



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

AMBASSADOR HARRY C. ANGPING  
and ATTY. SIXTO BRILLANTES,  
Petitioners,

A.M. No. 12-8-160-RTC

Present:

SERENO, CJ.,  
*Chairperson,*  
LEONARDO-DE CASTRO,  
BERSAMIN,  
VILLARAMA, JR., and  
REYES, JJ.

- versus -

JUDGE REYNALDO G. ROS,  
Regional Trial Court, Branch 33,  
Manila,  
Respondent.

Promulgated:

DEC 10 2012

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RESOLUTION

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<sup>1</sup>**

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

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<sup>1</sup> As culled from the Report and Recommendation of the Office of the Court Administrator dated July 20, 2012.

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*,<sup>2</sup> 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.

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<sup>2</sup> 512 Phil. 496 (2005).

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*,<sup>3</sup> 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

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<sup>3</sup>

402 Phil. 671 (2001).

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 behavior of a judge, both in the performance of official duties and in private life should be above suspicion.

**As stated earlier, in Canon 2 of the Code of Judicial Conduct, a judge should avoid impropriety and the appearance of impropriety in all his activities. A judge is not only required to be impartial; he must also *appear to be impartial*. Public confidence in the judiciary is eroded by irresponsible or improper conduct of judges.**

Viewed *vis-à-vis* the factual landscape of this case, it is clear that respondent judge violated Rule 1.02, as well as Canon 2, Rule 2.01 and Canon 3. In this connection, the Court pointed out in *Joselito Rallos, et al. v. Judge Ireneo Lee Gako Jr., RTC Branch 5, Cebu City*, that:

**Well-known is the judicial norm that “judges should not only be impartial but should also appear impartial.”** Jurisprudence repeatedly teaches that litigants are entitled to nothing less than the cold neutrality of an impartial judge. The other elements of due process, like notice and hearing, would become meaningless if the ultimate decision is rendered by a partial or biased judge. **Judges must not only render just, correct and impartial decisions, but must do so in a manner free of any suspicion as to their fairness, impartiality and integrity.**

*This reminder applies all the more sternly to municipal, metropolitan and regional trial court judges like herein respondent, because they are judicial front-liners who have direct contact with the litigating parties. They are the intermediaries between conflicting interests and the embodiments of the people's sense of justice. Thus, their official conduct should be beyond reproach.*<sup>4</sup> (Citations omitted and emphasis supplied)

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<sup>4</sup>

Id. at 679-682.

In the instant administrative complaint, while no evidence directly shows partiality and malice on the respondent's action, this Court cannot ignore the fact that the dispatch by which the respondent Judge dismissed the criminal cases provokes in the minds of the petitioners doubt in the partiality of the respondent. *First*, Judge Ros cannot deny the fact that the Information for Criminal Case Nos. 10-274696 to 10-274704 dated February 10, 2010 filed on March 22, 2010 with the RTC-OCC of Manila against therein accused Camacho and Ong involved nine (9) counts of Qualified Theft. Thus, the records of these cases were voluminous. *Second*, respondent cannot deny the fact that the criminal cases were raffled to his office only on March 23, 2010 and that he immediately rendered the questioned Order dismissing the charges against therein accused on the same day for lack of probable cause. Thus, considering the nine (9) counts of Qualified Theft, the records at hand, and the speed in arriving at a decision, the respondent Judge would either appear to have decided with partiality in favor of the accused or appear to have failed to thoroughly study the case. *Third*, granting *por arguendo* that the dispatch by which he dispensed of the criminal cases were done in good faith, this Court cannot close its eyes on the liberality by which the respondent Judge granted several Motions for Extension of Time to File Comment by therein accused, while the same liberality was missing when it was the turn of the petitioners to file their reply. After the accused filed their comment, and even despite the fifteen-day period available to the petitioners, the respondent Judge simply disregarded his earlier Order directing the petitioners to file their reply and went ahead with the denial of the petitioners' Motion for Reconsideration. And he denied the Motion for Reconsideration barely two days after therein accused filed their comment. From the foregoing, this Court cannot but conclude that there was some semblance of partiality and malice on the part of the respondent Judge.

