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We find that the foregoing Memorandum of Agreement is not contrary to law, morals, good customs and public policy, and hence, judicial approval thereof is in order.

WHEREFORE, judgment is hereby rendered approving the Memorandum of Agreement dated April 24, 2000 of the parties, the same not being contrary to law, morals, good customs and public policy; and the parties are hereby enjoined to abide and comply strictly with the terms and conditions thereof.

SO ORDERED.

Mendoza (Acting Chairman), Quisumbing, and *Buena, JJ.*, concur.

Bellosillo, J. (Chairman), is on leave.

FIRST DIVISION

[A.M. No. RTJ-00-1573. August 2, 2000]
(Formerly A.M. No. OCA-IPI-97-300-RTJ)

LEOPOLDO G. DACERA, JR., *complainant, vs.* **JUDGE TEODORO A. DIZON, JR., RTC, Branch 37, General Santos City,** *respondent.*

SYNOPSIS

The Office of the Court Administrator was furnished by a copy of a "Verified Motion to Disqualify Trial Judge" in Criminal Case No. 11298 which was filed by Leopoldo G. Dacera, Jr. before the sala of respondent Judge Teodoro A. Dizon, Jr. The said motion alleged that the complainant was persuaded by the trial judge to execute an Affidavit of Desistance. The Office of the Court Administrator designated Court of Appeals' Associate Justice Delilah Vidallon-Magtolis to investigate the allegations in the said motion. The investigation revealed that Leopoldo G. Dacera, Jr.

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was a private complainant in Criminal Case No. 11982 which is a case for Qualified Theft against the five members of the B'laan tribe and one Indonesian. On October 10, 1996, Asst. Pros. Edilberto L. Jamora filed a Motion to Dismiss based on the Affidavit of Desistance purportedly executed by Leopoldo Dacera, Jr.. On the following day, State Prosecutor Leo B. Dacera III withdrew the said motion it appearing then that the respondent judge did not actually dismiss the case despite the prosecutor's filing of a Motion to Dismiss. However, from respondent judge's very own testimony, it is obvious that he called the complainant by phone asking him to come to his chambers, purportedly to verify the truth of the Affidavit of Desistance signed by him on October 9, 1996. After the filing of the said motion to inhibit, respondent judge voluntarily inhibited himself from trying the said case. Thus, Justice Vidallon-Magtolis recommended that the respondent judge be exonerated of the charge of bias and partiality. However, she recommended that the respondent judge be admonished to refrain from making calls to any party-litigant or counsel who have pending cases before him to avoid any suspicion of personal interest in any case pending in his *sala.*

The Court ruled that the recommendation of Justice Delilah Vidallon-Magtolis was well-taken. There indeed is no clear proof of malice, corrupt motives or improper considerations which attended the acts of respondent. Nonetheless, the acts of respondent still leave much to be desired and is deserving of reproof. A judge is not only required to be impartial; he must also *appear* to be impartial. 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. It need not be overemphasized that making private phone calls to, sending for and talking to the complainant in the judge's chambers, as in this case, undermines even more the people's faith and confidence in the judiciary.

SYLLABUS

1. **LEGAL AND JUDICIAL ETHICS; CANONS OF JUDICIAL ETHICS; A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL HIS ACTIVITIES.—** A judge should avoid impropriety and the appearance of impropriety in all his activities. Stated differently, "It is an ironclad principle that a judge must not only be impartial;

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he or she must also *appear* to be impartial. Hence, the judge 'must, at *all* times, maintain the appearance of fairness and impartiality. His language, both written and spoken, must be guarded and measured, lest the best of intentions be misconstrued.

2. **ID.; ID.; ID.; FRATERNIZING WITH LITIGANTS TARNISHES THE APPEARANCE OF IMPROPRIETY.—** In the present case, there indeed is no clear proof of malice, corrupt motives or improper considerations which attended the acts of respondent. Nonetheless, the acts of respondent still leave much to be desired and is deserving of reproof. A judge is not only required to be impartial; he must also *appear* to be impartial. 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. It need not be overemphasized that making private phone calls to, sending for and talking to the complainant in the judge's chambers, as in this case, undermines even more the people's faith and confidence in the judiciary. x x x Viewed *vis-à-vis* the factual landscape of this case, it is clear that respondent judge transgressed Canon 2, Rules 2.00 and 2.01of the Canons of Judicial Ethics. His acts have been less than circumspect. He should have kept himself free from any appearance of impropriety and should have endeavored to distance himself from any act liable to create an impression of indecorum.

