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FIRST DIVISION

[A.M. No. RTJ-00-1567. July 24, 2000]
Formerly A.M. OCA-IPI No. 98-559-RTJ

FERNANDO DELA CRUZ, *complainant, vs.* **Judge JESUS G. BERSAMIRA, RTC, Branch 166, Pasig City,** *respondent.*

SYNOPSIS

Alleging that Judge Jesus Bersamira of the Regional Trial Court in Pasig City gravely abused his discretion and by his acts, exhibited evident partiality in handling some cases pending before his sala, complainant filed a verified complaint against said judge before the Office of the Court Administrator (OCA) for violation of R.A. 3019 or the Anti-Graft and Corrupt Practices Act, the Code of Conduct and Ethical Standards for Public Officials and the Code of Judicial Conduct. The Investigating Justice found respondent judge's official conduct to have been tainted with acts of impropriety and recommended a fine of ten thousand pesos (₱10,000.00) with a stern warning that a repetition of similar acts will be dealt with more severely.

The Court agreed with the aforesaid finding and recomendation. Respondent judge's foot dragging in acting on the pending incidents in Criminal Case Nos. 11309, 4275-D and 4276-D is a strong *indicia* of his lack of diligence in the performance of his official duties and responsibilities. Judges are duty bound to decide cases expeditiously.

With regard to the charge of partiality, a judge should avoid impropriety and the appearance of impropriety in all his activities. However, credence cannot be accorded to the indictment that respondent judge had been socializing with the mother of one of the accused. Complainant neither testified nor produced any witness to corroborate this charge. Respondent Judge was imposed a fine of ₱10,000.00 and reprimanded.

SYLLABUS

1. JUDICIAL ETHICS; DUTY OF JUDGES; DELAY IN ACTING ON PENDING INCIDENTS IS A STRONG *INDICIA* OF

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LACK OF DILIGENCE.— In the case at bench, the fact that respondent tarried too long in acting on the pending incidents in the Criminal Cases Nos. 11309, 4275-D and 4276-D, hardly becomes open to question. If at all, respondent judge's foot-dragging in acting on the incidents in the said cases, which stopped only when administrative complaints were filed against him with the Ombudsman and the OCA, is a strong *indicia* of his lack of diligence in the performance of his official duties and responsibilities.

2. **ID.; ID.; IMPROPER FOR A JUDGE TO MEET PRIVATELY WITH THE ACCUSED WITHOUT THE PRESENCE OF COMPLAINANT.—** A judge is not only required to be impartial; he must also *appear* to be impartial. Public confidence in the judiciary is eroded by irresponsible or improper conduct of judges. Fraternizing with litigants tarnishes this appearance. It was, thus, held that it is improper for a judge to meet privately with the accused without the presence of the complainant. Be that as it may, credence can not be accorded to the indictment that respondent judge had been socializing with the congresswoman-mother of one of the accused as well as accused's counsel considering that complainant neither testified nor produced any witness to corroborate this charge.

RESOLUTION

YNARES-SANTIAGO, *J.*:

In a Verified Complaint[1] filed with the Office of the Court Administrator (OCA) by complainant who identified himself as a "concerned citizen," respondent was charged with the Violation of R.A. No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, the Code of Conduct and Ethical Standards for Public Officials and the Code of Judicial Conduct. The case stemmed from three (3) criminal cases assigned to respondent, namely:

a.] Criminal Case No. 11309 against Roberto Agana *y* Borja, for violation of Section 16, Article III, R.A. 6425, as amended;

b.] Criminal Case No. 4275-D against Roberto Agana *y* Borja for violation of P.D. No. 1866; and

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[1] *Rollo*, p. 1.

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c.] Criminal Case No. 4276-D against Sarah Resula *y* Puga for violation of Section 16, Article III of R.A. No. 6425, as amended.