The respondent Judge claimed that he had carefully evaluated the evidence on record before he issued his order dismissing the criminal cases. He asserted that even if the petitioners' reply was considered, his position

would not change. However, because he failed to consider the reply in his evaluation of the criminal cases, he appeared to have decided without the cold neutrality of an impartial judge. In not waiting for the petitioners' reply, the respondent Judge exhibited the appearance of bias and partiality.

In *Borromeo-Garcia v. Pagayatan*,<sup>5</sup> this Court had the occasion to state:

[T]he appearance of bias or prejudice can be as damaging to public confidence and the administration of justice as actual bias or prejudice.

Lower court judges, such as respondent, play a pivotal role in the promotion of the people's faith in the judiciary. They are front-liners who give (sic) human face to the judicial branch at the grassroots level in their interaction with litigants and those who do business with the courts. Thus, the admonition that judges must avoid not only impropriety but also the appearance of impropriety is more sternly applied to them.<sup>6</sup> (Citations omitted)

At the very least, the respondent Judge failed to consider further arguments which the petitioners might have proffered when he failed to wait for their reply. Whether or not such argument may justify the reconsideration of the dismissal of the concerned criminal cases, the respondent Judge is at all times duty bound to render just, correct and impartial decisions in a manner free of any suspicion as to his fairness, impartiality or integrity.<sup>7</sup>

We cannot blame the petitioners if they became suspicious of the action of the respondent. The manner by which the latter handled the dismissal of the concerned criminal cases was of such a character that could cause distrust, especially in the wary eyes of a concerned party-litigant.

In his comment, the respondent Judge apologized for his omission and averred that he acted in good faith. While we do not belittle the

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<sup>5</sup> A.M. No. RTJ-08-2127 (Formerly OCA I.P.I No. 07-2697-RTJ), September 25, 2008, 566 SCRA 320.

<sup>6</sup> Id. at 330-331.

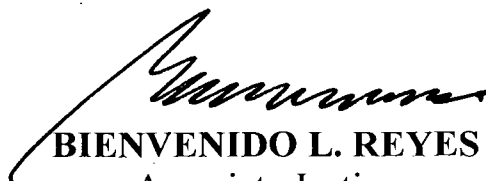
<sup>7</sup> Supra note 3, at 682.

respondent's sincerity, we cannot simply ignore his lack of prudence. This Court is duty bound to protect and preserve public confidence in our judicial system. The careless manner at which he arrived at his March 23, 2010 Order and denied the petitioners' motion for consideration raised an air of suspicion and an appearance of impropriety in the proceedings. Verily, in this instance, the respondent Judge failed to live up to the demand and degree of propriety required of him by the Code of Judicial Conduct.

Finally, this Court must emphasize that it is commendable when a judge, by his dedication to the speedy administration of justice, attempts or causes the immediate dismissal of a case. Normally, we do not dwell on the question of propriety of a judge's action if he decides with speed the dismissal of a case based on lawful grounds. However, apart from the strict observance of proper procedure, the entire affair should be handled with care and reasonable sensitivity so as not to unduly offend litigants and destroy the public's confidence in our justice system. This Court exhorts all judges to act with prudence so as not to compromise the integrity of court processes and orders.

**WHEREFORE**, in view of the foregoing, the charge against Judge Reynaldo G. Ros for violation of Canon 3 of the Code of Judicial Conduct is hereby **DISMISSED**. However, for failing to live up to the degree of propriety required of him under Canon 2 of the same Code, he is hereby **ADMONISHED** and **STERNLY WARNED** that a repetition of the same or similar acts would be dealt with more severely.

**SO ORDERED.**



**BIENVENIDO L. REYES**  
Associate Justice

**WE CONCUR:**




**MARIA LOURDES P. A. SERENO**

Chief Justice

Chairperson



**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice



**LUCAS P. BERSAMIN**  
Associate Justice



**MARTIN S. VILLARAMA, JR.**  
Associate Justice