

EN BANC

[A.M. No. RTJ-13-2361 [Formerly OCA IPI No. 13-4144-RTJ], February 02, 2016]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
PRESIDING JUDGE JOSEPH CEDRICK O. RUIZ, REGIONAL TRIAL
COURT, BRANCH 61, MAKATI CITY, RESPONDENT.**

DECISION

PER CURIAM:

Before us is the administrative complaint filed by the Office of the Court Administrator (*OCA*) against respondent Judge Joseph Cedrick O. Ruiz, Presiding Judge of the Regional Trial Court (*RTC*), Branch 61, Makati City.

This administrative case traces its roots to the Informations for violation of Section 3(e)^[1] of Republic Act (*R.A.*) No. 3019 and malversation of public funds^[2] filed by the People of the Philippines against the respondent judge before the Sandiganbayan. The case was docketed as Criminal Case Nos. 27467-68.

The Informations essentially alleged that the respondent, then the City Mayor of Dapitan City, had conspired with Police Inspector (*P/Insp.*) Pepe Nortal to facilitate the latter's withdrawal of P1 million from the Confidential and Intelligence Fund (*CIF*) and, thereafter, used this amount for his (the respondent's) personal benefit.

In its decision^[3] dated April 29, 2013, the Sandiganbayan's First Division found the respondent guilty beyond reasonable doubt of the crimes charged.

The Sandiganbayan held that the prosecution successfully proved that the respondent "instigated" Nortal's withdrawal of a P1 million cash advance from the CIF allotted for the Mayor's Office, and that he (the respondent) received and used this amount for his personal benefit. The court found that the respondent directed Nortal's request for the cash advance because he (the respondent) already had four (4) unliquidated cash advances as of December 31, 2006, and that three of these cash advances (with a total of P1,384,280.00) already came from the CIF. The testimonies of the city treasurer, the city accountant, and the city budget officer supported the conclusion that the respondent actively worked for the approval of the P1 million cash advance.

The Sandiganbayan also found that the respondent acted in bad faith since the cash advance was made five (5) days after he had lost his bid for re-election, and that the proposed withdrawal covered the CIF appropriations for the entire year. The court likewise found no merit in the respondent's defense of denial.

The Sandiganbayan accordingly imposed the following penalties on the respondent: (a) the indeterminate penalty of six (6) years and one (1) month, as minimum, to

eight (8) years, as maximum, in Criminal Case No. 27467 for violation of Section 3(e) of R.A. No. 3019; (b) the indeterminate penalty of twelve (12) years and one (1) day of *reclusion temporal* minimum, as minimum, to eighteen (18) years and one (1) day of *reclusion temporal* maximum, as maximum, in Criminal Case No. 27468 for malversation; and (c) perpetual special disqualification. The court also ordered him to pay a P950,000.00 fine; and P950,000.00 as indemnity to the City of Dapitan.

The respondent moved for the reconsideration of the judgment of conviction and likewise moved for a new trial, but the Sandiganbayan denied these motions in its resolution^[4] of August 28, 2013.

The OCA received a copy of the Sandiganbayan's April 29, 2013 decision in Criminal Case Nos. 27467 and 27468, and in its Report^[5] of October 4, 2013, made the following recommendations:

x x x Respectfully submitted for the consideration of this Honorable Court are the following recommendations:

1. that the instant report be considered a formal complaint against Joseph Cedrick O. Ruiz, Presiding Judge, Branch 61, Regional Trial Court, Makati City, for conviction of a crime involving moral turpitude and that the same be **RE-DOCKETED** as a regular administrative matter;
2. that Judge Joseph Cedrick O. Ruiz be **FURNISHED** a copy of this report and that he be required to comment thereon within ten (10) days from notice; and
3. that Judge Joseph Cedrick O. Ruiz be **SUSPENDED** without pay and other monetary benefits effective immediately from his receipt of this Court's resolution, pending resolution of the instant administrative matter, or until lifted by this Honorable Court.^[6]

x x x x (emphasis in the original)

The OCA reasoned out that conviction of a crime involving moral turpitude is classified as a serious charge under Section 8(b) of Rule 140 of the Rules of Court. It likewise explained that the Court's power to preventively suspend judges, although not clearly -delineated under Rule 140 of the Rules of Court, is inherent in its power of administrative supervision over all courts and their personnel, and that a judge can be preventively suspended until a final decision is reached in an administrative case against him.