The complaint, in sum, alleges that respondent as the presiding judge in whose sala the above-enumerated cases are pending, gravely abused his discretion and exhibited evident partiality by: 1.] socializing in posh restaurants particularly in Mario's Restaurant, Quezon City and the Shangrila EDSA Plaza with then Congresswoman Venice Agana, mother of the accused Roberto Agana, together with their counsel, Atty. Narciso Cruz; 2.] issuing unreasonable orders for postponement which unjustly delay the administration of justice; and 3.] allowing the two accused, Roberto Agana and his live-in partner, Sarah Resula, to submit to a drug test thereby postponing the trial of the cases indefinitely.

The OCA thereafter recommended that the case be referred to an Associate Justice of the Court of Appeals or to any OCA consultant for investigation, report and recommendation within sixty (60) days from notice.[2]

In a Resolution dated February 16, 2000,[3] the Court designated Associate Appellate Court Justice Delilah Vidallon-Magtolis to conduct an investigation, report and recommendation on charges against the respondent within ninety (90) days from notice.

Pursuant thereto, Justice Vidallon-Magtolis thereafter proceeded with the investigation of the case. The complainant did not appear at the hearing. Despite this, Justice Vidallon-Magtolis, bearing in mind that even a desistance of the complainant is of no moment in an administrative case such as this, proceeded with the investigation by examining the records of the criminal cases involved which respondent had brought along. She subsequently submitted a Report containing the following findings and recommendations:

At this point it must be pointed out that, had the supposed complainant appeared to substantiate his charges, his testimony could only have been admitted as to the alleged socializing acts of the respondent with the congresswoman-mother of the male accused — granting that he was an eyewitness thereto and was familiar with the judge and the

[2] *Ibid.*, p. 50.

[3] *Id.*, p. 51.

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congresswoman as well as the defense counsel, Atty. Cruz. However, as to the alleged partiality of the respondent in granting postponements, his testimony could only be in the form of opinions which would have been inadmissible, considering that he is not party to the criminal cases, neither does he appear to be involved therein in any other capacity. As a matter of fact, his real identity remains to be a question, since he did not actually furnish his real address in his complaints, both with the Ombudsman and with the Court Administrator.

At any rate, lest the undersigned be perceived as one shirking from responsibility, she opted not to dismiss the case outright, in view of settled rules that only the Supreme Court can dismiss administrative cases against judges,[4] and considering further that the bulk of the allegations in the complaint are verifiable from the records. Thus, she proceeded on with her investigation, giving the respondent an opportunity to clear his name.

From the documentary evidence submitted by the respondent and the record of the three criminal cases as well as the respondent's answers to the clarificatory questionings of this investigator, the following facts appear:

1. The arraignment of both accused were postponed for three (3) times, all upon motion of the defense counsel, formerly Atty. Joel Aguilar, the reason being:
   (a) unexplained absence of the accused in Court[5]
   (b) the intended attendance of Atty. Aguilar at the 6th National Convention for Lawyers[6]
   (c) absence of both accused who were reportedly in Tagbilaran City[7]
2. After the arraignment, the accused appeared but once in the three (3) successive settings for trial on the merits. Their counsel, now Atty. Narciso Cruz, never appeared at all, but only filed motions for postponement which were invariably granted even over the objection of the prosecution.[8]

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[4] Citing *Garciano v. Sebastian*, 231 SCRA 588 [1994].

[5] Exh. 1, Resetting of 20 February 1997.

[6] Exhs. 2-3, Resetting of 24 April 1997.

[7] Exh. 4.

[8] Exhibits 7 to 12.

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3. Despite the successive absences of the accused, the respondent never issued a warrant of arrest, nor even asked them to explain their absences. According to the respondent, he considered their absences as waiver of appearance. Yet, in the two instances that the prosecution was ready,[9] he (respondent) did not proceed with the hearing — which should have been done if there was a waiver of appearance.

4. When the respondent acted on the "Voluntary Submission to Confinement, Treatment and Rehabilitation" of both accused, he did not give the prosecution an opportunity to file comment or opposition thereto.[10]

5. The respondent's order of January 26, 1998, allowing the confinement, treatment and rehabilitation of the accused was not officially sent to the Dangerous Drugs Board. His directive in the second paragraph of the order, to wit: "The pertinent report must be submitted to the Court soonest"[11] is rather vague in that it did not state who should make the report nor the limit of the period given for its submission.

