

FIRST DIVISION

[**A.M. No. 12-8-160-RTC, December 10, 2012**]

AMBASSADOR HARRY C. ANGPING AND ATTY. SIXTO BRILLANTES, PETITIONERS, VS. JUDGE REYNALDO G. ROS, REGIONAL TRIAL COURT, BRANCH 33, MANILA, RESPONDENT.

R E S O L U T I O N

REYES, J.:

Before this Court is a complaint of petitioners Ambassador Harry C. Angping (Amb. Angping) and Atty. Sixto Brillantes (Atty. Brillantes) filed against respondent Judge Reynaldo G. Ros (Judge Ros) of the Regional Trial Court (RTC), Manila, Branch 33. Petitioners charged Judge Ros for the violation of Canons 2 and 3 of the Code of Judicial Conduct.

The Facts^[1]

Herein petitioner Amb. Angping with his counsel petitioner Atty. Brillantes filed before this Court a letter-complaint dated June 28, 2010. The petitioners charged respondent Judge Ros for violating Canons 2 and 3 of the Code of Judicial Conduct.

The said letter-complaint emanated from the actions and rulings of Judge Ros relative to Criminal Case Nos. 10-274696 to 10-274704 entitled, "*People of the Philippines vs. Julian Camacho and Bernardo Ong*," for qualified theft.

Petitioners Amb. Angping and Atty. Brillantes were the representatives of the Philippine Sports Commission (PSC), the private complainant in the aforesaid criminal cases. Petitioners alleged that on March 23, 2010, the above cases were raffled to Branch 33, RTC-Manila. However, on the very same day the said case was raffled to the respondent judge, the latter issued an order dismissing the criminal cases for lack of probable cause.

Petitioners subsequently filed a motion for reconsideration. After which, the respondent issued an Order dated April 16, 2010 directing the accused in the above-cited criminal cases (**Julian Camacho** and **Bernardo Ong**) to file within fifteen (15) days their comment. In the same Order, respondent Judge Ros gave PSC another fifteen (15) days from receipt of a copy of the accused's comment to file a reply and thereafter the motion for reconsideration would be resolved.

On May 26, 2010, the accused filed their comment after several motions for extension. The petitioners averred that the PSC received its copy of the comment on June 3, 2010. Thus, the petitioners claimed that they have timely filed their reply on June 18, 2010 since they were given a period of fifteen (15) days to file the same. However, on the date petitioners filed their reply, the PSC received respondent Judge Ros' Order dated May 28, 2010, denying the motion for reconsideration.

Petitioners asserted that the respondent Judge resolved the motion for reconsideration without waiting for PSC's reply – a direct contravention of respondent's Order dated April 16, 2010 where petitioners were given fifteen (15) days to file their reply.

The aforesaid incidents started to create reservations in the mind of the petitioners on the respondent Judge's impartiality. They doubted Judge Ros' fairness in handling the aforementioned criminal cases because of the speed at which he disposed them when they had just been raffled to him. The petitioners could not believe that he could resolve the cases **within the same day** considering that the **records thereof are voluminous and that the criminal cases were raffled to him on the day he issued the order of dismissal.**

Nevertheless, the petitioners continued to respect the respondent's order and sought other legal remedies such as the filing of a motion for reconsideration. However, when Judge Ros issued the order resolving the motion for reconsideration after **two (2) days from the filing of the comment and without awaiting for PSC's reply,** petitioners were convinced that respondent Judge Ros acted with partiality and malice. Thus, the petitioners filed the letter-complaint subject of this administrative case where the petitioners charged respondent Judge Ros for violation of Canons 2 and 3 of the Code of Judicial Conduct.

In his comment, respondent Judge Ros claimed that he overlooked the directive in his order which gave the PSC fifteen (15) days to file its reply. He apologized, and averred that he acted in good faith. He alleged that the oversight was due to his policy of promptly acting on a motion for reconsideration within thirty (30) days after it has been submitted for resolution. Notwithstanding the speed of the disposition of the criminal cases, respondent Judge Ros claimed that the PSC was accorded due process because he had taken into consideration the petitioners' legal arguments in their motion for reconsideration. The respondent also pointed out that, even if PSC's reply had been taken into account, his position would remain the same because petitioners did not raise any new matter. He claimed that PSC merely rebutted the arguments raised in the comment/objection of the accused in the concerned criminal cases, which arguments were not even relied upon in his dismissal of the cases.

The respondent denied acting with partiality and malice. He maintained that he ordered the dismissal of the criminal cases on the same day he had received them only after a careful evaluation of the evidence on record. He also noted that the complainants never questioned his ruling before the appellate court. Thus, respondent Judge Ros prayed for the dismissal of the instant administrative case against him.

