Supreme Court E-Library

EN BANC

[A.M. No. RTJ-99-1517. February 26, 2002]
(Formerly OCA IPI No. 99-861-RTJ)

PURITA T. LIM, *complainant, vs.* **JUDGE DEMETRIO D. CALIMAG, JR., Regional Trial Court, Branch 35, Santiago City,** *respondent.*

SYNOPSIS

Complainant herein charged the respondent with conduct unbecoming a judge, maltreatment and failure to pay his obligation. She alleged that the respondent judge owed her the amount of ₱30,000.00 and despite her repeated demands failed to pay the same. She also claimed hat her persistent attempts to collect from him caused the respondent judge to refuse to inhibit himself from a case for investigation, report and recommendation to the Office of the Court Administrator. The Court Administrator found the respondent judge guilty of failure to pay his debt to the complainant and considering his past misconduct in office, he was recommended to be dismissed from the service, with forfeiture of benefits and disqualification from reinstatement or appointment to any public office.

The Supreme Court ruled that for willful failure to pay a just and lawful debt, gross misconduct and violation of Canon 3 of the Canons of Judicial Ethics and Canon 2 of the Code of Judicial Conduct, respondent judge was ordered dismissed from service. He was also ordered to pay the amount due the complainant with the corresponding interest due. According to the Court, respondent's conduct eloquently manifested that he was beyond transformation despite disciplinary sanctions previously taken against him in the previous cases. The totality of his attitude, conduct and sense of values rendered him unfit to stay in the Judiciary.

SYLLABUS

1. CIVIL LAW; *QUASI-DELICTS*; CRIMINAL LAW; DAMAGE TO PROPERTY; SUBSIDIARY LIABILITY OF EMPLOYER FOR ACTS OF EMPLOYEES. — Needless

Supreme Court E-Library

to state, if the damage to respondent's vehicle constituted a violation of the Revised Penal Code, complainant's civil liability would only be subsidiary pursuant to Article 103 of the Revised Penal Code. If the act amounted to a *quasi-delict* (Article 2176 of the Civil Code), complainant would be liable for the damage caused only upon proof that the employee acted within the scope of his assigned task; besides, complainant may not be liable at all upon proof that she observed all the diligence of a good father of a family to prevent damage (Article 2184, in relation to Article 2180, Civil Code). Significantly, there is no evidence at all that respondent initiated a complaint against complainant and her employee or either of them to enforce his claim for the damages caused to his vehicle.

2. **JUDICIAL ETHICS; DELIBERATE AND WILLFUL FAILURE TO PAY A JUST AND LAWFUL DEBT VIOLATED IN CASE AT BAR.**— We do not, therefore, hesitate to rule that respondent deliberately and willfully failed to pay a just and lawful debt in favor of complainant. In so doing, he diminished the honor and integrity of his office and stained the image of the Judiciary. He thus violated (1) Canon 3 of the Canons of Judicial Ethics, which mandates that "[a] judge's official conduct should be free from the appearance of impropriety, and his personal behavior, not only upon the bench and in the performance of official duties, but also in his everyday life, should be beyond reproach"; and (2) Canon 2 of the Code of Judicial Conduct, which provides that "[a] judge should avoid impropriety and the appearance of impropriety in all activities." Indeed, it has been said that a magistrate of the law must comport himself at all times in such a manner that his conduct, official or otherwise, can bear the most searching scrutiny of the public that looks up to him as an epitome of integrity and justice. The ethical principles and sense of propriety of a judge are essential to the preservation of the faith of the people in the Judiciary. (*Alfonso vs. Juanson*, 228 SCRA 239, 254-255 [1993], citing *Dia-Añonuevo vs. Bercacio, 68 SCRA 81 [1975]).* Public confidence in the Judiciary is eroded by irresponsible or improper conduct of judges (*In re*: *Judge Benjamin H. Viray*, 202 SCRA 628, 634 [1991]).