The records also showed that on October 18, 2013, the respondent filed with this Court a petition for review on *certiorari* assailing his convictions by the Sandiganbayan in Criminal Case Nos. 27467 and 27468. This case was docketed as **G.R. Nos. 209073-74.**^[7]

In its November 20, 2013 minute resolution,^[8] the Court's Third Division resolved: (1) to re-docket the OCA report dated October 4, 2013, as a regular administrative matter, and to consider it as a formal complaint against the respondent for having

been convicted of a crime involving moral turpitude; (2) to furnish the respondent a copy of the OCA's Report, and to require him to file a comment; and (3) to suspend the respondent from office without pay and other monetary benefits, effective immediately from his receipt of "this Court's Resolution, pending resolution of the instant administrative matter, or until lifted by this Court."

In his comment dated January 24, 2014, the respondent posited that the administrative complaint against him is premature because his Sandiganbayan convictions in Criminal Case Nos. 27467 and 27468 are not yet final. The respondent also stated that he went on leave of absence after his Sandiganbayan conviction, and had submitted his application for optional retirement on May 27, 2013 (to take effect on December 31, 2013). The respondent thus argued that there was no more need to suspend him from office because he should be considered already retired from government service when he received on January 9, 2014, a copy of the Court's November 20, 2013 Resolution.

THE COURT'S RULING

We resolve to **dismiss** the respondent from the service he has dishonored and to bar him from the ranks of legal professionals whose standards he has likewise transgressed.

I. The Court's disciplinary powers over justices and judges

We find no merit in the respondent's claim that the present administrative case against him is premature because his criminal convictions by the Sandiganbayan are not yet final.

Section 6, Article VIII of the 1987 Constitution grants the Supreme Court administrative supervision over all courts and their personnel. This grant empowers the Supreme Court to oversee the judges' and court personnel's administrative compliance with all laws, rules, and regulations,^[9] and to take administrative actions against them if they violate these legal norms.^[10]

In the exercise of this power, the Court has promulgated rules of procedure in the discipline of judges. Section 1, Rule 140 of the Rules of Court, as amended by A.M. No. 01-8-10-SC, provides:

SECTION 1. *How instituted.* Proceedings for the discipline of Judges of regular and special courts and Justices of the Court of Appeals and the Sandiganbayan may be instituted *motu proprio* by the Supreme Court or upon a verified complaint, supported by affidavits of persons who have personal knowledge of the facts alleged therein or by documents which may substantiate said allegations, or upon an anonymous complaint, supported by public records of indubitable integrity. The complaint shall be in writing and shall state clearly and concisely the acts and omissions constituting violations of standards of conduct prescribed for Judges by law, the Rules of Court, or the Code of Judicial Conduct.

Based on this rule, disciplinary proceedings against sitting judges and justices may be instituted: (a) **motu proprio, by the Court itself**; (b) upon verified complaint, supported by the affidavits of persons with personal knowledge of the facts alleged,

or by documents substantiating the allegations; or (c) upon anonymous complaint supported by public records of indubitable integrity.^[11]

It was pursuant to this power that the Court - on its own initiative -ordered the re-docketing of the OCA's report as a formal complaint against the respondent and as a regular administrative matter for the Court's consideration.

The Court likewise possesses the power to preventively suspend an administratively charged judge until a final decision is reached, particularly when a serious charge is involved and a strong likelihood of guilt exists. This power is inherent in the Court's power of administrative supervision over all courts and their personnel as a measure to allow unhampered formal investigation. It is likewise a preventive measure to shield the public from any further damage that the continued exercise by the judge of the functions of his office may cause.

