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[A.M. No. MTJ-98-1164. February 4, 2000]

VICTORIA R. NABHAN, *complainant, vs.* **JUDGE ERIC CALDERON, MUNICIPAL TRIAL COURT, CALUMPIT, BULACAN,** *respondent.*

SYNOPSIS

A complaint for acts of lasciviousness was filed by complainant against respondent, presiding judge of the Municipal Trial Court of Angat, Bulacan wherein a criminal case for violation of Batas Pambansa Blg. 22 in the amount of ₱175,750.00, before respondent, was pending. Complainant alleged that respondent asked her to buy him and one Ernie Calderon some drinks. Subsequently, her brother-in-law drove them to a bar where they partook of some food and drinks. Respondent continuously touched complainant's private parts from the time they were on their way to the bar, while inside the bar and while they brought respondent to Pulilan. Complainant, pressured by desire to have the case decided in her favor, failed to offer any resistance. Respondent, for his defense, admitted having gone with complainant to a restaurant, not a bar, but denied having touched her private parts. The Office of the Court Administrator found complainant's version more credible than that of respondent who was recommended to be dismissed from the service with forfeiture of benefits and prejudice to reemployment in the government service. Earlier, however, respondent was dismissed from the service with forfeiture of all benefits with prejudice to reemployment in the government service for gross misconduct and abandonment of office.

The dismissal of respondent judge only strengthens the Court's determination that respondent is unfit for judicial office.

Judges are admonished to conduct themselves in a manner that is free even from the appearance of impropriety. This is especially true in the case of judges who, on a daily basis, interact with the public. Their official conduct, as well as personal behavior, should always be beyond reproach.

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SYLLABUS

1. **JUDICIAL ETHICS; JUDGES; SHOULD LIVE UP TO THE EXACTING STANDARDS OF CONDUCT DEMANDED BY THE PROFESSION AND THE CODE OF JUDICIAL CONDUCT.**— Time and again we have admonished judges to conduct themselves in a manner that is free even from the appearance of impropriety. For judicial officers to enjoy the trust and respect of the people, it is necessary that they live up to the exacting standards of conduct demanded by the profession and by the Code of Judicial Conduct. This is especially true in the case of judges who, on a daily basis, interact with the public. Their official conduct, as well as personal behavior, should always be beyond reproach.

2. **ID.; ID.; ADMINISTRATIVE COMPLAINT RENDERED MOOT WHERE RESPONDENT WAS ALREADY DISMISSED FROM OFFICE.**— On January 26, 1999, before the OCA's report and recommendation in this case was finalized, the Court promulgated its Resolution in A.M. No. 98-8-105-MTC, *Re: Leaves of Absence Without Approval of Judge Eric T. Calderon, Municipal Trial Court of Calumpit, Bulacan*. In that case, respondent was found guilty of gross misconduct and abandonment of office. He was, accordingly, dismissed from the service with forfeiture of all benefits and with prejudice to reemployment in any branch, instrumentality or agency of the government, including government-owned and controlled corporations. With the promulgation of the resolution in the aforecited case, the recommendation of the OCA in the present case only strengthens the Court's determination that respondent is unfit for judicial office. For obvious reasons, however, we cannot remove again a dismissed officer. We are, thus, constrained to accept the OCA's recommendations for his dismissal but deem it now superfluous. This pronouncement, however, is without prejudice to the filing of other appropriate charges against respondent as, in fact, complainant has already filed a criminal complaint against respondent for acts of lasciviousness before the Municipal Trial Court of Baliuag, Bulacan. Respondent Judge Eric T. Calderon is found guilty of the administrative charge against him for which he should suffer the penalty of dismissal from the service with forfeiture of all benefits and with prejudice to reemployment in any branch, instrumentality or agency of the government, including government-owned and controlled corporations. But since he was

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already dismissed from office, the recommended penalty in this case need no longer be imposed and implemented for being moot.

APPEARANCES OF COUNSEL

Jesus Ricardo C. Degala III for respondent.