6. The respondent never checked with the Dangerous Drugs Board whether or not the two accused had indeed submitted themselves for confinement, treatment and rehabilitation with said office. This gives the impression that the respondent's order of January 26, 1998 was made merely to enable him to suspend the proceedings, including the case for violation of P.D. [No.] 1866, which is not subject to such suspension under R.A. [No.] 6425, as amended.

7. When the respondent issued the order of September 18, 1998,[12] where he appears to have *motu proprio* set the case anew for hearing on November 12, 1998, there was already a case filed against him in the Office of the Ombudsman[13] on January 30, 1998.[14] Likewise, this administrative complaint was already filed on February 2, 1998 with the Office of the Court Administrator, and the latter had already

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[9] Exhibits 10 and 12.

[10] Exhibits 13 to 15.

[11] Exhibit 15, par. 2.

[12] Exhibit 16.

[13] Annex A, Complaint.

[14] Record, p. 27.

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directed the respondent on September 9, 1998, to file his comment to such complaint.[15] Obviously, he was stirred to action by the filing of such complaints and not because of his diligent performance of his duties and responsibilities.

8. The respondent denied that he knew of the fact that accused Roberto Agana is the son of then Congresswoman Venice Agana of Bohol. According to him, he learned about it when Atty. Narciso Cruz "entered his appearance and then he said it was *pro bono* basis and the accused is the son of a congresswoman."[16] When asked by this investigator whether that information was made in open court or in chambers, he answered that "he came to my chambers."[17]

9. Subsequently, after realizing through the statements of this investigator that a judge should not allow lawyers and parties litigants with pending cases to see him in chambers,[18] the respondent tried to redeem himself after resting his case on May 9, 2000, by explaining that when Atty. Cruz saw him in chambers, the latter had not yet entered his appearance as defense counsel. He did not, however, ask for the correction of the transcript of stenographic notes of April 7, 2000.

10. The order of inhibition[19] was issued by the respondent long after this administrative case had been filed against him. Hence, it could not be taken as a voluntary inhibition to show lack of interest on the criminal cases.

Justice Vidallon-Magtolis thus found that:

All the foregoing are indications that the respondent's official conduct had not been entirely free from the appearance of impropriety, neither has the respondent remained above suspicion in his official actuations in connection with the criminal cases involving Agana and Resula. He has fallen short of the requirements of probity and independence.[20] A judge's

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[15] *Ibid.*, p. 41.

[16] TSN, 4/7/2000, p. 61.

[17] *Ibid.*

[18] *Id.*, pp. 61-65.

[19] Exhibit 28.

[20] Canon 1, Rule 1.01, Code of Judicial Ethics.

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conduct should be above reproach, and in the discharge of his official duties, he should be *conscientious*, thorough, courteous, patient, punctual, just, *impartial*.[21]

Thus, in the case of *Garcia vs. Burgood,*[22] the Supreme Court held:

> We deem it important to point out that a judge must preserve the trust and faith reposed on him by the parties as an impartial and objective administrator of justice. When he exhibits actions that rise fairly or unfairly, to perceptions of bias, such faith and confidence are eroded x x x .

Justice Vidallon-Magtolis recommended that respondent be fined the sum of Ten Thousand (₱10,000.00) Pesos with a stern warning that a repetition of the acts complained of will be dealt with more severely.

The Court agrees with the Investigating Justice that respondent's conduct was hardly exemplary in this case.

The Court in a litany of cases has reminded members of the bench that the unreasonable delay of a judge in resolving a pending incident is a violation of the norms of judicial conduct and constitutes a ground for administrative sanction against the defaulting magistrate.[23] Indeed, the Court has consistently impressed upon judges the need to decide cases promptly and expeditiously on the principle that justice delayed is justice denied.[24]

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[21] *Paz v. Tiong*, 253 SCRA 364 [1996].

[22] 291 SCRA 547 [1998].

