



Republic of the Philippines
Supreme Court
Manila

EN BANC

EMILIE SISON-BARIAS
Complainant,

A.M. No. RTJ-14-2388
[Formerly OCA IPI No. 10-3554-RTJ]

Present:

-versus-

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE, and
LEONEN, JJ.

JUDGE MARINO E. RUBIA,
REGIONAL TRIAL COURT
[RTC], BRANCH 24, BIÑAN;
LAGUNA and EILEEN A.
PECAÑA, DATA ENCODER II,
RTC, OFFICE OF THE CLERK
OF COURT, BIÑAN, LAGUNA
Respondents.

Promulgated:

JUNE 10, 2014

X-----X

DECISION

PER CURIAM:

Public trust requires that we exact strict integrity from judges and court employees. This case emphasizes the need for members of the judiciary and those within its employ to exhibit the impartiality, prudence, and propriety that the New Code of Judicial Conduct and the Code of Conduct for Court Personnel require when dealing with parties in pending cases.

Complainant Emilie Sison-Barias is involved in three cases pending before the sala of respondent Judge Marino Rubia.

The first case is an intestate proceeding.¹ Complainant filed a petition for letters of administration over the intestate estate of her late husband, Ramon A. Barias. This was opposed by her mother-in-law, Romelias Almeda-Barias.²

The second case is a guardianship proceeding over Romelias Almeda-Barias.³ Evelyn Tanael, the guardian appointed by the court, submitted a property inventory report that included not only the properties of Romelias Almeda-Barias but also properties forming part of the estate of complainant's late husband.⁴

The third case is a civil action⁵ for annulment of contracts and reconveyance of real properties filed by Romelias Almeda-Barias, represented by Evelyn Tanael, against complainant, among others.⁶

In all these cases, a parcel of land covered by Transfer Certificate of Title No. T-510712 and part of the estate of complainant's husband was involved.⁷

Complainant alleged that there was delay in the publication of the notice in the petition for issuance of letters of administration filed. She was then informed by her brother, Enrique "Ike" Sison, that respondent Eileen Pecaña, the daughter of his good friend, was a data encoder in the Office of the Clerk of Court of the Regional Trial Court of Biñan, Laguna.⁸

Complainant, together with her two brothers, Enrique and Perlito "Jun" Sison, Jr.,⁹ met with respondent Pecaña on February 20, 2010.¹⁰ During this meeting, complainant informed respondent Pecaña of the delay in the publication of the notice in the petition for issuance of letters of administration. She then asked respondent Pecaña to check the status of

¹ *Rollo*, p. 2, complaint-affidavit of Emilie Sison-Barias. The case was docketed as Special Proceeding No. B-3809.

² *Id.*

³ *Id.* at 3. The case was docketed as Special Proceeding No. B-3772.

⁴ *Id.* at 5.

⁵ *Id.* at 4. The case was docketed as Civil Case No. B-7981.

⁶ *Id.*

⁷ *Id.* at 5.

⁸ *Id.* at 7.

⁹ *Id.* at 31.

¹⁰ *Id.* at 288, Sinumpaang Salaysay of Semenidad Pecaña, supplemental comment of Eileen Pecaña, Annex "A."

the publication of the notice.¹¹ Respondent Pecaña asked for complainant's number so that she could inform her as soon as any development takes place in the case.¹² Enrique¹³ and Perlito¹⁴ executed affidavits to corroborate these allegations.

Respondent Pecaña asked complainant to meet her again at her house in Biñan, Laguna.¹⁵ Complainant went there with Enrique.¹⁶ Respondent Pecaña then informed complainant that she could no longer assist her since respondent Judge Rubia had already given administration of the properties to Evelyn Tanael.¹⁷

Complainant stated that she was not interested in the grant of administration to Tanael because these concerned the properties of her mother-in-law, Romelias Almeda-Barias.¹⁸ She was only concerned with the administration of the properties of her late husband, to which respondent Pecaña replied, "*Ah ganun ba? Iba pala ung kaso mo.*"¹⁹

Complainant alleged that respondent Pecaña sent her a text message on March 2, 2010²⁰ asking complainant to call her. Complainant called respondent Pecaña who informed her that respondent Judge Rubia wanted to talk to her.²¹ Complainant agreed to meet with respondent Judge Rubia over dinner, on the condition that respondent Pecaña would be present as well.²²

On March 3, 2010²³ at around 7:00 p.m, complainant picked up respondent Pecaña at 6750 Ayala Avenue in Makati City. They proceeded to Café Juanita in The Fort, Bonifacio Global City. Respondent Pecaña said that respondent Judge Rubia would arrive late as he would be coming from a Rotary Club meeting held at the Mandarin Hotel.²⁴

Respondent Judge Rubia arrived at Café Juanita around 8:30 p.m. During the dinner meeting, respondents allegedly asked complainant inappropriate questions. Respondent Judge Rubia allegedly asked whether she was still connected with Philippine Airlines, which she still was at that

¹¹ Id. at 7.