3. **ID.; ID.; PENALTY IS DISMISSAL FROM SERVICE .** — Under Section 8, paragraph 6 of Rule 140 of the Rules of Court,

Supreme Court E-Library

"[w]illful failure to pay a just debt" is classified as a serious charge. Section 11 thereof authorizes the imposition of the penalty of dismissal from the service with forfeiture of all or part of the benefits as this Court may determine except accrued leave credits, as well as disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations. Dismissal of respondent from the service is therefore in order. He should likewise be ordered to pay his indebtedness to the complainant. (*Garciano vs. Oyao,* 102 SCRA 195 [1981]; *Manalo Demaala*, 104 SCRA 330 [1981]; *Fabrigas vs. Nemeno*, 146 SCRA 61 [1986]).

APPEARANCES OF COUNSEL

Norma Singson-De Leon for complainant.

RESOLUTION

***Per Curiam*:**

In a complaint dated 18 April 1999 supported by her affidavit, complainant Purita T. Lim charges respondent Judge Demetrio D. Calimag, Jr., Presiding Judge of Branch 35 of the Regional Trial Court of Santiago City, Isabela, with conduct unbecoming a judge, maltreatment and failure to pay his obligation.

Complainant, a businesswoman doing business under the name Standard Lumber and Hardware, alleged in her affidavit that on or about 13 November 1996, Nieves Santiago, Civil Cases Docket Clerk in the office of the respondent Judge, called her and told her that respondent would like to talk with her. Over the telephone respondent asked her to see him in his office. The next day, when she went to see respondent in his chambers, the latter told her that he needed about ₱30,000 for his business. He then gave her a receipt signed by him (Annex "A" of Affidavit) acknowledging receipt from her of a check in the amount ₱30,000. The following day Noel Tomas, Officer-in-Charge of the Office of the Clerk of Court, picked up from her office the amount of ₱30,000. On the third week of January 1997, the complainant called up respondent's office to remind him of his obligation to pay; however, she was informed by one of his staff members that respondent had left for the United

Supreme Court E-Library

States. Upon respondent's return from the United States, she kept on calling Tomas and Santiago at his office to remind them about the obligation of the Judge, but both informed her that the respondent told them "*ako ang bahala ron.*" When she personally went to see respondent at his office, he shouted very loudly at her in this wise: "*Ginugulo mo ang mga tauhan ko,*" "*namatayan lang kami at wala pa akong pera,*" and "*babayaran din kita huwag kang mag-alala.*" Despite repeated demands by her, respondent refused and failed to pay his obligation. She believed that because of her persistent attempts to collect from him, respondent Judge refused to inhibit himself from hearing Special Civil Action No. 35-0117 for injunction that Zenaida Agcaoili filed against her and Judge Maxwel Rosete and Ruben Plata.

In compliance with the 1st Indorsement dated 25 June 1999 of then Deputy Court Administrator Bernardo T. Ponferrada, respondent Judge submitted his comment dated 4 October 1999, to which he attached receipts issued by complainant's Standard Lumber and the affidavit of Noel Tomas, among other things. Respondent denied having instructed Nieves Santiago to call complainant by phone and having seen complainant in his office. It was he who went to complainant's business establishment in Santiago City to order hardware materials worth ₱30,000 for the repair of his old house, for which he executed a promissory note for the payment of the materials on 15 January 1997. Although he was still in the United States on 16 December 1996 he managed to make a partial payment of ₱6,000 to complainant. On 26 February 1997, when complainant came to his office, he made a partial payment to her in the amount of ₱6,028.72, thereby leaving an unpaid balance in the amount of ₱19,768.28. He was willing to pay such "little amount." However, in December 1997, complainant's employee accidentally bumped the rear portion of his "Isuzu" pick-up vehicle. He spent ₱20,000, more or less, for the repair of his vehicle. Complainant assured him that she would shoulder the expenses for the repair of his vehicle upon submission of the documents required by the insurer. Upon his instruction, Noel Tomas submitted the required documents to complainant. Since then complainant never made any personal demand for the payment of the unpaid portion of

Supreme Court E-Library

his obligation to her. Nonetheless, he would have paid his obligation to her had she been true to her promise to shoulder the expenses for the repair of his vehicle. Hence, he presumed the offsetting of their mutual obligations.

As to Special Civil Action No. 0117, respondent alleged that the same was filed on 15 October 1997 and raffled to his branch on 16 October 1997, or a year after he contracted the loan for hardware materials. His refusal to inhibit himself was based on paragraph 2, Section 1, Rule 137 of the Revised Rules of Court, which provides that "a Judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above." Complainant never attended the hearing of said case and filed the petition for inhibition only after he had decided the case.