3. **ID.; ID.; ID.; JUDGES MUST NOT ONLY RENDER JUST, CORRECT AND IMPARTIAL DECISIONS, BUT MUST DO SO IN A MANNER FREE OF SUSPICION.—** [T]he Court pointed out in *Rallos, et al. v. Judge Ireneo Lee Gako, Jr.*, RTC Branch 5, Cebu City, 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 suspicion as to their fairness, impartiality and integrity. *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 the conflicting interests and the embodiments of the people's sense of justice. Thus, their official conduct should be beyond reproach."

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4. **ID.; ID.; JUDGE'S CONDUCT MUST BE ABOVE REPROACH.—** Public confidence in the judiciary is eroded by irresponsible or improper conduct of judges. As stressed by the Court in *Magarang v. Judge Galdino B. Jardin,* Sr. "Judges must adhere to the highest tenets of judicial conduct. They must be the embodiment of competence, integrity and independence. A judge's conduct must be above reproach. Like Caesar's wife, a judge must not only be pure but above suspicion. A judge's private as well as official conduct must at all time be free from all appearances of impropriety and be beyond reproach.

5. **ID.; CODE OF JUDICIAL CONDUCT; JUDICIAL OFFICE TRACES A LINE AROUND JUDGE'S OFFICIAL AS WELL AS PERSONAL CONDUCT.—** [R]espondent must always bear in mind that "A judicial office traces a line around his official as well as personal conduct, a price one has to pay for occupying an exalted position in the judiciary, beyond which he may not freely venture. Canon 2 of the Code of Judicial Conduct enjoins a judge to avoid not just impropriety in the performance of judicial duties but in all his activities whether in his public or private life. He must conduct himself in a manner that gives no ground for reproach."

RESOLUTION

YNARES-SANTIAGO, *J.*:

For allegedly persuading complainant to execute an affidavit of desistance, a "Verified Motion to Disqualify Trial Judge"[1] was filed in Criminal Case No. 11298 pending before Judge Teodoro A. Dizon, Jr. A copy of the motion was furnished the Office of the Court Administrator (OCA), who recommended that the case be investigated by an Associate Justice of the Court of Appeals.

In a Resolution dated June 23, 1997,[2] the Court designated Associate Justice Delilah Vidallon-Magtolis to investigate the charges against the respondent.

After investigating the matter, Justice Delilah Vidallon-Magtolis made the following factual findings:

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[1] *Rollo,* p. 12.

[2] *Ibid.,* p. 22.

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1.) The herein complainant, Leopoldo Dacera, Jr. is also the private complainant in Criminal Case No. 11982 for Qualified Theft against accused GARYO TOLOMONG, NILDA TOLOMONG, NILO APAD, BAIN APAD, MINA COLONG, ROSITA COLONG, and TAWAYA GIBAN. Said case was initially assigned to the sala of respondent judge (Branch 37, RTC, General Santos City). The said accused, members of the B'laan tribe plus one (1) Indonesian, were suspected of stealing coconuts from the Dacera plantation formerly belonging to the estate of the father of Leopoldo Dacera, Jr. the case was filed on August 29, 1996.

2.) Bail was set at ₱40,000.00 for each of the accused. The accused were arrested on September 18, 1996, they filed a Joint Motion for Reduction of Bail from ₱40,000.00 to ₱10,000 (Exhibit "C").

3.) On October 1, 1996, Judge Dizon issued an order granting the motion for reduction of bail to ₱10,000.00.

4.) On October 3, 1996, the accused filed a Joint Motion to Admit Property Bond in lieu of cash bond. The motion was granted by Judge Dizon on October 7, 1996, whereby he authorized the accused to file a property bond with a market value of no less than ₱50,000.00 and registered with the Register of Deeds of General Santos City (Exhibit "D").