¹² Id.

¹³ Id. at 38-39, Annex "C."

¹⁴ Id. at 36-37, Annex "B."

¹⁵ Id. at 7.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id at 7-8.

¹⁹ Id at 8.

²⁰ Id. at 456, 874.

²¹ Id. at 234.

²² Id.

²³ Id. at 456, 874.

²⁴ Id. at 8.

time.²⁵ Complainant was then informed that respondent Judge Rubia knew of this fact through Atty. Noe Zarate, counsel of Romelias Almeda-Barias.²⁶ This disclosure surprised complainant, as she was under the impression that opposing counsel and respondent Judge Rubia had no business discussing matters that were not relevant to their pending cases.²⁷

Respondent Judge Rubia also allegedly asked her questions about her supposed involvement with another man and other accusations made by Romelias Almeda-Barias.²⁸ She was asked about the hospital where she brought her husband at the time of his cardiac arrest.²⁹

These details, according to complainant, were never discussed in the pleadings or in the course of the trial.³⁰ Thus, she inferred that respondent Judge Rubia had been talking to the opposing counsel regarding these matters outside of the court proceedings.³¹ The impression of complainant was that respondent Judge Rubia was actively taking a position in favor of Atty. Zarate.³²

To confirm her suspicion, respondents then allegedly “told complainant to just talk to Atty. Zarate, counsel for the oppositor, claiming that he is a nice person. Complainant was appalled by such suggestion and replied[,] ‘*Why will I talk to him? Judge di ko yata kaya gawin un.*’”³³

After dinner, complainant stayed behind to settle the bill. Even before he left, she alleged that respondent Judge Rubia had made insinuations that she was awaiting the company of another man.³⁴

From then on, complainant and respondents did not communicate and/or meet outside the courtroom until August 8, 2010.

In the meantime, complainant alleged that respondent Judge Rubia acted in a manner that showed manifest partiality in favor of the opposing parties, namely, Romelias Almeda-Barias and Evelyn Tanael, as represented by their counsel, Atty. Noe Zarate.³⁵

²⁵ Id.

²⁶ Id.

²⁷ Id.

²⁸ Id.

²⁹ Id. at 9.

³⁰ Id.

³¹ Id.

³² Id.

³³ Id.

³⁴ Id. at 10.

³⁵ Id.

On June 15, 2010, counsel for complainant was personally handed a copy of a motion for consolidation filed by the oppositor, Romelias Almeda-Barias, despite the date of the hearing on such motion being set on June 18, 2010.³⁶ Complainant alleged that respondent Judge Rubia did not even consider the comment/opposition to the motion for consolidation filed by her counsel, which stated that since two of these cases were special proceedings, they could not be consolidated with an ordinary civil action. Respondent Judge Rubia insisted on discussing the totality of the different issues involved in the three distinct cases under one court proceeding.³⁷ As such, complainant alleged that the main issues of the special proceedings were consolidated with matters that were properly the subject of a separate civil action.³⁸

Complainant alleged that respondent Judge Rubia refused to issue orders³⁹ that would have allowed her to comply with her duties as the special administrator of her late husband's estate.⁴⁰ This included the order to conduct an inventory of the properties, rights, and credits of the deceased, subject to the authority of the administrator.

In addition, complainant alleged that respondent Judge Rubia refused to grant her request for subpoena duces tecum and ad testificandum that she had prayed for to compel Evelyn Tanael to produce the documents showing the accrued rentals of the parcel of land belonging to her late husband.⁴¹ As such, complainant raised that respondent Judge Rubia's refusal emboldened Evelyn Tanael and oppositor Romelias Almeda-Barias to interfere in the management of the estate of complainant's late husband.⁴² Because of this refusal, she asserted that respondent Judge Rubia failed to adhere to the duty of the court to ensure a proper inventory of the estate.⁴³

Complainant enumerated occasions that alleged manifest partiality on the part of respondent Judge Rubia. She alleged that respondent Judge Rubia failed to require a timely filing of the pre-trial brief on the part of Evelyn Tanael and Romelias Almeda-Barias, and despite their non-compliance on four (4) separate pre-trials that were postponed, Tanael and Almeda-Barias were not declared in default.⁴⁴ She also alleged that respondent Judge Rubia stated that the burden to prove ownership of the property was on complainant, when in fact it was the oppositor, or Tanael

³⁶ Id.

³⁷ Id. at 12-16.

³⁸ Id. at 15.

³⁹ Id. at 20.

⁴⁰ Id. at 16-18.

⁴¹ Id. at 18.

⁴² Id. at 20.

⁴³ Id. at 19.