RESOLUTION

PER CURIAM:

For resolution is the administrative complaint filed by Victoria R. Nabhan against respondent Judge Eric T. Calderon of the Municipal Trial Court of Calumpit, Bulacan, for acts of lasciviousness committed against her.[1]

The facts in this case, as found by the Office of the Court Administrator, are simple.

Nabhan was private complainant in a case pending before respondent judge, involving a violation of the Bouncing Checks Law (B.P. 22) in the amount of ₱175,750.00. According to complainant, respondent asked her to go to his office on March 30, 1998 at 5:00 in the afternoon to discuss her case. While in his office, respondent allegedly told complainant bluntly to buy him and a certain Ernie Calderon some drinks if she wanted her case to prosper. Complainant reluctantly agreed.

Complainant left respondent's office to tell her siblings she would be coming home late. She then hired a jeepney to take her, respondent, and Ernie Calderon to Baliuag, Bulacan. The driver of the jeepney was her brother-in-law, Bernardino V. Pagaragan. On the way to Baliuag, respondent asked complainant to sit beside him at the back of the jeepney to tell him more about her case. Ernie Calderon sat beside the driver in front. Complainant obliged. However, respondent put his arms around her waist and asked personal questions. Respondent then touched complainant's breasts

[1] Complainant also sent a copy of her affidavit-complaint to the Bulacan chapter of the Integrated Bar of the Philippines.

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and told her not to resist or else nothing would come out of her case. Complainant could only shield her breasts with her bag as she was afraid that respondent would make good his threat.

In Baliuag, the group went inside a bar. Respondent ordered four bottles of beer for the group. He continued touching complainant's private parts while inside the bar. Complainant tried to leave but respondent would not let her, again threatening her that nothing would happen with her case. Respondent and Ernie Calderon continued drinking until, finally, complainant told them she had only ₱1,500.00 with her. Respondent got the money from complainant and paid the bill.

Respondent asked to be brought to Pulilan, Bulacan. Along the way, he continued to touch and threaten complainant. Complainant refrained from making an outcry, afraid to lose her case. She was a single parent and she needed the money for her child's needs.

We referred to the Office of the Court Administrator the administrative complaint for its evaluation, report, and recommendation. In the meantime, respondent was placed under preventive suspension.

In his counter-affidavit, respondent vehemently denied complainant's accusations. He admitted that, indeed, complainant filed a criminal complaint for violation of B.P. 22 before the Municipal Trial Court of Angat, Bulacan, where he was temporarily assigned at the time of the alleged incident.

According to respondent, it was complainant who invited him and Ernie Calderon out for some drinks. He at first refused since he had to attend mass as it was the death anniversary of his father. While respondent was waiting for a ride to Pulilan, complainant arrived on board a jeepney with two male companions (including the driver). Respondent agreed to ride with them, as complainant was very persistent that he did. As complainant started talking about her case, respondent told her it was unethical for him to discuss with a litigant a case pending in his sala.

Respondent denied having asked complainant personal questions and having touched her. He said both of his hands were all the while clutching at the handle bars at the jeepney's entrance

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because the driver was driving very fast. Moreover, he could not have done the acts being imputed against him since complainant had another male companion beside her who kept glancing around. Besides, it was daytime and there were many houses on both sides of the road as well as vehicles travelling on the road.

Respondent admitted having gone to a restaurant, not a bar, that day upon the invitation of complainant, but denied having touched complainant in a lascivious manner once they were inside. It was complainant who ordered food and drinks and paid the bill, and rightly so since she was the one who invited the group, according to respondent. In his testimony before the OCA hearing officer, respondent stated that he stayed in that restaurant with complainant and the others for around two hours.

It was also complainant, according to respondent, who insisted on giving him a ride home to Pulilan. Respondent sat in front to give the driver directions.