In the present case, we placed the respondent under preventive suspension because he is alleged to have committed transgressions that are classified as serious under Section 8, Rule 140 of the Rules of Court, which provides:

SEC. 8. *Serious charges.* - Serious charges include:

1. Bribery, direct or indirect;
2. Dishonesty and **violations of the Anti-Graft and Corrupt Practices Law (R.A. No. 3019)**;
3. Gross misconduct constituting violations of the Code of Judicial Conduct;
4. Knowingly rendering an unjust judgment or order as determined by a competent court in an appropriate proceeding;
5. **Conviction of a crime involving moral turpitude;**
6. Willful failure to pay a just debt;
7. Borrowing money or property from lawyers and litigants in a case pending before the court;
8. Immorality;
9. Gross ignorance of the law or procedure;
10. Partisan political activities; and
11. Alcoholism and/or vicious habits. (emphasis supplied)

The respondent's convictions by the Sandiganbayan for violation of Section 3(e) of R.A. No. 3019 and for malversation of public funds confirm that the administrative charges for which he may be found liable are serious charges under Section 8(2) of Rule 140 of the Rules of Court, as amended. Malversation is likewise considered as a serious charge since it is a crime involving moral turpitude.

While the term moral turpitude does not have one specific definition that lends itself to easy and ready application,^[12] it has been defined as an act of baseness, vileness, or the depravity in the performance of private and social duties that man owes to his fellow man or to society in general.^[13]

Notably, jurisprudence has categorized the following acts as crimes involving moral turpitude: abduction with consent, bigamy, concubinage, smuggling, rape, attempted bribery, profiteering, robbery, murder, estafa, theft, illicit sexual relations with a fellow worker, violation of Batas Pambansa Blg. 22, intriguing against honor, violation of the Anti-Fencing Law, violation of the Dangerous Drugs Act, perjury, forgery, direct bribery, frustrated homicide, adultery, arson, evasion of income tax, barratry, blackmail, bribery, duelling, embezzlement, extortion, forgery, libel, making fraudulent proof of loss on insurance contract, mutilation of public records, fabrication of evidence, offenses against pension laws, perjury, seduction under the promise of marriage, estafa, falsification of public document, and estafa thru falsification of public document.

To our mind, malversation - considering its nature - should not be categorized any differently from the above listed crimes. The act of embezzling public funds or property is immoral in itself; it is a conduct clearly contrary to the accepted standards of justice, honesty, and good morals.^[14]

The preventive suspension we impose pending investigation is not a penalty but serves only as a preventive measure as we explained above. Because it is not a penalty, its imposition does not violate the right of the accused to be presumed innocent. It also matters not that the offenses for which the respondent had been convicted were committed in 2001 when he was still the Mayor of Dapitan City.^[15] As explained below, it is likewise immaterial that his criminal convictions by the Sandiganbayan are still on appeal with this Court.

Optional early retirement

The records show that the respondent wrote the Court a letter on May 27, 2013 (or soon after his Sandiganbayan convictions), requesting that he "be allowed to optionally retire effective November 30, 2013."^[16] He later requested, in another letter,^[17] that the effectivity date of his optional retirement be changed from November 30, 2013 to December 31, 2013.

The Court has not acted on the respondent's request for optional early retirement in view of his standing criminal convictions; he stands to suffer accessory penalties affecting his qualification to retire from office should his convictions stand.^[18] The OCA records^[19] also show that he is currently on "on leave of absence" status. In any case, that a judge has retired or has otherwise been separated from the service does not necessarily divest the Court of its jurisdiction to rule on complaints filed while he was still in the service. As we held in *Gallos v. Cordero*:^[20]

The jurisdiction that was ours at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent had ceased in office during the pendency of his case. The