⁴⁴ Id. at 23.

and Almeda-Barias, who had the burden of proof to show that the land was fraudulently transferred to her late husband.⁴⁵

Complainant admitted that she did not inform her counsel of the dinner meeting she had with respondents.⁴⁶ It was Enrique who allegedly told complainant's lawyers about it when he went to the lawyer's office to pay some bills.⁴⁷ Complainant said that her lawyer immediately admonished her for agreeing to meet with respondent Judge Rubia. Complainant then texted respondent Pecaña on August 8, 2010 on her lawyer's reaction concerning the March 3, 2010 meeting. The following exchanges took place via text message:

COMPLAINANT:

Hi Aileen! Sorry jz feeling bad. . my lawyer jz called me at galit n galit. My brother went to hm today to pay som bills. Sa kakadaldal na mention s lawyr my meeting wid u n judge rubia. My lawyr ws mad dat m nt suppose to do dat w/out hs knowledge. I cnt understand anymore wat he ws sayng kanina kse nga galit. He wil file yata somtng abt dat n I dnt knw wat? Pls. Help me. (August 8, 2010, 2:31 p.m.)

AILEEN PECAÑA [sic]:

Ha? Anong ififile? Bkt xa galit? Bka lalo tayo mapahamak? (August 8, 2010, 3:48 p.m.)

COMPLAINANT

M nt very sure bt he mentioned abt administrative or administratn something. I hav to talk to hm n person para mas claro. Hirap kse by fon tloga. He ws mad bcoz f our meetng nga, dats wat struck hm. Sorry, daldal kse ni kuya. M going to col kuya tomorrow na. Its 1am na hr, I have to buy foncard pa. (August 8, 2010, 4:18 p.m.)

AILEEN PECAÑA [sic]

Admin? **Nku d mapapahamak nga kaming 2 ni juj.** Pati ikaw mapapahamak pa dn. (August 8, 2010, 4:28 p.m.)

AILEEN PECAÑA [sic]

Bkt xa galit kng mkpg kta ka smin widout his knowledge. I cnt fathom y wil it end up filing an admin case. (August 8, 2010, 4:29 p.m.)

AILEEN PECAÑA [sic]

⁴⁵ Id. at 24.

⁴⁶ Id. at 26.

⁴⁷ Id.

Pls Emily do something 2 pacify ur lawyer, juj rubia will definitely get mad wid us. (August 8, 2010, 4:30 p.m.)⁴⁸
(Emphasis supplied)

On September 15, 2010, complainant moved for respondent Judge Rubia's inhibition. This was denied on October 6, 2010. Complainant then filed a motion for reconsideration denied in an order⁴⁹ dated November 15, 2010.⁵⁰

On November 11, 2010, complainant filed a complaint affidavit⁵¹ before the Office of the Court Administrator charging respondent Pecaña for gross misconduct and respondent Judge Rubia for conduct unbecoming of a judge, partiality, gross ignorance of the law or procedure, incompetence, and gross misconduct.⁵²

The Office of the Court Administrator referred the complaint to respondents for comment.⁵³

In her comment,⁵⁴ respondent Pecaña did not deny meeting complainant on February 20, 2010 through the introduction of Enrique Sison.⁵⁵ However, she claimed that the alleged meeting between complainant and respondent Judge Rubia was merely a chance encounter.

Respondent Pecaña alleged that "sometime [in the] second week of March 2010,"⁵⁶ when she was on her way to Makati City to meet her sisters for coffee, complainant invited her for dinner. Respondent Pecaña hesitantly agreed after complainant had insisted.⁵⁷ Complainant picked her up at Starbucks 6750 in Makati City, and they proceeded to Café Juanita in Burgos Circle for dinner. Upon passing by Burgos Circle, respondent Pecaña saw respondent Judge Rubia's car parked near Café Juanita.⁵⁸

At about past 10:00 p.m., respondent Pecaña said that she saw respondent Judge Rubia together with some companions walking toward his car.⁵⁹ She stepped out of the restaurant and greeted him. Complainant allegedly followed respondent Pecaña and so the latter was constrained to

⁴⁸ Id. at 26-27.

⁴⁹ Id. at 117-122, order of Judge Marino Rubia denying the motion for reconsideration of the motion for inhibition with supplemental ground.

⁵⁰ Id. at 122.

⁵¹ Id. at 1-39, complaint-affidavit of Emilie Sison-Barias.

⁵² Id. at 29.

⁵³ Id. at 40, 41.

⁵⁴ Id. at 42-55, comment of respondent Pecaña.

⁵⁵ Id. at 44.

⁵⁶ Id. at 45.

⁵⁷ Id.

⁵⁸ Id.

⁵⁹ Id.

introduce complainant as an employee of Philippine Airlines to respondent Judge Rubia.⁶⁰ After the introduction, respondent Judge Rubia went to his car and left. Complainant and respondent Pecaña returned to the restaurant to finish their food and pay the bill.⁶¹

Complainant drove respondent Pecaña back to Makati City. During the drive, complainant allegedly asked her help regarding the cases filed in court and inquired as to what she could give to respondent Judge Rubia because her lawyers instructed her to bribe him. Respondent Pecaña only said that respondent Judge Rubia does not accept money and that he is financially stable.⁶²

After the dinner, complainant allegedly kept on sending text messages to respondent Pecaña concerning her case filed in court.⁶³ Respondent Pecaña admitted to the exchanges through text messages she had with complainant on August 8, 2010 regarding the filing of administrative case against her and respondent Judge Rubia.⁶⁴

Respondent Pecaña denied being an advocate of Atty. Zarate.⁶⁵ She maintained the position that she should not be held administratively liable for what she construed to be primarily judicial matters, such as the bases for respondent Judge Rubia's decisions and orders in court.⁶⁶

Respondent Judge Rubia filed his comment⁶⁷ on January 17, 2011.