Finally, respondent asserted that the administrative case is baseless in fact and in law. It was filed by a disgruntled litigant whose ill-motive is to harass and intimidate him.

This Court, in its resolution of 15 December 1999, ordered the docketing of the case as a regular administrative matter and referred the case to retired Justice Pedro Ramirez, a consultant of the Office of the Court Administrator, for investigation report and recommendation.

After weighing the evidence adduced by the parties, Justice Ramirez found that respondent Judge indeed owed complainant two different amounts in November 1996: one was for the construction materials he bought from her hardware store on credit; and the other, which was covered by the acknowledgement receipt dated 14 November 1996, was a cash loan in the amount of ₱30,000. The first has almost been paid already, but the second has not yet been paid at all. He considered respondent Judge's excuse, "*Namatayan daw sila*; "*kagagaling ko lang sa States, wala akong pambayad*"; *kaya ako nakikiusap sa iyo namatayan kami, wala pa akong pambayad*," as indicative of his lack of intention to pay his just and valid obligation. He also held that respondent Judge's claim of compensation for his damaged vehicle is unavailing; the amount he owed from complainant was due on 15 January 1997 and he must

Supreme Court E-Library

not have waited for the alleged vehicular accident in December 1997 to offset his obligation to complainant.

Anent respondent Judge's failure to inhibit himself from Special Civil Action No. 35-0117, which had been elevated to the Court of Appeals where it is still pending, Justice Ramirez deemed it best to leave the matter to said court for its determination.

Justice Ramirez took into account respondent Judge's past misconduct in office, to wit:

> In A.M. No. RTJ-99-1441, *Romulo F. Manuel, by Horacio M. Pascual, complainant -versus- Judge Demetrio D. Calimag*, respondent, May 28, 1999, the Second Division of this Honorable Court admonished herein respondent Judge "to conduct himself accordingly in all his activities at all times as to avoid any impropriety or even the appearance of impropriety."
>
> In A.M. No. RTJ-99-1493, *Jaime L. Co, petitioner, vs. Judge Demetrio D. Calimag, Jr., respondent*, June 20, 2000, the Third Division of this Honorable Court imposed upon respondent Judge a fine of ₱1,000 "for inefficiency in office, with the warning that a repetition of the same or similar acts in the future will be dealt with more severely."
>
> In A.M. No. RTJ-00-1537, *Evelyn Tranquilino, complainant, vs. Judge Demetrio D. Calimag, Jr., respondent*, March 26, 2001, the Second Division of this Honorable Court, "for Disgraceful and Immoral Conduct and Conduct Unbecoming... a Judge," suspended respondent Judge "for six (6) months without pay to commence immediately upon service to him of this Resolution plus a fine of ₱20,000.00 which he is required to pay within thirty (30) days from service hereof," with warning "that a repetition of the same or similar misconduct will be dealt with more severely."

In view of his findings and conclusion, Justice Ramirez recommends that respondent Judge be held guilty of willful failure to pay his just debt to complainant Purita T. Lim; and that, considering his past misconduct in office he be dismissed from the service, with forfeiture of benefits (except accrued leaves) and disqualification from reinstatement or appointment to any public office including government-owned or -controlled corporations.

Supreme Court E-Library

We agree on the finding of facts and conclusions of Mr. Justice Pedro Ramirez. Indeed, complainant's version is more credible and convincing. Respondent's contrariant account is not only flimsy but also incredulous. Undoubtedly, he took advantage of his position to extract a loan from the complainant by requiring her to come to his office and making it difficult for the latter to refuse. That he had no intention at all to pay the obligation became all the more evident when he tried to justify it by an unfounded claim of compensation arising out of the cost of repair for the damage to his vehicle caused by complainant's employee. He unilaterally adjudged that complainant was civilly liable for either the civil aspect of a criminal case or for a *quasi-delict.*

Needless to state, if the damage to respondent's vehicle constituted a violation of the Revised Penal Code, complainant's civil liability would only be subsidiary pursuant to Article 103 of the Revised Penal Code. If the act amounted to a *quasi-delict* (Article 2176 of the Civil Code), complainant would be liable for the damage caused only upon proof that the employee acted within the scope of his assigned task; besides, complainant may not be liable at all upon proof that she observed all the diligence of a good father of a family to prevent damage (Article 2184, in relation to Article 2180, Civil Code). Significantly, there is no evidence at all that respondent initiated a complaint against complainant and her employee or either of them to enforce his claim for the damages caused to his vehicle.

