

## FIRST DIVISION

[ A.M. No. RTJ-03-1793, February 05, 2004 ]

**ATTY. GLORIA LASTIMOSA-DALAWAMPU, COMPLAINANT, VS.  
JUDGE RAPHAEL B. YRASTORZA, SR., REGIONAL TRIAL COURT  
OF CEBU CITY, BRANCH 14, RESPONDENT.**

### D E C I S I O N

**YNARES-SATIAGO, J.:**

The administration of justice is primarily the joint responsibility of the judge and the lawyer. The judge expects the lawyer to properly perform his role in this task, in the same manner that the lawyer expects the judge to do his part. The people expect of them a sense of shared responsibility which is a crucial factor in the administration of justice.<sup>[1]</sup> Their relation should be based on mutual respect and on a deep appreciation by one of the duties of the other. Only in this manner can each minimize occasions for delinquency and help attain effectively the ends of justice.<sup>[2]</sup>

Atty. Gloria Lastimososa-Dalawampu filed a complaint for serious misconduct<sup>[3]</sup> against respondent Judge Raphael Yrastorza, Sr., the incumbent presiding judge of Branch 14 of the Regional Trial Court of Cebu City, with the Office of the Court Administrator.

The complaint alleged that on January 14, 2002, Atty. Lastimososa-Dalawampu appeared as counsel for the accused before the respondent judge in Criminal Case No. CBU-58947 entitled, "*People of the Philippines versus Gina and Bob Villaver.*" After her client, Bob Villaver, was arraigned, Atty. Lastimososa-Dalawampu moved for the re-setting of the pre-trial conference in view of absence of the trial prosecutor assigned to Branch 14. However, before she could finish her statement, respondent judge purportedly cut her off by saying, "If you cannot handle this case, Atty. Dalawampu, you better give this case to another lawyer." When complainant answered that she can handle the case, respondent again cut her off saying, "Do not give me so many excuses, Atty. Dalawampu! I don't care who you are!" When complainant was about to leave the courtroom, she heard respondent say, "I don't care who you are. You can file one thousand administrative cases against me. I don't care."

According to the complainant, the foregoing incident was not the first time that she was berated by the respondent judge. On October 11, 2000, when she appeared as private prosecutor in Criminal Case CBU-49515, she was scolded by respondent judge for failure to file the pre-trial brief even if a pre-trial brief is not compulsory in criminal cases.

Complainant was unable to attend the pre-trial conference on October 12, 2000, but she prepared and filed the pre-trial brief and informed the public prosecutor, Rustico Paderanga, that she had to attend a hearing before the Sandiganbayan in Manila.

Complainant's client, Consuelo Aznar, was present during the pre-trial. Complainant did not advise her client to bring the original documents to be presented in the case because she stated in the pre-trial brief that the marking of exhibits will be done as the trial progresses and that photocopies of these documents already formed part of the record. This notwithstanding, respondent judge ordered Consuelo Aznar to produce the original documents in five minutes, or the case would be dismissed. Consuelo Aznar frantically got the documents from her house, but the travel time from the court house to the house of Consuelo Aznar and back required at least 30 minutes.<sup>[4]</sup> Respondent judge's action towards Consuelo Aznar is oppressive.

In his Comment,<sup>[5]</sup> respondent judge claimed that complainant's allegations are pure exaggerations. His remark that complainant should let another lawyer handle her case if she was busy with her other cases was occasioned by complainant's failure to submit a pre-trial brief, and his other remark that he was not deterred by administrative cases against him was not necessarily to the complainant but to the public. Respondent explained that he did not mean to insult complainant or her clients as he only wanted to expedite the proceedings.<sup>[6]</sup>

In a Resolution<sup>[7]</sup> dated August 6, 2003, the Court referred the case to Associate Justice Marina Buzon of the Court of Appeals for investigation, report and recommendation.

Prior to the date of first hearing before the Investigating Justice, complainant filed a motion<sup>[8]</sup> to withdraw complaint, alleging that sometime in September 2003, she and the respondent judge have ironed out their differences in a Bench and Bar dialogue, and the pendency of her complaint against respondent judge poses a block to a harmonious relation between them.

Thereafter, complainant failed to appear during the investigation of the case. At the hearing on October 21, 2003, respondent judge filed a motion to dismiss<sup>[9]</sup> on the ground of lack of interest and failure to prosecute.

On November 6, 2003, Justice Buzon submitted her report to the Office of the Court Administrator recommending the dismissal of the administrative case against respondent judge due to the failure of the complainant to prove the allegations in her complaint.

Prefatorily, the Court must reiterate the rule that mere desistance on the part of the complainant does not warrant the dismissal of an administrative complaint against any member of the bench and the judiciary.<sup>[10]</sup> The Court's interest in the affairs of the judiciary is a paramount concern that knows no bounds.<sup>[11]</sup> Hence, instead of dismissing the charge as recommended, the Court, in the exercise of its power of administrative supervision,<sup>[12]</sup> resolves to reprimand respondent judge for his failure to exercise greater circumspection in dealing with the complainant.

Upon his assumption to office, a judge ceases to be an ordinary mortal. He becomes the visible representation of the law and, more importantly, of justice. He must be the embodiment of competence, integrity and independence.<sup>[13]</sup> A magistrate of the law must comport himself at all times in such manner that his conduct, official or otherwise, can bear the most searching scrutiny of the public that looks up to him as