5.) On October 10, 1996, a Motion to Dismiss (Exhibit "2") was filed by 3rd Assistant City Prosecutor Edilberto L. Jamora of General Santos City, based on an affidavit of desistance (Exhibit "2-C") purportedly executed by Leopoldo Dacera, Jr.

6.) On October 11, 1996, an Urgent Verified *Ex Parte* Motion to Withdraw Motion To Dismiss (Exhibits "3" to "3-B") was filed by State Prosecutor Leo B. Dacera III, with the approval of City Prosecutor Franklin G. Gacal, praying for the withdrawal of the Motion to Dismiss on the ground that the affidavit of desistance upon which it was based was the "outcome of undue influence applied by certain quarters upon Leopoldo Dacera, Jr. who was persuaded to execute the same without being appraised of the full import and consequences of such relinquishment of legal right." The said motion likewise alleged *inter alia* that the private complainant who was then unaided by counsel, was not made aware that his grant of concessions in such case cannot be binding upon his co-heirs who are not parties to the case and who have not been fully informed of the proceedings; and neither was he made aware that he could be liable for a counter-suit for damages and/or malicious prosecution, considering the tenor in his affidavit, *i.e.* "after a sole *(sic)* searching on my part . . . ."

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From the foregoing factual findings, Justice Delilah Vidallon-Magtolis recommended that respondent judge be exonerated of the charge of bias and partiality in connection with Criminal Case No. 11982. She, however, further recommended that respondent judge be admonished to refrain from making calls to any party-litigant or counsel who have pending cases before him to avoid any suspicion of personal interest in any case pending in his *sala* on the basis of the following evaluation:

> After a close scrutiny of the evidence on both sides, the undersigned investigator finds no conclusive evidence showing that respondent judge is personally biased in favor of the accused in Criminal Case No. 11982, it appearing that he did not actually dismiss the case despite the prosecutor's filing of a Motion to Dismiss based on the private complainant's affidavit of desistance. As a matter of fact, he (respondent Judge) voluntarily inhibited himself from trying the said case as soon as the private complainant filed a motion to disqualify him.
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> However, from the very own testimony of the said judge, it is obvious that he called the complainant by phone, asking him to come to his chambers, purportedly to verify the truth of the affidavit of desistance he (complainant) signed on October 9, 1996 (Exhibit "2-C"). Privately calling any party even just to verify something is suspicious and does not speak well of the cold neutrality of a judge. Moreover, if it were true that Dacera had previously seen him (Judge Dizon) in chambers to "beg" him to dismiss the case (Criminal Case No. 11982), it is no longer necessary for the judge to call or see Dacera to verify whether or not he indeed signed the affidavit of desistance. He (respondent) should have known already that that was Dacera's desire. What he (respondent) should have done — if he really wanted to still verify — was to immediately set the Motion to Dismiss for hearing, and make an official verification in open court in the presence of all parties concerned. The voluntary admission of the judge that he did call up the complainant could be an indication that he indeed called him (Dacera) to his chambers to talk about the case — as testified to by the complainant.
>
> At any rate, the complainant appeared to be candid and truthful when he testified. It is obvious that he could not have concocted the information narrated in his affidavit of October 24, 1996 (Exhibit "6") and testified to by him in a straightforward and convincing manner. Anyway, any private complainant who has lost interest in the prosecution of a criminal case — if indeed this was what happened in Criminal Case No. 11982 — need

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not see the judge in chambers. All that he needs to do is to tell the prosecutor or the judge handling the case at the next setting.

In this connection it must be pointed out that Prosecutor Jamora, who is the prosecutor assigned to the *sala* of the respondent Judge, alleged that the affidavit of desistance and Motion to Dismiss were already prepared when Dacera and his companions came to him. Since Dacera was not assisted by any private prosecutor and he could not have prepared such documents, both written in English, by himself (as in fact, he even had to testify in the Cebuano dialect during investigation), there is only one conclusion that could be made, *i.e.* that the preparation thereof was as narrated by the complainant.