Respondent Judge Rubia claimed that the alleged meeting between him and his co-respondent Pecaña together with complainant was a mere chance encounter.⁶⁸ He denied any pre-arranged dinner meeting, stating that after the brief encounter with complainant, he had to rush home to attend to his ailing wife.⁶⁹ He stated that he was only introduced to complainant because she was an employee of Philippine Airlines where he was a former executive.⁷⁰

Respondent Judge Rubia argued that if the alleged meeting with complainant did take place, it should have been mentioned in the first

⁶⁰ Id.

⁶¹ Id.

⁶² Id.

⁶³ Id.

⁶⁴ Id. at 46.

⁶⁵ Id. at 47.

⁶⁶ Id. at 42.

⁶⁷ Id. at 56-86, comment of respondent Judge Rubia.

⁶⁸ Id. at 74.

⁶⁹ Id. at 75.

⁷⁰ Id.

motion for inhibition.⁷¹ Further, he emphasized that it took complainant eight (8) months since the alleged dinner meeting to file a motion for inhibition and an administrative case.⁷²

Respondent Judge Rubia surmised that complainant and her counsel, hoping for a favorable outcome of the cases filed, initiated contact with respondent Pecaña. The filing of the administrative case against him was only to compel him to inhibit from the cases to seek a friendlier forum.⁷³

Moreover, respondent Judge Rubia denied knowledge of any text messages exchanged between complainant and respondent Pecaña as well as any active advocacy in favor of opposing counsel, Atty. Zarate.⁷⁴

As to the allegations of partiality concerning the orders he issued for the cases filed, respondent Judge Rubia argued that the best forum to ventilate complainant's allegations was not through an administrative proceeding but through judicial recourse.⁷⁵

Due to the gravity of the charges and the conflicting facts presented by the parties, the Office of the Court Administrator recommended the referral of the administrative complaint to a Court of Appeals Justice for investigation, report, and recommendation.⁷⁶

On September 12, 2011, this court issued a resolution referring the administrative complaint to a Justice of the Court of Appeals for investigation, report, and recommendation.⁷⁷ The complaint was assigned to Court of Appeals Associate Justice Samuel H. Gaerlan.

On December 5, 2011, Atty. Noe Zarate filed a motion for intervention⁷⁸ allegedly due to the implication of his name in the administrative complaint.⁷⁹

Atty. Zarate argued that the complaint should be dismissed on the ground of forum shopping because the orders issued by respondent Judge Rubia and mentioned in the complaint were assailed in a petition for certiorari.⁸⁰

⁷¹ Id.

⁷² Id. at 76.

⁷³ Id. at 77-78.

⁷⁴ Id. at 78.

⁷⁵ Id. at 83.

⁷⁶ Id. at 241.

⁷⁷ Id. at 242.

⁷⁸ Id. at 246-267, motion for intervention of Atty. Zarate dated November 25, 2011.

⁷⁹ Id. at 247.

⁸⁰ Id. at 250.

Further, Atty. Zarate alleged that he did not know respondents personally, and he was not closely associated with them.⁸¹ He asserted that the records were replete with incidents where he and respondent Judge Rubia engaged in heated discussions on legal matters.⁸² He maintained that he did not foster any closeness or personal affinity with respondent Judge Rubia that would substantiate complainant's allegations.⁸³

In addition, Atty. Zarate expressed his agreement with respondents' narration of the events on the alleged dinner meeting.⁸⁴ He argued that if the dinner meeting did take place, this incident should have been the ground for the motion for inhibition filed.⁸⁵

Atty. Zarate stated that, granting *arguendo* that the dinner meeting happened, there was nothing "wrong, improper or illegal"⁸⁶ about it. It could have been reasonably interpreted as an extrajudicial means initiated by respondent Judge Rubia to assuage the parties in the contentious litigation.⁸⁷

The motion for intervention was noted without action by Justice Gaerlan.⁸⁸

On December 15, 2011, the parties, together with their counsels, appeared before Justice Gaerlan. It was agreed that respondents would file their respective supplemental comments and complainant her reply to the comment. Complainant manifested that she would present three (3) witnesses: herself and her two brothers. Respondent Pecaña would testify for herself and present Semenidad Pecaña, her aunt, as witness. Respondent Judge Rubia manifested that he would testify on his behalf and present respondent Pecaña as witness.⁸⁹

Respondents Judge Rubia and Pecaña filed their respective supplemental comments dated December 15, 2011⁹⁰ and December 16, 2011,⁹¹ respectively. Complainant filed her consolidated reply on January 17, 2012.⁹²

⁸¹ Id. at 254.

