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THIRD DIVISION

[A.M. No. MTJ-00-1298. August 3, 2000]
(Formerly A.M. OCA IPI No. 97-418-MTJ)

WILLIAM R. ADAN, *complainant, vs.* **JUDGE ANITA ABUCEJO-LUZANO, Municipal Circuit Trial Court, Initao-Libertad, Misamis Oriental,** *respondent.*

SYNOPSIS

In an administrative complaint filed by William R. Adan, respondent Judge Anita Abucejo-Luzano was charged with abuse of authority, partiality and rendering an unjust judgment. As culled from the records, William R. Adan is the private complainant in two criminal cases filed with the respondent judge. The latter found the accused guilty. However, on Motion for Reconsideration, respondent Judge reversed her decision and rendered a judgment of acquittal. Adan alleged that respondent Judge modified the judgment not on the basis of what was already on the record but on the basis of "New Information" supplied to her by the accused.

A careful reading of the order acquitting the accused clearly showed that indeed respondent Judge conducted an ocular inspection of the place of the incident "on her way home" at which the accused were present. It is not disputed that complainant or his counsel was not informed of such ocular inspection. Respondent Judge should have known that an *ex-parte* ocular inspection without notice to nor presence of the parties and after the case had already been decided was highly improper. Respondent Judge has not only shown gross ignorance of the law and procedure but failed to live up to the norm that "judges should not only be impartial but should also appear impartial," and that a Judge should avoid impropriety and the appearance of impropriety in all activities. For gross ignorance of judicial procedures, respondent Judge was fined in the amount of ₱10,000.00.

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SYLLABUS

1. **JUDICIAL ETHICS; JUDGES; DUTIES; A JUDGE SHOULD NOT ONLY BE IMPARTIAL BUT SHOULD ALSO APPEAR TO BE IMPARTIAL; CASE AT BAR.**— It is error for the judge to go alone to the place where the crime was committed and make an inspection without previous knowledge or consent of the parties. The conduct of the *ex-parte* inspection, the result of which apparently influenced her to reconsider her earlier decision, was highly improper as she, in effect, admitted additional evidence without giving the prosecution a chance to object to its introduction or to controvert the same. Respondent Judge has opened herself to charges of partiality and bias by meeting with the accused privately. No matter how noble her intentions may have been, it was improper for respondent Judge to meet the accused without the presence of complainant. Respondent Judge has not only shown gross ignorance of the law and procedure but failed to live up to the norm that "judges should not only be impartial but should also appear impartial." She thus violated Canon 2 of the Code of Judicial Conduct which provides that "a judge should avoid impropriety and the appearance of impropriety in all activities."

2. **ID.; ID.; UNJUST JUDGMENT; IN THE ABSENCE OF ANY EVIL MOTIVE TO CAUSE INJURY TO COMPLAINANT, RESPONDENT JUDGE MAY NOT BE HELD LIABLE FOR AN UNJUST JUDGMENT.** — The charge of knowingly rendering an unjust judgment must likewise fail. As aptly pointed out by the Court Administrator, the respondent's decision was actuated more by her misguided sense of justice rather than any evil motive to cause an injury to complainant.

DECISION

GONZAGA-REYES, *J.*:

William R. Adan is the private complainant in two (2) criminal cases (Nos. 2255 and 2256) both for Grave Oral Defamation filed with respondent Judge Anita Abucejo-Luzano of the Municipal Trial Court of Lopez-Jaena, Misamis Occidental wherein the latter found accused Remedios and Belinda Saarenas guilty of the said crime

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and were sentenced accordingly. However, on Motion for Reconsideration, respondent judge reversed her decision and rendered a judgment of acquittal.

In the present case, herein complainant Adan alleges that respondent Judge modified the judgment not on the basis of what was already on the record but on the basis of "new" information supplied to her by the accused; that respondent Judge conducted an ocular inspection of the place of the crime without inviting or even informing the parties thereof despite the fact that such ocular inspection is part of the public trial where both the prosecution and the defense are present or represented; that respondent Judge even interviewed the accused thus receiving biased information; and that respondent Judge failed to furnish him a copy of the Order of acquittal dated December 9, 1996 and that he came to know of the existence of the said order when he accidentally met the public prosecutor on May 14, 1997 or six (6) months after the promulgation of the judgment. Complainant charged respondent Judge with abuse of authority, partiality and rendering an unjust judgment relative to the aforesaid criminal cases.