Of course, this investigator notes that there is a discrepancy in the complainant's allegation that he signed the affidavit in the judge's chambers on the one hand, and the testimony of Prosecutor Jamora that the said affidavit was signed before him. In weighing these two conflicting statements, this investigator gives more credence to the testimony of the complainant for the reason that a prosecutor attends to so many cases, and it is possible that he may not remember all the particular details of a case. On the other hand, the circumstances narrated by the complainant in a straightforward manner appear to be very vivid in his mind. It is possible that when he went to Prosecutor Jamora, the affidavit was already signed. In any case, the complainant has nothing to gain and everything to lose by testifying falsely against a judge.

It is also to be noted that the complainant was a reluctant witness. He did not appear at the initial hearing set by this investigator and just sent word that he had already desisted, and he was standing by his affidavit of desistance (Exhibit "14"). It was only when this investigator sent word through the complainant's brother, Prosecutor Leo Dacera III (who appeared for his brother-complainant) that he (complainant) should come or face the consequences for wasting the time and resources of the Court and of this investigator, that the said complainant made an appearance. When he did, he reiterated his desire to withdraw from the case. However, his testimony on the substantive matters was still an affirmance of his allegations in his affidavit of October 23, 1996 which was treated as his complaint-affidavit.

Be that as it may, the circumstances that transpired thereafter, *i.e.*, the respondent's "setting aside" of the motion to dismiss, and his voluntary withdrawal from the case, thus enabling another judge to take over, negates the allegation of personal interest or bias in Criminal Case No. 11982. In fact, it is possible that there were *pressures brought to bear upon the*

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respondent judge, in view of the report that the accused B'laans (in Criminal Case No. 11982) were creating problems in the City Jail, as according to Prosecutor Jamora, they brought their entire families there. Possibly, this "problem" was related to the alleged "threat" mentioned by the judge to the complainant, as testified to by the latter. The respondent judge, however, did not mention this in his testimony, as he denied as a whole the complainant's averments.

In any case, as stated above, this investigator cannot find sufficient basis to conclude that there was malice or bad faith in the judge's actuations. Most probably, he wanted to finish the case because of pressures, if not threats. These are "hazards of the trade" so to speak. If at all, the judge could have only been guilty of judicial indiscretion or impropriety when he admittedly made a private phone call to, or sent for, the complainant, and talked to him in the chambers.

As held in the case of *Capuno vs. Jaramillo (234 SCRA 212, 222)*, judges have been cautioned to avoid in-chamber sessions without the other party and his counsel present, and to observe prudence at all times in their conduct to the end that they not only act impartially and with propriety, but are also perceived to be impartial and proper.

Moreover, the Canons of Judicial Ethics provide:

"*Canon II*

"*Rule 2.00:* A Judge should avoid impropriety and the appearance of impropriety in all activities.

Rule 2.01: A Judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary. *(Contreras vs. Solis, 260 SCRA 572; 581)."*

The recommendation of Justice Delilah Vidallon-Magtolis is well-taken.

In the present case, there indeed is no clear proof of malice, corrupt motives or improper considerations which attended the acts of respondent. Nonetheless, the acts of respondent still leave much to be desired and is deserving of reproof. A judge is not only required to be impartial; he must also *appear* to be impartial.[3] Fraternizing with litigants tarnishes this appearance.[4] It was, thus, held that it is

[3] Canon 3, Code of Judicial Conduct.

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

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improper for a judge to meet privately with the accused without the presence of the complainant.[5] It need not be overemphasized that making private phone calls to, sending for and talking to the complainant in the judge's chambers, as in this case, undermines even more the people's faith and confidence in the judiciary.

A judge should avoid impropriety and the appearance of impropriety in all his activities.[6] Stated differently, "It is an ironclad principle that a judge must not only be impartial; he or she must also *appear* to be impartial. Hence, the judge 'must at *all* times, maintain the appearance of fairness and impartiality. His language, both written and spoken, must be guarded and measured, lest the best of intentions be misconstrued.'"[7]

Public confidence in the judiciary is eroded by irresponsible or improper conduct of judges.[8] As stressed by the Court in *Magarang v. Judge Galdino B. Jardin, Sr.*[9] "Judges must adhere to the highest tenets of judicial conduct. They must be the embodiment of competence, integrity and independence.[10] A judge's conduct must be above reproach.[11] Like Caesar's wife, a judge must not only be pure but above suspicion.[12] A judge's private as well as official conduct must at all times be free from all appearances of impropriety and be beyond reproach."[13] Viewed *vis-a-vis* the factual landscape of this case, it is clear that respondent judge transgressed Canon 2, Rules 2.00 and 2.01 of the Canons of Judicial Ethics. His acts have been less than circumspect. He should have kept himself free from any appearance of impropriety and should have endeavored to

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

6 *Prosecutor Salvador C. Ruiz v. Judge Agelio L. Bringas, MTC, Branch I, Butuan City,* A.M. No. MTJ-00-126, 6 April 2000, p. 8.