⁸² Id. at 255.

⁸³ Id. at 257.

⁸⁴ Id. at 260.

⁸⁵ Id. at 261.

⁸⁶ Id. at 262-263.

⁸⁷ Id.

⁸⁸ Order of the Court of Appeals in A.M. OCA I.P.I No. 10-3554-RTJ dated March 12, 2012.

⁸⁹ *Rollo*, p. 278.

⁹⁰ Id. at 310-451.

⁹¹ Id. at 280-309.

⁹² Id. at 616-630.

A second hearing on the administrative complaint ensued on January 10, 2012 where complainant testified on the dinner meeting on March 3, 2010.

During the hearing, complainant identified a document containing a list of phone calls showing that she called respondent Pecaña on March 2 and 3, 2010.⁹³ Counsel for respondent Pecaña stipulated that these calls were made to her.⁹⁴

The hearing of the administrative complaint continued on January 12, 17, and 24, 2012.

In the January 17, 2012 hearing, respondent Pecaña testified to the allegations in her comment and judicial affidavit. She alleged for the first time that the dinner meeting with complainant happened on March 10, not March 3, 2010.

On January 24, 2012, Mr. Rodel Cortez, secretariat of the Rotary Club of Makati Southwest Chapter, was presented as witness for respondent Judge Rubia. Rodel testified that the Rotary Club of Makati Southwest Chapter had a meeting on March 10, 2010 at Numa Restaurant in Bonifacio Global City. Respondent Judge Rubia attended the meeting as shown in the attendance sheet identified by Rodel.

Rodel testified that after the meeting, he, Billy Francisco, and respondent Judge Rubia walked together toward the parking area. When they were nearing Burgos Circle where their cars were parked, Rodel allegedly saw complainant and respondent Pecaña approaching them.⁹⁵ He then saw respondent Pecaña introduce complainant to respondent Judge Rubia.⁹⁶ After the introduction, he saw respondent Judge Rubia go to his car and drive away.⁹⁷

Respondent Judge Rubia testified for himself. He identified the comment and judicial affidavit filed.⁹⁸ He alleged that the encounter with complainant at Burgos Circle was on March 10, not March 3, 2010.⁹⁹

Complying with the order dated January 31, 2012,¹⁰⁰ the parties filed their respective memoranda.

⁹³ TSN, January 10, 2012, pp. 8-12. Document was marked as Exhibit D.

⁹⁴ TSN, January 12, 2012, p. 17.

⁹⁵ TSN, January 24, 2012, p. 12.

⁹⁶ TSN, January 24, 2012, p. 12.

⁹⁷ TSN, January 24, 2012, p. 21; *rollo*, p. 681.

⁹⁸ TSN, January 24, 2012, pp. 24-49.

⁹⁹ *Rollo*, p. 667.

¹⁰⁰ *Id.* at 917.

Justice Gaerlan submitted his investigation report dated March 13, 2012.¹⁰¹ In his report, Justice Gaerlan recommended that no penalty be imposed against respondents.¹⁰² He was “convinced that the meeting at Burgos Circle was just a chance encounter”¹⁰³ and found that complainant failed to prove her claim with substantial evidence that would justify the imposition of a penalty on respondents.¹⁰⁴

Justice Gaerlan relied on the testimony of Rodel Cortez as against the uncorroborated testimony of complainant.¹⁰⁵

Justice Gaerlan emphasized the fact that it had taken complainant eight (8) months before she filed the administrative complaint.¹⁰⁶ He stated that the deliberate concealment of the meeting was inconsistent with her resolve to prove respondent Judge Rubia’s alleged partiality toward the counsel of the opposing party.¹⁰⁷

As to the other charges against respondent Judge Rubia, Justice Gaerlan stated that the administrative case was not the proper recourse for complainant.¹⁰⁸ The proper action for her was to pursue remedial action through the courts “to rectify the purported error”¹⁰⁹ in the court proceedings.

The Office of the Court Administrator referred the report to this court.

The issue in this case is whether respondents Judge Rubia and Pecaña should be held administratively liable.

This court must set aside the findings of fact and reject the report of Justice Samuel Gaerlan. Respondents Judge Rubia and Pecaña should be held administratively liable for their actions.

The findings of fact of an investigating justice must be accorded great weight and finality similar with the weight given to a trial court judge’s since an investigating justice personally assessed the witnesses’ credibility.¹¹⁰ However, this rule admits of exceptions.

¹⁰¹ Id. at 968-977.

¹⁰² Id. at 977.

¹⁰³ Id. at 973.

¹⁰⁴ Id. at 976.

¹⁰⁵ Id. at 973.

¹⁰⁶ Id. at 974.

¹⁰⁷ Id.

¹⁰⁸ Id. at 975.

¹⁰⁹ Id.

