusal to pay, respondent filed an action for injunction to restrain petitioner from cutting its electric service and to explain its billing. The trial court rendered judgment in favor of respondent. It found that petitioner failed to prove its allegation that respondent resorted to tampering of meters as the metering installations inside a meter box with seal was padlocked by petitioner itself which held the key