Respondent Judge denied the allegations in the complaint and claimed that neither of the accused are personally known to her; that she modified the judgment upon finding that she committed injustice to the accused who are poor and have less in life and in education unlike the complainant who is the Chancellor of the Mindanao State University (MSU) and the head of MSU's Institute of Fisheries and Research Development. She further alleged that she is "one if not the only one among the judges of the first level courts to have the least number of pending criminal and civil cases filed as she does not wait for anybody to come and seek her aid in the disposal of cases."

The case was referred to the Court Administrator for investigation, report and recommendation. The Court Administrator recommended that respondent Judge be fined in the amount of Twenty Thousand Pesos (₱20,000.00) with a warning that the commission of the same or similar offense in the future shall be dealt with more severely.

In the Resolution dated January 31, 2000, this Court required the parties to manifest whether they are willing to submit the case

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for resolution on the basis of the pleadings/records already filed and submitted.

Complainant and respondent filed separate Manifestations stating that they are submitting the case on the basis of the pleadings and/or records already filed.

A careful reading of the Order dated December 9, 1996 acquitting the accused clearly shows that indeed respondent Judge conducted an ocular inspection of the place of the incident "on her way home" at which the accused were present and wherein respondent Judge was informed by the accused that "the area was fenced by the MSU."[1] It is not disputed that complainant or his counsel was not informed of such ocular inspection. Respondent Judge should have known that an *ex-parte* ocular inspection without notice to nor presence of the parties and after the case had already been decided was highly improper. If respondent Judge had entertained doubts that she wished to clarify after the trial had already terminated, she should have ordered *motu proprio* the reopening of the trial for the purpose, with due notice to the parties, whose participation therein is essential to due process. Thus, it is error for the judge to go alone to the place where the crime was committed and make an inspection without previous knowledge or consent of the parties.[2] The conduct of the *ex-parte* inspection, the result of which apparently influenced her to reconsider her earlier decision, was highly improper as she, in effect, admitted additional evidence without giving the prosecution a chance to object to its introduction or to controvert the same. Respondent Judge has opened herself to charges of partiality and bias by meeting with the accused privately. No matter how noble her intentions may have been, it was improper for respondent Judge to meet the accused without the presence of complainant. Respondent Judge has not only shown gross ignorance of the law and procedure but failed to live up to the norm that "judges should not only be impartial but should also appear impartial." She thus violated Canon 2 of the Code of Judicial Conduct which provides that "a judge should avoid impropriety and the appearance of impropriety in all activities."

[1] 2nd par., pp. 1-2, thereof, Annex "B".

[2] Separate Opinion of *J.* Teehankee in *In re: Rafael C. Climaco*, 55 SCRA 107, 124.

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Anent respondent Judge's alleged failure to furnish complainant with a copy of the order of acquittal, the same is untenable. It is not the judge's duty to do this. Complainant should have coordinated with the public or private prosecutor in charge of the cases to update himself of the status of the case.

The charge of knowingly rendering an unjust judgment must likewise fail. As aptly pointed out by the Court Administrator, the respondent's decision was actuated more by her misguided sense of justice rather than any evil motive to cause an injury to complainant.

However, we believe that the fine in the amount of Twenty Thousand Pesos (₱20,000.00) recommended by the Court Administrator is too harsh and the same is reduced to Ten Thousand Pesos (₱10,000.00) as it was not shown that there was malice or evil intent in respondent Judge's actuation.

WHEREFORE, for gross ignorance of judicial procedures, respondent Judge Anita Abucejo-Luzano is hereby *FINED* in the amount of Ten Thousand Pesos (₱10,000.00) with a *STERN WARNING* that a repetition of the same or similar act shall be dealt with more severely by this Court.

SO ORDERED.

Melo (Chairman), Vitug, Panganiban, and *Purisima, JJ.*, concur.