¹¹⁰ *J. King & Sons Company, Inc. v. Judge Hontanosas, Jr.*, 482 Phil. 1 (2004) [Per Curiam, En Banc]; *In*

In *J. King & Sons Company, Inc. v. Judge Hontanosas, Jr.*,¹¹¹ this court held:

Such findings may be reviewed if there appears in the record some fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated, and which, if properly considered, would alter the result of the case. Among the circumstances which had been held to be justifiable reasons for the Court to re-examine the trial court or appellate court's findings of facts are, when the interference made is manifestly mistaken; when the judgment is based on misapprehension of facts; and when the finding of fact of the trial court or appellate court is premised on the supposed absence of evidence and is contradicted by evidence on record.¹¹² (Citations omitted)

These exceptions are applicable in this case. In disregarding the complainant's testimony and relying on the testimony of Cortez, respondent Judge Rubia's witness, Justice Gaerlan said:

While respondents were able to present a witness to corroborate their version of the incident on all material points, complainant miserably failed on this regard. The Investigating Justice who had the untrammelled opportunity to observe the deportment and demeanor of the respondent's witness, Rodel Cortez (Cortez) during the hearing finds his forthright narration of facts credible and rang with truth. The clear, candid and unmistakable declaration of Cortez that the incident that transpired along the sidewalk of Burgos Circle was just a chance encounter, **absent any ulterior motive for him to perjure**, swayed this Investigating Justice to believe that the dinner meeting between Judge Rubia and Barias did not [take] place. A testimony is credible if it bears the earmarks of truth and sincerity and has been delivered in a spontaneous, natural, and straightforward manner.

Not only that. Cortez'[s] testimony was likewise corroborated by other pieces of evidence, such as the Program of Meeting and the Attendance Sheet of the Rotary Club of Makati Southwest which tend to prove that at that particular date and time Judge Rubia was in a rotary meeting and was not dining with Rubia and Pecaña. These evidence, when taken together, debase the uncorroborated version of incident as narrated by Barias. Barias['] self-serving declarations have no evidentiary value when ranged against the testimony of a credible witness on affirmative matters.¹¹³ (Emphasis supplied)

We cannot agree with Justice Gaerlan's assessment of the credibility of the witnesses and the weight given to their testimonies.

Re: Derogatory News Items Charging Court of Appeals Associate Justice Demetrio G. Demetria with Interference on Behalf of a Suspected Drug Queen: Court of Appeals Associate Justice Demetrio G. Demetria, 423 Phil. 916 (2001) [Per Curiam, En Banc].

¹¹¹ 482 Phil. 1 (2004) [Per Curiam, En Banc].

¹¹² *Id.* at 19-20.

¹¹³ *Rollo*, pp. 973-974.

Justice Gaerlan placed too much importance on the testimony of Rodel Cortez, the Secretariat of the Rotary Club of Makati, Southwest Chapter, and qualified him as a “disinterested” witness.

A disinterested witness’ testimony is afforded evidentiary weight by his or her lack of interest in the outcome of the case. This lack of stake makes the disinterested witness’ testimony more believable. To actively take part in litigation as a party or a witness entails willingness to commit to the arduous and exacting nature of most judicial proceedings. The disinterested witness’ candor and submission to the proceedings before the court add credibility and believability to the content of his or her testimony.

To qualify a witness as truly disinterested, courts should analyze the circumstances that surround his or her testimony.

The record shows that the Rotary Club of Makati, Southwest Chapter, employed Rodel in 1989.¹¹⁴ He was appointed Secretariat in 1994 where respondent Judge Rubia was a former President and remains an active member.¹¹⁵

The finding that respondent Judge Rubia is administratively liable could taint the reputation of the organization that the witness has been serving for more than 20 years. It would be a definite blow to the reputation of the Rotary Club of Makati, Southwest Chapter, if its former President were to be found guilty of the offenses that complainant imputed upon respondent Judge Rubia. The possibility of Rodel testifying in favor of respondent Judge Rubia as a result of his loyalty to the latter and the Rotary Club puts into question the characterization that he is disinterested.

The substance of Rodel’s narration of events should also be scrutinized.

Complainant alleged that the dinner meeting set among her, respondent Pecaña, and respondent Judge Rubia took place on March 3, 2010, as indicated in the investigation report of Justice Gaerlan. The record shows that the Investigating Justice accepted the formal offer of Exhibit A, which was complainant’s judicial affidavit establishing the date of the dinner as *March 3, 2010 in Café Juanita*.¹¹⁶ Complainant also alleged in her complaint that respondent Judge Rubia came from Mandarin

¹¹⁴ Id. at 680.

¹¹⁵ Id.

¹¹⁶ TSN, January 12, 2012, pp. 17-18.

Hotel in Makati from the Rotary Club of Makati, Southwest Chapter meeting.¹¹⁷

The testimony of Rodel and the evidence submitted by respondents alleged that the chance meeting of respondent Judge Rubia with complainant and respondent Pecaña took place on *March 10, 2010 on the side street of Burgos Circle in Bonifacio Global City, after the Rotary Club of Makati, Southwest Chapter meeting and dinner at Numa Restaurant, on their way to the parking lot.* This means that the testimony of and the evidence presented by Rodel do not disprove the occurrence of the dinner meeting as alleged by complainant, since the meeting of the Rotary Club and the dinner meeting alleged by complainant took place on different dates.