In its recommendation, the **Office of the Court Administrator** (OCA) recommended the dismissal of the instant administrative complaint against respondent Judge Ros for lack of merit. The OCA pointed out that, while the speed at which the respondent Judge rendered the March 23, 2010

Order may be surprising to those accustomed to court delays, a judge is not precluded from deciding a case with dispatch. It also found that the respondent Judge issued the said Order based on his independent evaluation or assessment of the merits of the case. Furthermore, although there was a lapse in judgment on the

part of the respondent judge when he promulgated the May 28, 2010 Order without waiting for the petitioners' reply, the OCA noted that the petitioners failed to prove that the respondent's action was motivated by bad faith, fraud, dishonesty or corruption. The OCA added that the correctness of the judge's evaluation is judicial in nature, thus, it is not a proper subject of administrative proceedings.

Issue

Whether or not respondent Judge Ros is liable for violation of Canons 2 and 3 of the Code of Judicial Conduct.

Our Ruling

After a careful evaluation of the records of the instant administrative complaint, this Court partly concurs with the findings and recommendations of the OCA.

The respondent was charged with the violation of Canons 2 and 3 of the Code of Judicial Conduct. The said canons provide:

Canon 2 – A judge should avoid impropriety and the appearance of impropriety in all activities.

Canon 3 – A judge should perform official duties honestly, and with impartiality and diligence.

From the foregoing provisions, this Court partially agrees with the OCA when it recommended the dismissal of the present administrative complaint in so far as the respondent's liability under Canon 3 of the Code of Judicial Conduct is concerned. The OCA is correct in its observation that petitioners failed to present evidence necessary to prove respondent's partiality, malice, bad faith, fraud, dishonesty or corruption. In *Alicia E. Asturias v. Attys. Manuel Serrano and Emiliano Samson*,^[2] the Court held that a complainant has the burden of proof in administrative complaints. He must establish his charge by clear, convincing and satisfactory proof. In the instant case, petitioners Amb. Angping and Atty. Brillantes failed to discharge by clear, convincing and satisfactory evidence the *onus* of proving their charges under Canon 3 against respondent Judge Ros.

Notwithstanding the above findings, this Court is not prepared to concede respondent Judge's liability as to Canon 2 of the Code of Judicial Conduct, which provides: "A judge should avoid impropriety and the appearance of impropriety in all activities." **The failure of the petitioners to present evidence that the respondent acted with partiality and malice can only negate the allegation of impropriety, but not the appearance of impropriety.** In *De la Cruz v. Judge Bersamira*,^[3] this Court underscored the need to show not only the fact of propriety but the appearance of propriety itself. It held that the standard of morality and decency required is exacting so much so that a judge should avoid impropriety and the appearance of impropriety in all his activities. The Court explains thus:

By the very nature of the bench, judges, more than the average man, are required to observe an exacting standard of morality and decency. The character of a judge is perceived by the people not only through his official acts but also through his private morals as reflected in his external behavior. It is therefore paramount that a judge's personal behavior both in the performance of his duties and his daily life, be free from the appearance of impropriety as to be beyond reproach. Only recently, in *Magarang v. Judge Galdino B. Jardin, Sr.*, the Court pointedly stated that:

While every public office in the government is a public trust, no position exacts a greater demand on moral righteousness and uprightness of an individual than a seat in the judiciary. Hence, judges are strictly mandated to abide by the law, the Code of Judicial Conduct and with existing administrative policies in order to maintain the faith of the people in the administration of justice.

Judges must adhere to the highest tenets of judicial conduct. They must be the embodiment of competence, integrity and independence. A judge's conduct must be above reproach. **Like Caesar's wife, a judge must not only be pure but above suspicion. A judge's private as well as official conduct must at all times be free from all appearances of impropriety, and be beyond reproach.**

In *Vedana v. Valencia*, the Court held:

The Code of Judicial Ethics mandates that the conduct of a judge must be free of a whiff of impropriety not only with respect to his performance of his judicial duties, but also to his behavior outside his sala as a private individual. There is no dichotomy of morality: a public official is also judged by his private morals. The Code dictates that a judge, in order to promote public confidence in the integrity and impartiality of the judiciary, must behave with propriety at all times. As we have recently explained, a judge's official life can not simply be detached or separated from his personal existence. Thus:

Being the subject of constant public scrutiny, a judge should freely and willingly accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen.

A judge should personify judicial integrity and exemplify honest public service. The personal