

## FIRST DIVISION

**[ A.M. No. RTJ-15-2405 [Formerly OCA I.P.I. No. 12-3919-RTJ], January 12, 2015 ]**

**ANTONIO S. ASCAÑO, JR., CONSOLACION D. DANTES, BASILISA A. OBALO, JULIETA D. TOLEDO, JOSEPH Z. MAAC, EMILIANO E. LUMBOY, TITA F. BERNARDO, IGMEDIO L. NOGUERA, FIDEL S. SARMIENTO, SR., DAN T. TAUNAN, AMALIA G. SANTOS, AVELINA M. COLONIA, ERIC S. PASTRANA, AND MARIVEL B. ISON  
COMPLAINANTS, VS. PRESIDING JUDGE JOSE S. JACINTO, JR.,  
BRANCH 45, REGIONAL TRIAL COURT, SAN JOSE OCCIDENTAL  
MINDORO, RESPONDENT.**

### R E S O L U T I O N

**SERENO, C.J.:**

This is an administrative Complaint<sup>[1]</sup> for gross and serious violations of the Canons of the Code of Judicial Conduct & Judicial Ethics and Section 3(e) of Republic Act No. (R.A.) 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, against Judge Jose S. Jacinto Jr. (respondent) of the Regional Trial Court (RTC), Branch 45, San Jose, Occidental Mindoro.

Complainants Antonio Ascaño, Jr., Consolacion D. Dantes, Basilisa A. Obalo, Julieta D. Toledo, Joseph Z. Maac, Fidel S. Sarmiento, Sr., Dan T. Taunan, Amalia G. Santos, Emiliano E. Lumboy, Tita F. Bernardo, Igmedio L. Noguera, Avelina Colonia, Eric S. Pastrana, and Marivel B. Ison (collectively, complainants) were allegedly section leaders of the lessees of market stalls in the public market of Occidental Mindoro. The Mayor of the Municipality of San Jose, Occidental Mindoro (the Municipality), Jose T. Villarosa (Mayor Villarosa or the Mayor) allegedly wanted to demolish the public market, so that the Municipality can use the space to erect the new "San Jose Commercial Complex."<sup>[2]</sup> Thus, on 26 June 2012, complainants filed a Petition for Prohibition With Urgent Application for the Issuance of Temporary Restraining Order (TRO) and Writ of Preliminary Injunction (WPI) against the Municipality and Mayor Villarosa. The case was docketed as Special Civil Action No. R-1731 and was raffled to respondent's sala.

Respondent issued a TRO, which had a 72-hour validity, on 27 June 2012. Hearings for the determination of the propriety of extending the TRO or issuing the WPI against the Municipality were scheduled on 2 and 3 July 2012. Mayor Villarosa waived his right to present his evidence and submitted the case for resolution.<sup>[3]</sup>

While the entire entourage of Mayor Villarosa, none of whom were parties to the case, were all allowed inside the courtroom during the 2 July 2012 hearing,<sup>[4]</sup> only 12 out of the more than 500 members accompanying complainants on that day were allowed to enter.<sup>[5]</sup> Worse, upon the motion of the Mayor, all the complainants

were escorted out of the courtroom except for Julieta D. Toledo, who was scheduled to give her testimony that day.<sup>[6]</sup>

Complainants claimed that the questions propounded by respondent to their witnesses “were all geared towards establishing” that they should have no right to oppose the Mayor’s plan, as “this will be good for all and the progress and development of the municipality.”<sup>[7]</sup>

After the hearing, respondent issued an open-court Order stating that “the Court is not inclined to extend for seventeen (17) days the said TRO.”<sup>[8]</sup>

At the next hearing held on 3 July 2012, Mayor Villarosa stepped out of the courtroom to take a call. He exited through the door used by the judge and the employees of the court.<sup>[9]</sup> According to complainants, the Mayor did not speak to anyone, not even his lawyer, before leaving the courtroom. Thus, it came as a surprise to everyone when respondent suddenly explained that the Mayor had to excuse himself for an important appointment.<sup>[10]</sup>

Respondent eventually issued an Order lifting the TRO.<sup>[11]</sup>

Petitioners claimed that during the hearings held on 2 and 3 July 2012, respondent “argued, berated, accused, scolded, confused and admonished petitioners without basis or justification.”<sup>[12]</sup> They further claimed that respondent judge asked complainants “confusing and misleading questions all geared and intended to elicit answers damaging to the cause of petitioners and favorable to the cause of their adversary.”<sup>[13]</sup>

Complainants alleged that it is common knowledge to the entire community of San Jose, Occidental Mindoro, that respondent is beholden to Mayor Villarosa and is identified with the causes, friends, and allies of the latter.<sup>[14]</sup> They also alleged that all cases in the RTC before respondent involving Mayor Villarosa or his relatives, political allies, supporters, and close friends were decided in favor of the Mayor or his relatives and supporters.<sup>[15]</sup> Thus, complainants filed the instant complaint charging respondent with serious violations of the canons of the Codes of Judicial Conduct and Judicial Ethics and for Violation of Section 3(e) of R.A. 3019.