Assuming that the alleged chance meeting between complainant and respondent Judge Rubia took place on March 10, 2010 as alleged by respondents, this does not discount the veracity of complainant's allegations. Both the Rotary Club of Makati, Southwest Chapter dinner and the dinner meeting alleged by complainant took place in the vicinity of Bonifacio Global City. This could have allowed respondent Judge Rubia ample time to travel to the dinner meeting after the meeting of the Rotary Club of Makati.

The investigation report stated that the attendance sheet¹¹⁸ and the program of meeting that Rodel submitted corroborated his testimony. *The date indicated on the attendance sheet and on the program of meeting was March 10, 2010, not March 3, 2010. However, there was nothing to indicate the time of arrival or departure of the attendees. Neither was there an indication of the time when the meeting began or ended.* The attendance sheet and the program of meeting, by themselves or taken as corroborative evidence of Rodel's testimony, do not discount the distinct and tangible possibility that the dinner meeting as narrated by complainant took place.

On the other hand, we find the allegation that the dinner meeting took place on March 3, 2010 more credible.

Complainant presented a document containing a list of calls she made from January to March 2010.¹¹⁹ She identified her cellular phone number¹²⁰ as well as respondent Pecaña's.¹²¹ Respondent Pecaña admitted that the number identified by complainant was her number.¹²² On March 2

¹¹⁷ *Rollo*, p. 8.

¹¹⁸ *Id.* at 683.

¹¹⁹ *Id.* at 499-508, Annex "C" of complainant's judicial affidavit.

¹²⁰ *Id.* at 455.

¹²¹ *Id.* at 456.

¹²² TSN dated January 17, 2012, p. 5.

and 3, 2010, calls were made to respondent Pecaña's number.¹²³ Respondent Pecaña admitted that she had received a call from complainant before the latter picked her up at 6750 Makati City.¹²⁴ However, no calls to respondent Pecaña were recorded on March 10, 2010 in the document presented.¹²⁵ On the other hand, the calls made to respondent Pecaña as shown in the document coincided with complainant's allegations.

Finally, during the December 15, 2011 hearing, respondent Judge only manifested that he would testify for himself and present respondent Pecaña as witness.¹²⁶ He did not manifest that he would be presenting Rodel or any participant in the Rotary Club meeting as his witness.

The totality of these circumstances places doubt on the alibi of respondent Judge Rubia and Rodel's narration of events.

The differing accounts on the dates and the venues were not addressed in the investigation report of Justice Gaerlan. The report failed to mention that complainant alleged that respondent Judge Rubia arrived late *precisely because he came from a meeting of the Rotary Club of Makati*. These glaring inconsistencies did not add evidentiary weight to respondents' claims. They only put into question the veracity of the exculpatory evidence.

This court has held:

In administrative proceedings, the quantum of proof required to establish a respondent's malfeasance is not proof beyond reasonable doubt but substantial evidence, *i.e.*, that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion, is required. **Faced with conflicting versions of complainant and respondent, the Court gives more weight to the allegations and testimony of the complainant and her witnesses who testified clearly and consistently before the Investigating Judge.**¹²⁷ (Emphasis supplied; citations omitted)

After scrutinizing the testimony of complainant and the evidence she presented to support her allegations, we find her account of the event to be genuine and believable.

Complainant's narration of the dinner meeting held on March 3, 2010 and her account of events leading up to the dinner meeting were detailed and

¹²³ *Rollo*, p. 504.

¹²⁴ *Id.* at 595.

¹²⁵ *Id.* at 505-506.

¹²⁶ TSN, December 15, 2011, pp. 13-14.

¹²⁷ *Avancena v. Judge Liwanag*, 446 Phil. 710, 718 (2003) [Per Curiam, En Banc].

comprehensive. The conversation alleged by complainant that took place with respondents during the meeting was replete with details.

The strongest corroborative evidence to support complainant's allegations was the exchange of text messages between complainant and respondent Pecaña regarding the dinner meeting. These text messages were admitted by respondent Pecaña.¹²⁸ However, Justice Gaerlan failed to give any weight to the exchange of text messages. This fact was not included in his investigation report.¹²⁹

The content of the text messages of respondent Pecaña belied respondents' claim that the alleged dinner meeting in Burgos Circle was only a chance encounter.

AILEEN PECAÑA [sic]

Bkt xa galit kng **mkpg kta ka** smin widout his knowledge. I cnt fathom y wil it end up filing an admin case. (August 8, 2010, 4:29 p.m.)

AILEEN PECAÑA [sic]

Pls Emily do something 2 pacify ur lawyer, juj rubia will definitely get mad wid us. (August 8, 2010, 4:30 p.m.)¹³⁰ (Emphasis supplied)

Respondent Pecaña used the phrase, "mkpg kta," which may be translated to "have a meeting." "Mkpg kta" can in no way mean a chance encounter.