After evaluating the pleadings filed and the testimonies of witnesses, the Office of the Court Administrator found complainant's version of the incident truthful. It disbelieved respondent's self-serving denials. Respondent admitted having gone to a restaurant with complainant, although he denied he did anything malicious to complainant. If it were true, however, that respondent was eager to go to Pulilan to attend the memorial mass for his father, he would not have stayed with complainant for two hours just eating and drinking. He could have, after a short while, asked to be brought to Pulilan in time for the mass. Apparently, respondent was more inclined to be with complainant than to attend the mass for his father.

The OCA further observed that complainant might have been compelled to tolerate respondent's sexual advances due to her desire to have the case she filed decided in her favor. It also noted that respondent had some degree of coercive power over complainant, who was party to a case he was supposed to decide.

The OCA concluded that, for his misconduct, respondent did not deserve to remain in the judiciary. It recommended that he be dismissed from the service with forfeiture of benefits and prejudice to reemployment in government service.

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On January 26, 1999, before the OCA's report and recommendation in this case was finalized,[2] the Court promulgated its Resolution in A.M. No. 98-8-105-MTC, *Re: Leaves of Absence Without Approval of Judge Eric T. Calderon, Municipal Trial Court of Calumpit, Bulacan.* In that case, respondent was found guilty of gross misconduct and abandonment of office. He was, accordingly, dismissed from the service with forfeiture of all benefits and with prejudice to reemployment in any branch, instrumentality or agency of the government, including government-owned and -controlled corporations.

With the promulgation of the resolution in the aforecited case, the recommendation of the OCA in the present case only strengthens the Court's determination that respondent is unfit for judicial office. For obvious reasons, however, we cannot remove again a dismissed officer. We are, thus, constrained to accept the OCA's recommendations for his dismissal but deem it now superfluous. This pronouncement, however, is without prejudice to the filing of other appropriate charges against respondent as, in fact, complainant has already filed a criminal complaint against respondent for acts of lasciviousness before the Municipal Trial Court of Baliuag, Bulacan.

Time and again we have admonished judges to conduct themselves in a manner that is free even from the appearance of impropriety.[3] For judicial officers to enjoy the trust and respect of the people, it is necessary that they live up to the exacting standards of conduct demanded by the profession and by the Code of Judicial Conduct. This is especially true in the case of judges who, on a daily basis, interact with the public. Their official conduct, as well as personal behavior, should always be beyond reproach.[4]

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[2] The report for this case was dated March 1, 1999.

[3] Code of Judicial Conduct, Canon 2.

[4] *Spouses Gregorio Lorena and Teresita Lorena v. Judge Adolfo F. Encomienda, MTC, Pagbilao, Quezon*, A.M. No. MTJ-99-1177, February 8, 1999, p. 12.

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WHEREFORE, as recommended, respondent Judge Eric T. Calderon, is found guilty of the administrative charge against him for which he should suffer the penalty of dismissal from the service with forfeiture of all benefits and with prejudice to reemployment in any branch, instrumentality or agency of the government, including government-owned and-controlled corporations. But since he was already dismissed from office, the recommended penalty in this case need no longer be imposed and implemented for being moot.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and *De Leon, Jr., JJ.*, concur.

FIRST DIVISION

[G.R. No. 81524. February 4, 2000]

PHILIPPINE NATIONAL BANK, *petitioner, vs.* **COURT OF APPEALS and CONSUELO YU,** *respondents.*

SYNOPSIS

Manuel de los Santos mortgaged an unregistered parcel of land with petitioner bank on February 20, 1974. He submitted to the bank the following supporting documents, "Affidavit of Principal Borrower/Co-maker" wherein he declared that the land, owned by his deceased father, Gregorio Chua, was declared in the name of his aunt, herein private respondent Consuelo Yu, 1974 tax receipt and 1974 tax declaration No. 400551-a which cancelled tax declaration 7591 in the name of Consuelo Yu and a deed of confirmation of ownership executed by Manuel's brothers stating that the subject property is Manuel's share in the hereditary estate of Consuelo Yu, their mother. On July 17, 1982, Consuelo Yu