

## EN BANC

**[ A.M. No. RTJ-02-1691 (Formerly A.M. No. OCA IPI 99-808-RTJ), January 16, 2004 ]**

**THE OFFICERS AND MEMBERS OF THE IBP BAGUIO-BENGUET CHAPTER, CESAR G. ORACION, PRESIDENT, COMPLAINANT, VS. FERNANDO VIL PAMINTUAN, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH III, BAGUIO CITY, RESPONDENT.**

### DECISION

**CALLEJO, SR., J.:**

Before the Court is the Administrative Complaint filed by the officers and members<sup>[1]</sup> of the Integrated Bar of the Philippines (IBP), Baguio-Benguet Chapter against Judge Fernando Vil Pamintuan of the Regional Trial Court (RTC), Branch 3 of Baguio City, for gross ignorance of the law, gross violation of constitutional rights of the accused, arrogance, violations of the Code of Judicial Conduct, oppression and graft and corruption.

In their Complaint, the complainants charge the respondent judge of gross ignorance of law stating that:

1. His decision in Criminal Case No. 14054-R . . . and in Criminal Cases Nos. 15776-R, 15777-R, 15778-R, 15779-R and 15780-R . . . show his complete ignorance of the Indeterminate Sentence Law;
2. He continues to violate the provision of Section 3, Rule 71 of the Rules of Court by immediately imposing a fine of P500.00 on any lawyer who does not answer the first call, without giving the lawyer an opportunity to show cause why he should not be cited for contempt;
3. He fined Atty. Miguel B. Licalalde P500.00 for allegedly being absent during a hearing when in fact he was present;
4. He dismisses cases if the counsel or a litigant does not appear even for the first time, without giving the concerned party a chance to explain his absence;
5. He limits the period of appeal in criminal cases. In a case handled by Atty. George Florendo, he rendered a decision convicting the accused. After the promulgation of the decision, he told the accused that he was giving him three (3) days only within which to file his notice of appeal to the Court of Appeals or to file an application for probation. He further declared that in case the accused files his notice of appeal, he will double his bail bond and

immediately order his arrest;

6. In the case of PEOPLE VS. ANGELINA MAMARIL, Criminal Case No. 16187-R for THEFT of the amount of Fourteen Thousand One Hundred Pesos (P14,100.00), the accused, who was seventeen (17) years old, pleaded GUILTY to FRUSTRATED THEFT with the consent of the Prosecution. In his decision, Judge Pamintuan imposed a penalty one degree lower than that which is imposed for Consummated Theft and ordered the accused to be recommitted to the DSWD Rehabilitation Center by virtue of her minority. However, he failed to reduce the penalty imposed by another degree by reason of said minority in accordance with the clear and explicit provision of Article 68 [2] of the Revised Penal Code. . . ;
7. In the case of PEOPLE VS. BENJIE GOSE, MARK JOSEPH OCHARAN, ET AL., Criminal Case No. 14935-R for Robbery, the respondent did the same thing.<sup>[2]</sup>

The complainants likewise charge the respondent judge of gross violation of the constitutional rights of the accused alleging, as follows:

1. In PEOPLE VS. CEFERINO BANIQUED, Criminal Case No. 13949-R, for alleged violation of Section 3 [e] of RA 3019 (Anti-Graft and Corrupt Practices Act) the respondent has yet to act on a motion for the preventive suspension of the accused filed way back in 1996 and which was reiterated after he took over the case in April 1998. The said incident was deemed submitted for resolution by then Acting Presiding Judge Joven F. Costales on December 2, 1997. When Judge Pamintuan took over, the prosecution reiterated the motion which, on August 18, 1998, he ordered as deemed submitted for the resolution of the court. For more than one (1) year, and as of date, Judge Pamintuan has not resolved the motion;
2. In the case of SURLA VS. DIMLA, Civil Case No. 3322-R for Collection of Sum of Money, Judge Pamintuan dismissed the complaint because the plaintiff-witness arrived at about 8:32 in the morning or just two (2) minutes later, the counsel asked for reconsideration of the dismissal, manifesting that the witness was ready to testify. In the interest of justice and fair play, the adverse party even manifested his conformity to the reconsideration of the order of dismissal. However, Judge Pamintuan did not rule on the motion and simply considered the same submitted for resolution. For more than four (4) months, the respondent did not resolve the motion;
3. He refused to furnish a copy of the decision to the accused, but when notice of appeal was filed, he directed the counsel for the accused to amend the notice to reflect receipt of the decision although no such decision was really received. This was done in, at least, two (2) instances, particularly, in People vs. Remedios Malapit, et al. (Criminal Cases Nos. 15320, 15323, 15327, 15570

and 15571) and in People vs. Alejandro Cas (Criminal Case No. 15306-R).<sup>[3]</sup>

The complainants also claim that the respondent judge is arrogant in that:

1. He waves at lawyers and tells them to approach his bench; if, by chance, a lawyer touches a portion of his bench he shouts at him and berates him saying he has not given him permission to touch his bench;
2. He tells lawyers appearing before him to give priority to his court at the expense of their other court duties;
3. He insults lawyers by means of harsh and intemperate words in the presence of litigants and the public;
4. He impresses to the lawyers and parties' litigants that he is a convicting judge. He boasts that since he sat as judge all his decisions in criminal cases except two (2) were convictions;
5. He berates the lowly security guards in the Justice Hall of Baguio City every time they fail to salute him;
6. He insults litigants who want to settle their cases for allegedly wasting his time;
7. He insults doctors and other expert witnesses who cannot appear because of previous commitments;
8. In one occasion, he interrupted Atty. Federico J. Mandapat, Jr., in the course of his cross-examination of a witness and told him: "*that is not the way to cross-examine, ask questions only that are answerable by yes or no.*" Atty. Mandapat explained that he was laying the basis for his succeeding questions. The respondent curtly replied that he was giving him only ten (10) minutes to conduct his cross-examination, to which Atty. Mandapat countered by telling the respondent that it was tantamount to obstruction of justice and violation of the right of the accused to cross-examine a witness being presented against him.<sup>[4]</sup>