[23] *Jewel Canson v. Hon. Francis Garchitorena, et al.*, SB-99-9-J, 28 July 1999, p. 15, citing *Dysico v. Dacumos*, 262 SCRA 275 [1996]; *Re: Report on the Audit and Inventory of Cases in RTC, Branch 55, Alaminos, Pangasinan*, 262 SCRA 555 [1996]; *Re: Report on the Judicial Audit Conducted in the Regional Trial Court, Branches 61, 134 and 147, Makati, Metro Manila,* 248 SCRA 5 [1995]; *Re: Query of Judge Danilo M. Tenerife,* 255 SCRA 184 [1996]; *Re: Report on the Judicial Audit and Physical Inventory of the Records of Cases in MTCC, Br. 2, Batangas City*, 248 SCRA 36 [1995]; *Bentulan v. Dumatol*, 233 SCRA 168 [1994]; *Re: Letter of Mr. Octavio Kalalo*, 231 SCRA 403 [1991]; *Longboan v. Polig*, 186 SCRA 556 [1990].

[24] *Abarquez v. Rebosura*, 285 SCRA 109 [1998], citing *Bendesula v. Laya*, 58 SCRA 16 [1974] and *Castro v. Malazo*, 99 SCRA 164 [1980].

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In the case at bench, the fact that respondent tarried too long in acting on the pending incidents in the Criminal Cases Nos. 11309, 4275-D and 4276-D, hardly becomes open to question. If at all, respondent judge's foot-dragging in acting on the incidents in the said cases, which stopped only when administrative complaints were filed against him with the Ombudsman and the OCA, is a strong *indicia* of his lack of diligence in the performance of his official duties and responsibilities.

It must be remembered in this regard that a "speedy trial" is defined as one "conducted according to the law of criminal procedure and the rules and regulations, *free from vexatious, capricious and oppressive delays.*"[25] The primordial purpose of this constitutional right is to prevent the oppression of the accused by delaying criminal prosecution for an indefinite period of time.[26] This purpose works both ways, however, because it, likewise, is intended to prevent delays in the administration of justice by requiring judicial tribunals to proceed with reasonable dispatch in the trial of criminal prosecutions.[27]

At the risk of sounding trite, it must again be stated that "Judges are bound to dispose of the court's business promptly and to decide cases within the required period.[28] We have held in numerous cases that failure to decide cases and *other matters* within the reglementary period constitutes gross inefficiency and warrants the imposition of administrative sanctions.[29] If they cannot do so, they should seek extensions from this Court to avoid administrative liability."[30] Indeed, judges ought to remember that they should be

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[25] *Socrates v. Sandiganbayan*, 253 SCRA 773 [1996]; *Flores v. People*, 61 SCRA 331 [1974].

[26] *Dacanay v. People*, 240 SCRA 490 [1995].

[27] *Dacanay v. People, supra,* citing *Shepherd v. U.S.*, 163 F 2d 974 [1947].

[28] Rule 3.05, Canon 3, Code of Judicial Conduct.

[29] *OCA v. Judge Leonardo Quinanola, et al.*, AM No. MTJ-99-1216, 20 October 1999; *Dysico v. Dacumos, supra*; *BPI v. Generoso*, 249 SCRA 4777 [1995]; *Re: Judge Liberato C. Cortes,* 242 SCRA 167 [1995]; *Ancheta v. Antonio*, 231 SCRA 74 [1994].

[30] *Spouses Conrado and Maita Sena v. Judge Ester Tuazon Villarin,* A.M. No. 00-1258-MTJ, 22 March 2000, p. 7.

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prompt in disposing of *all* matters submitted to them, for justice delayed is often justice denied.

Certainly, "Delay in the disposition of cases erodes the people's faith in the judiciary.[31] It is for this reason that this Court has time and again reminded judges of their duty to decide cases expeditiously. Delay in the disposition of even *one* case constitutes gross inefficiency[32] which this Court will not tolerate."[33]

With regard to the charge of partiality, the Court pointed out in *Dawa v. De Asa*[34] 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. [35] 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:

RULE 1.02. A judge should administer justice impartially and without delay.

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

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[31] *Balayo v. Judge Buban*, A.M. No. RTJ-99-1477, 9 September 1999, p. 6.

[32] *Re: Judge Danilo M. Tenerife,* 255 SCRA 184 [1996].