We do not, therefore, hesitate to rule that respondent deliberately and willfully failed to pay a just and lawful debt in favor of complainant. In so doing, he diminished the honor and integrity of his office and stained the image of the Judiciary. He thus violated (1) Canon 3 of the Canons of Judicial Ethics, which mandates that "[a] judge's official conduct should be free from the appearance of impropriety, and his personal behavior, not only upon the bench and in the performance of official duties, but also in his everyday life, should be beyond reproach"; and (2) Canon 2 of the Code of Judicial Conduct, which provides that "[a] judge should avoid impropriety and the appearance of impropriety in all activities." Indeed, it has been said that a

Supreme Court E-Library

magistrate of the law must comport himself at all times in such a manner that his conduct, official or otherwise, can bear the most searching scrutiny of the public that looks up to him as an epitome of integrity and justice. The ethical principles and sense of propriety of a judge are essential to the preservation of the faith of the people in the Judiciary. (*Alfonso vs. Juanson, 228 SCRA 239, 254-255 [1993], citing Dia-Añonuevo vs. Bercacio, 68 SCRA 81 [1975]*). Public confidence in the Judiciary is eroded by irresponsible or improper conduct of judges (*In re: Judge Benjamin H. Viray, 202 SCRA 628, 634 [1991]*).

Respondent's conduct eloquently manifests that he is beyond transformation despite the disciplinary sanctions previously taken against him in the cases mentioned in the report of Justice Pedro Ramirez. The totality of his attitude, conduct and sense of values renders him unfit to stay a minute longer in the Judiciary.

And now on the penalty to be imposed on respondent in this case. Under Section 8, paragraph 6 of Rule 140 of the Rules of Court, "[w]illful failure to pay a just debt" is classified as a serious charge. Section 11 thereof authorizes the imposition of the penalty of dismissal from the service with forfeiture of all or part of the benefits as this Court may determine except accrued leave credits, as well as disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations. Dismissal of respondent from the service is therefore in order. He should likewise be ordered to pay his indebtedness to the complainant. (*Garciano vs. Oyao, 102 SCRA 195 [1981]; Manalo Demaala, 104 SCRA 330 [1981]; Fabrigas vs. Nemeno, 146 SCRA 61 [1986]*).*

WHEREFORE, for willful failure to pay a just and lawful debt, gross misconduct and violation of Canon 3 of the Canons of Judicial Ethics and Canon 2 of the Code of Judicial Conduct, respondent Judge Demetrio D. Calimag, Jr., Presiding Judge

*Four Members of this Court maintain that this remedy is not available in this case because the penalty of dismissal would bring him beyond the jurisdiction of the Court.

Supreme Court E-Library

of Branch 35, Regional Trial Court, Santiago City, is hereby ordered *DISMISSED* from the service with forfeiture of all his benefits, except accrued leave credits, as well as disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations.

Respondent is further ordered to pay complainant the sum of ₱30,000, representing his indebtedness, with interest at 6% per annum from the filing of the complaint in this case and until the promulgation of this Resolution, and 12% per annum from the date of such promulgation until the indebtedness is fully paid.This Resolution is immediately executory. The Court Administrator and the Clerk of Court shall see to it that service of a copy thereof be immediately served on respondent.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Buena, Ynares-Santiago, De Leon, Jr., Sandoval-Gutierrez, and *Carpio, JJ.,* concur.

EN BANC

[G.R. No. 148965. February 26, 2002]

JOSE "JINGGOY" E. ESTRADA, *petitioner, vs.* **SANDIGANBAYAN (THIRD DIVISION), PEOPLE OF THE PHILIPPINES and OFFICE OF THE OMBUDSMAN,** *respondents.*

SYNOPSIS

As an offshoot of the impeachment proceedings against former President Estrada, five criminal complaints against him and members of his family, his associates, friends and