The respondent judge is also allegedly guilty of violating the Code of Judicial Conduct, as follows:

1. He is discourteous to lawyers, especially the new and inexperienced;
2. He tells the client in the presence of the lawyer to engage the services of another lawyer because his lawyer does not know anything or he does not deserve to be paid (Atty. Joris Karl Dacawi);
3. He verbally assaults lawyers;

4. He does not give even a little respect to old lawyers;
5. He insulted in open court retired Court of Appeals Justice Sixto Domondon because he came to court late once. For such act, he was even admonished by the Honorable Supreme Court for his unbecoming conduct towards a former Justice of the Court of Appeals, yet, his arrogance continues unabated and is more manifest, apparently in defiance to the admonition he received.<sup>[5]</sup>

The respondent judge is allegedly guilty of oppressive conduct committed as follows:

1. He unreasonably limits the presentation of evidence to the detriment of party-litigants;
2. He scolds and insults lawyers who stand up and walk while propounding questions to witnesses. He pursues a strategy of assault and appeasement. He verbally assaults lawyers, and if they re-act, he tries to appease some of them in an effort to get them to his side;
3. He directed Atty. Reynaldo U. Agranzamendez (immediate past President of the IBP Baguio-Benguet Chapter) to stand up, in lieu of the accused who jumped bail, during the promulgation of the decision *in absentia*. Atty. Agranzamendez acting as *de officio* counsel requested that he be allowed to sit down because the people in court might think that he was the accused but the judge in utter disregard of elementary courtesy that befits a lawyer did not budge. Instead, he berated Atty. Agranzamendez and told him to "*shut up and don't argue with the court*". When Atty. Agranzamendez got tired during the reading of the long decision, he slightly leaned to his side. When the Judge noticed this, he shouted at him and told him to stand up properly. This he did in the presence of lawyers and litigants who could only look at Atty. Agranzamendez with sympathy and compassion;
4. He cited Atty. Nicasio M. Aliping, Jr., for contempt for not appearing as a witness in one case before his sala. When Atty. Aliping learned about this, he explained to the judge that he was not notified of the date of hearing and presented records clearly showing that indeed he was not notified. Atty. Aliping prayed that the order be lifted and set aside. The judge refused and told Atty. Aliping that it was a different matter. To this day, the order citing him for contempt has not been lifted;
5. In one case where Atty. Cirilo Cawed is the private complainant, the latter executed an affidavit of desistance praying, among others, for the dismissal of the case. The respondent did not act on it and instead issued an order threatening his arrest if he will not appear before him and explain.<sup>[6]</sup>

Finally, the respondent judge is allegedly guilty of corruption:

Respondent had a certain EUFEMIO M. GULA, his long-time "bodyguard", appointed as driver assigned to his branch despite his knowledge that Mr. Gula has no driver's license, and worse, he does not know how to drive. This supposed driver draws his salary from the City of Baguio. The driver fills up the required itinerary forms, which indicate that he supposedly drives for the respondent from Baguio City to Manila and back, but the truth is that they commute by bus. It is a certain WILLIAM DANNANG, personnel from the maintenance department of the Baguio City Justice Hall, who actually drives for the respondent.<sup>[7]</sup>

In his Comment, the respondent judge vehemently denies the charges hurled against him.

On the charge of gross ignorance of the law, the respondent judge avers:

1. Criminal Cases Nos. 15776-R to 15780-R, entitled "People of the Philippines vs. Danilo Dumez, et al." are now pending appeal before the Court of Appeals. . . Whether or not the decision of the Respondent Judge in the aforesaid cases is correct will be a matter only the appellate [court] can decide. The perceived errors in the imposition of the penalty imposed should be addressed in the Accused-Appellants' brief. Assuming *arguendo* that the Respondent Judge erred in applying the [I]ndeterminate [S]entence [L]aw, which of course he denies, the proper remedy would have been Appeal, and not to file Administrative Case against the Judge;
2. In Criminal Case No. 14054-R entitled "People vs. Policew," Respondent Judge submits the same argument . . . ;
3. In Criminal Case No. 16187-R entitled "People vs. Mamaril" and Criminal Case No. 14935 entitled "People vs. Gose," the decisions of the Respondent Judge had become final and executory without the Counsels appealing. Had the Counsels appealed their cases, or at least Moved for Reconsideration, they could have properly raised the mitigating circumstances, which they claim were not appreciated by the Respondent Judge. Again the remedy is not the filing of administrative case against the Judge;
4. The Administrative Case against the Respondent Judge in A.M. No. RTJ-99-1483 was resolved by the Supreme Court in a Decision dated September 17, 1999 and received by the Respondent Judge on October 4, 1999. Respondent Judge has FIFTEEN (15) DAYS to file a Motion for Reconsideration, which he will comply with. Suffice it to say that in this case, the Respondent Judge believed, as he believes in good faith that he had no cogent reason to inhibit himself from the case . . . ;
5. The imposition of fines for tardiness or non-appearance in scheduled cases is inherent upon any court as part of its disciplining authority. The remedy would have been to seek reconsideration and not an Administrative Case. The Court has never collected on the fine, provided the reasons cited in the reconsideration are