[33] *Report On The Spot Judicial Audit Conducted In The Metropolitan Trial Court, Branch 40, Quezon City*, A.M. No. 98-2-22-MeTC; *Atty. Clodualdo C. De Jesus v. Judge Susanita E. Mendoza-Parker,* A.M. No. MTJ-00-1272, 11 May 2000, p. 11.

[34] 292 SCRA 703 [1998].

[35] Citing *Talens-Dabon v. Arceo*, 259 SCRA 354 [1996].

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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.[36] Only recently, in *Magarang v. Judge Galdino B. Jardin, Sr.*,[37] 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.[38]

Judges must adhere to the highest tenets of judicial conduct. They must be the embodiment of competence, integrity and independence.[39] A judge's conduct must be above reproach.[40] Like Caesar's wife, a judge must not only be pure but above suspicion.[41] A judge's private as well as official conduct must at all times be free from all appearances of impropriety, and be beyond reproach.[42]

In *Vedana vs. Valencia*,[43] 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

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[36] *Dawa v. De Asa, supra,* citing *Yulo-Tuvilla v. Balgos*, 288 SCRA 358 [1998].

[37] A.M. No. RTJ-99-1448, 6 April 2000, pp. 11-12.

[38] *Garciano v. Sebastian*, 231 SCRA 588 [1994].

[39] Rule 1.01, Code of Judicial Conduct.

[40] Canon 31, Canons of Judicial Ethics.

[41] *Palang v. Zosa*, 58 SCRA 776 [1974].

[42] *Dysico v. Dacumos, supra.*

[43] 295 SCRA 1 [1998].

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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.[44] A judge is not only required to be impartial; he must also *appear* to be impartial.[45] Public confidence in the judiciary is eroded by irresponsible or improper conduct of judges.[46] Fraternizing with litigants tarnishes this appearance.[47] It was, thus, held that it is improper for a judge to meet privately with the accused without the presence of the complainant.[48] Be that as it may, credence can not be accorded to the indictment that respondent judge had been socializing with the congresswoman-mother of one of the accused as well as accused's counsel considering that complainant neither testified nor produced any witness to corroborate this charge.

Viewed *vis-á-vis* the factual landscape of this case, it is clear that respondent judge violated Rule 1.02,[49] as well as Canon 2,[50]

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[44] *Prosecutor Salvador C. Ruiz v. Judge Agelio L. Bringas, MTC, Branch I, Butuan City,* A.M. No. MTJ-00-1266, 6 April 2000, p. 8.

[45] Canon 3, Code of Judicial Conduct.

[46] *In Re: Judge Benjamin H. Virrey,* 202 SCRA 628 [1991].

[47] *Gacayan v. Hon. Fernando Vil Pamintuan*, A.M. No. RTJ-99-1483, 17 September 1999.

[48] *Gallo v. Cordero,* 245 SCRA 219 [1995].

[49] "A judge should administer justice *impartially* and *without delay.*" (Italics supplied)

[50] "A judge should *avoid impropriety* and the *appearance of impropriety* in all activities." (Italics supplied)

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Rule 2.01[51] and Canon 3.[52] He must, thus, be sanctioned.[53] In this connection, the Court pointed out in *Joselito Rallos, et al. v. Judge Ireneo Lee Gako Jr., RTC Branch 5, Cebu City*,[54] 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.
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> *This reminder applies all the more sternly to municipal, metropolitan and regional trial court judges like herein respondent, because they are judicial front-liners who have direct contact with the litigating parties.* They are the intermediaries between conflicting interests and the embodiments of the people's sense of justice. Thus, their official conduct should be beyond reproach.[55]

A review of past decisions reveals a wide range of penalties for cases of similar nature. These penalties include mere reprimand,[56] withholding of salary,[57] fine,[58] suspension[59] and even dismissal.[60]

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[51] "A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary."

[52] "A Judge should perform official duties honestly, and with *impartiality and diligence*." (Italics supplied)

[53] See *Prudential Bank v. Castro*, 142 SCRA 223 [1986].

[54] A.M. Nos. RTJ-99-1484 and RTJ-99-1484 (A), 17 March 2000, p. 19.