7 *De Vera v. Dames III,* A.M. No. RTJ-99-1455, 13 July 1999, 310 SCRA 213, citing *People v. Serrano*, 203 SCRA 171 [1991], citing *Fecundo v. Berjamen,* 180 SCRA 235 [1989].

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

9 A.M. No. RTJ-99-1448, 6 April 2000, pp. 11-12.

10 Rule 1.01, Code of Judicial Conduct.

11 Canon 31, Canons of Judicial Ethics.

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

13 *Dysico v. Dacumos*, 262 SCRA 275 [1996].

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distance himself from any act liable to create an impression of indecorum. He must, thus, be sanctioned.[14] In this regard, the Court pointed out in *Rallos, et al. v. Judge Irineo Lee Gako, Jr., RTC Branch 5, Cebu City*,[15] 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 suspicion as to their fairness, impartiality and integrity.
>
> *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 the conflicting interests and the embodiments of the people's sense of justice. Thus, their official conduct should be beyond reproach.[16]

Indeed, respondent must always bear in mind that "A judicial office traces a line around his official as well as personal conduct, a price one has to pay for occupying an exalted position in the judiciary, beyond which he may not freely venture. Canon 2 of the Code of Judicial Conduct enjoins a judge to avoid not just impropriety in the performance of judicial duties but in all his activities whether in his public or private life. He must conduct himself in a manner that gives no ground for reproach."[17]

WHEREFORE, the complaint filed by Leopoldo G. Dacera, Jr. against Judge Teodoro A. Dizon, Jr., Regional Trial Court, Branch 37, General Santos City is hereby *DISMISSED* for lack of merit. However, respondent Judge is *ADMONISHED* to refrain from

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

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

[16] Citing *Macasa v. Imbing,* A.M. No. RTJ-99-1470, 16 August 1999; italics supplied.

[17] *Virginia Villaluz Vda. de Enriquez v. Judge Jaime F. Bautista*, A.M. No. RTJ-99-1439, 9 May 2000, citing *San Juan v. Bagalsca*, 283 SCRA 416 [1997].

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making calls to any parties-litigant and/or counsel with cases pending in his *sala* and sternly warned that a repetition of the same will be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Puno, Kapunan, and *Pardo, JJ.*, concur

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THIRD DIVISION

[Adm. Matter No. 00-1572. August 3, 2000]
(Formerly OCA IPI No. 99-706-RTJ)

JUAN S. LUZARRAGA, *complainant, vs.* **HON. AMARO M. METEORO, As Presiding Judge of Branch 64, Regional Trial Court of Camarines Norte, Labo, Camarines Norte,** *respondent.*

SYNOPSIS

Juan S. Luzarraga filed a case for quieting of title which was originally raffled to Branch 41 of the Regional Trial Court (RTC) of Daet, Camarines Norte where he presented his evidence and rested his case. On June 22, 1996, the case was transferred to the newly created RTC Branch 64, presided over by Judge Amaro M. Meteoro. It was after only eight months or on January 8, 1997 that Judge Meteoro proceeded to hear defendants' evidence. However, on that date, defendants' counsel filed a Demurrer to Evidence. The said Demurrer to Evidence was resolved only after a period of one year as per Order dated January 13, 1998. Finally, the trial court, in its Order dated July 20, 1998 considered the case submitted for decision. After seven months, the case remained undecided. Hence, Luzarraga filed the instant administrative case against Judge Meteoro for serious misconduct, gross inefficiency, neglect of duty and violation of Section 15(1), Article VIII of the 1987 Constitution. In his comment, Judge Meteoro admitted his failure to decide the subject case within the reglementary period but he asked for this Court's compassion and understanding. He attributed his failure to decide