Respondent denied the foregoing accusations and cited several cases in which he issued an order/ruling against Mayor Villarosa and the latter’s supposed supporters.<sup>[16]</sup>

In a Resolution<sup>[17]</sup> dated 25 November 2013, this Court referred the Complaint to the Presiding Justice of the Court of Appeals, Manila (CA) “for raffle among the Justices thereat, for investigation, report and recommendation.” The case was raffled to CA Justice Pedro B. Corales on 24 February 2014. This Court received his Report and Recommendation (Report)<sup>[18]</sup> on 9 June 2014.

We adopt the findings and recommendation of Justice Corales.

Petitioners failed to substantiate their allegation that respondent acted with bias and

partiality. Mere suspicion that a judge is partial is not enough.<sup>[19]</sup> Clear and convincing evidence is necessary to prove a charge of bias and partiality.<sup>[20]</sup> The circumstances detailed by petitioners failed to prove that respondent exhibited “manifest partiality, evident bad faith or gross inexcusable negligence” in the discharge of his judicial functions, as required by Section 3(e) of R.A. 3019, when he issued the Order lifting the TRO.

This Court cannot accept the contention that respondent’s bias and partiality can be gleaned from the mere fact that he did not allow the “more than 500 members” who accompanied petitioners during the hearing to enter the courtroom. As indicated in the report, due to the standard sizes of our courtrooms, it is highly improbable that this huge group could have been accommodated inside.<sup>[21]</sup> With respect to the exclusion of the other witnesses while Julieta Toledo was giving her testimony, this is sanctioned by Section 15, Rule 132 of the Rules of Court.<sup>[22]</sup>

We now go to the claim of petitioners that respondent berated, scolded, confused and admonished their witnesses without basis or justification. According to the investigating justice, respondent failed to submit the transcript of notes for the 3 July 2012 hearing without plausible reason.<sup>[23]</sup> As regards what transpired in the 2 July 2012 hearing, the investigating justice found that apart from raising his voice when addressing Toledo and making “abrasive and unnecessary statements to her,”<sup>[24]</sup> respondent also made the following “insulting, sometimes needlessly lengthy statements”<sup>[25]</sup> in open court:

1. Respondent declared that he no longer wanted to go to the market, because he might be mistreated by petitioners.<sup>[26]</sup>

He told petitioners: “*Mga taga-palengke na nagkakaso sa akin xxx pero 'di naman nila alam ang kanilang ginagawa.*”<sup>[27]</sup>

2. He told Toledo while the latter was testifying: “[B]asta na lang kayo pirma pirma na gawa naman ng abogado niyo.”<sup>[28]</sup>

3. He asked Toledo: “You mentioned about that ‘*walang pwesto na nakikipwesto sa inyo,*’ is that not a violation to your lease contract that you are allowing somebody to occupy your portion so that they can also engage in business? Is this not an additional earning on your part and you are violating your lease contract? Is that not depriving the coffer of the Municipal Government?”<sup>[29]</sup>

The investigating justice found that the foregoing statements “definitely imperiled the respect and deference”<sup>[30]</sup> rightly due to respondent’s position.

We agree.

As stated in the report, respondent raised his voice and uttered abrasive and unnecessary remarks to petitioners’ witness.<sup>[31]</sup> Respondent failed to conduct himself in accordance with the mandate of Section 6, Canon 6 of the New Code of

Judicial Conduct for the Philippine Judiciary,<sup>[32]</sup> which reads:

SECTION 6. Judges shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, witnesses, lawyers and others with whom the judge deals in an official capacity. Judges shall require similar conduct of legal representatives, court staff and others subject to their influence, direction or control.

A Judge should be considerate, courteous and civil to all persons who come to his court,<sup>[33]</sup> viz:

It is reprehensible for a judge to humiliate a lawyer, litigant or witness. The act betrays lack of patience, prudence and restraint. Thus, a judge must at all times be temperate in his language. He must choose his words, written or spoken, with utmost care and sufficient control. The wise and just man is esteemed for his discernment. Pleasing speech increases his persuasiveness.<sup>[34]</sup>

This Court likewise finds that respondent violated Section 1 of Canon 2 and Section 1 of Canon 4 of the New Code of Judicial Conduct for the Philippine Judiciary, which read:

#### CANON 2 INTEGRITY

SEC. 1. Judges shall ensure that not only is their conduct above reproach, but that it is perceived to be so in view of a reasonable observer.

#### CANON 4 PROPRIETY

SEC. 1. Judges shall avoid impropriety and the appearance of impropriety in all of their activities.

The above provisions clearly enjoin judges not only from committing acts of impropriety, but even acts that have the appearance of impropriety.<sup>[35]</sup> This is because appearance is as important as reality in the performance of judicial functions. A judge — like Caesar's wife — must not only be pure and faithful, but must also be above suspicion.<sup>[36]</sup>

In this case, instead of reprimanding Mayor Villarosa for not asking for the court's permission to leave while the trial was ongoing, respondent appeared to serve as the former's advocate. He did so by declaring in open court that the abrupt exit of the Mayor should be excused, as the latter had an important appointment to attend.