[55] Citing *Macasasa v. Imbing*, A.M. No. RTJ-99-1470, 16 August 1999.

[56] *Ardosa v. Gal-lang*, 284 SCRA 58 [1998]; *Tabao v. Butalid*, 262 SCRA 559 [1996].

[57] *Santos v. De Gracia*, 119 SCRA 189 [1982].

[58] *Espiritu v. Jovellanos*, 280 SCRA 579 [1997]; *Sandoval v. Manalo*, 260 SCRA 611 [1996]; *Benjamin, Sr. v. Alaba*, 261 SCRA 429 [1996]; *Vda. de Coronel v. Danan*, 225 SCRA 212 [1993].

[59] *Fernandez v. Imbing*, 260 SCRA 586 [1996]; *Abundo v. Manio*, A.M. No. RTJ-98-1416, 6 August 1999.

[60] *Meris v. Ofilada*, 293 SCRA 606 [1998].

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This is not the first time respondent has been sanctioned by the Court. In *Cecilio Wycoco v. Judge Jesus G. Bersamira*,[61] respondent was initially admonished for absenteeism by the Court. Subsequently, in *Jose Oscar M. Salazar v. Judge Jesus G. Bersamira*,[62] respondent was again sanctioned and fined Five Thousand (₱5,000.00) with the warning that a repetition of the same act would be dealt with more severely for violating Administrative Order No. 3, series of 1983. Specifically, respondent intervened in a case which he could not properly take cognizance of causing the complainant great prejudice resulting from the delay of the execution of a decision in his favor in Civil Case No. 39608 of the MeTC of Makati.

It appears, however, that being chastised twice has not reformed the respondent with the filing of the instant administrative complaint against him. Needless to state, such acts of respondent only further erode the people's faith and confidence in the judiciary for it is the duty of all members of the bench to avoid any impression of impropriety to protect the image and integrity of the judiciary, which in recent times has been the object of criticism and controversy.[63]

While the Court agrees with the Investigating Justice that respondent's conduct warrants the imposition of sanctions against him, the recommended penalty is not commensurate to the misdeed committed. Given the prevailing facts of the case, a fine of ₱10,000.00 accompanied by a reprimand, with a stern warning that the commission of similar acts in the future shall be dealt with more severely, is a more appropriate penalty.[64]

WHEREFORE, in view of all the foregoing, respondent Judge is hereby *FINED* in the amount of Ten Thousand (₱10,000.00).

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[61] A.M. No. RTJ-87-128, 30 June 1988.

[62] A.M. No. RTJ-91-711, 29 April 1993.

[63] *Antonio Yu Asensi v. Judge Francisco D. Villanueva*, A.M. No. MTJ-00-1245, January 19, 2000.

[64] *Gacayan v. Hon. Fernando Vil Pamintuan, supra.*

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Further, he is *REPRIMANDED* and sternly warned that a repetition of similar acts will be dealt with more severely.

SO ORDERED.

Kapunan and *Pardo, JJ.*, concur.

Davide, Jr., C.J., took no part due to close relationship to a party.

Puno, J., took no part due to close association with a party.

FIRST DIVISION

[G.R. No. 128149. July 24, 2000]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **JIMMY ANTONIO and MICHAEL AREDIDON y MONTEJO,** *accused-appellants.*

SYNOPSIS

Appellants Antonio and Aredidon were charged with three counts of rape based on complaints filed by the victim, Adelina, 14 years old. Appellants hid from the authorities for five years. Antonio was arrested while Aredidon surrendered. They both pleaded not guilty and interposed the defense of denial claiming that Adelina was a prostitute who voluntarily went with them to the hotel to have sex with them. This was contradicted by Adelina who testified that it was Aredidon who fetched her, gave her softdrinks that caused her loss of consciousness and prevented her from leaving the hotel where she was raped by Antonio. The trial court rendered judgment finding appellant Antonio as principal while Aredidon as accomplice in the rapes. Hence, this appeal, appellant assailing the factual findings of the trial court, the credibility of the victim on the inconsistencies in her testimonies and the delay for 6 months in reporting the assault.