Further, respondent Pecaña's text messages sent to complainant belied her claim of an innocent chance encounter. She said that respondent Judge Rubia would get angry after complainant had informed her that her lawyer might file an administrative case against them. Respondent Judge Rubia would not have had a reason to get upset because of the possibility of administrative liability if an innocent and coincidental encounter happened and not a dinner meeting. However, if the meeting took place as alleged by complainant, this would have logically led to a hostile reaction from respondents, particularly respondent Judge Rubia.

In her testimony before Justice Gaerlan, respondent Pecaña gave the following testimony:

ATTY FERNANDEZ:

¹²⁸ *Rollo*, pp. 283-286.

¹²⁹ *Id.* at 968-977, investigation report.

¹³⁰ *Id.* at 27.

In August 2010, you admitted in your comment and your supplemental comment that you received a text coming from Emilie Barias saying her lawyer is mad with her because of that meeting, isn't it?

EILEEN PECAÑA:

Yes, sir.

ATTY FERNANDEZ:

In fact you admitted that there were text messages coming from you and Judge Rubia in March 2010, isn't it?

EILEEN PECAÑA:

Yes, sir.

ATTY FERNANDEZ:

And in fact, you admitted that there were [sic] indeed a text message coming from you and this is: [“]ha among ipafile baka lalo tayong mapapahamk?[”] And another message says “bakit siya...another...did you do something to pacify her lawyer...so you affirm these message [sic]?”

EILEEN PECAÑA:

Yes, sir.

ATTY FERNANDEZ:

Based on those messages of yours, is it correct that you fear....?

EILEEN PECAÑA:

I am not afraid in a way na pinalalabas nila.

ATTY. FERNANDEZ:

And in fact in your comment and in your supplemental comment you were explaining the context of these messages?

EILEEN PECAÑA:

Alin po doon?

ATTY. FERNANDEZ

The first one? “bakit sya galit baka lalo tayong mapahamak”

EILEEN PECAÑA:

Ang ipinapaliwanag ko chance meeting outside the street.

ATTY. FERNANDEZ

How about the part where “administrative[. . ..]”

EILEEN PECAÑA:

The reason why I said that is because as employees of the court, whenever an administrative case is filed against us[,] we will be investigated like this, and our benefits and promotion chances we will be disqualified.

ATTY. FERNANDEZ

In your text messages you never mentioned to Emilie that it would end up in an administrative case because you simply thought that it was a chance meeting?

EILEEN PECAÑA:

Ano po sir?

ATTY. FERNANDEZ:

You cannot fathom why it will end up as an administrative case because it was only a chance meeting?

EILEEN PECAÑA:

Immediately on the text messages she knows already what happened why should I have to explain?

. . . .

ATTY. FERNANDEZ:

Did you tell her while exchanging text messages that it was just a chance meeting?

EILEEN PECAÑA:

No more, sir.

ATTY. FERNANDEZ:

So you no longer took it upon you to tell Emilie to advise her lawyer not to get mad because it was only a chance meeting?

(No answer from the witness.)¹³¹

Respondents also alleged that the chance encounter happened because respondent Pecaña, while having dinner with complainant, stepped out of the restaurant to greet respondent Judge Rubia on the side street of Burgos Circle. Since complainant allegedly followed respondent Pecaña out of the

¹³¹ TSN, January 17, 2012, pp. 10-11.

restaurant, the latter introduced complainant to respondent Judge Rubia. This allegation is quite implausible after taking into account the following admissions:

1. Respondent Pecaña described her relationship with Judge Rubia as “[w]ala naman po masyado. My dealing with the Judge is only in relation with my work because during flag ceremonies he always reminds us not to act as go between or not to be involved in the cases filed in the court.”¹³²
2. Respondent Judge Rubia is not the immediate superior of respondent Pecaña as the latter is in the Office of the Clerk of Court.
3. Respondent Pecaña was having dinner with complainant whom she knew had a pending case before respondent Judge Rubia.
4. Respondent Judge Rubia always reminded court employees not to have dealings with litigants.

There was clearly no reason for respondent Pecaña to go out of her way to greet respondent Judge Rubia. In fact, after allegedly being repeatedly reminded that court employees should not have any dealings with litigants, respondent Pecaña should not have gone out to greet respondent Judge Rubia since she was dining with a litigant.

The odds that complainant and respondent Pecaña would meet respondent Judge Rubia by pure coincidence are highly improbable. Granted, chance meetings between persons may take place, but a chance meeting between a litigant in the company of a court employee who acceded to assisting the litigant in a case and the judge deciding that case is outside the realm of common experience. The odds of such an occurrence are, indeed, one in a million. The sheer improbability of such an occurrence already puts into question the truth of respondents’ allegations.

Based on these considerations, the narrative of complainant is more believable and must be afforded greater evidentiary weight.

**Delay in filing of administrative
complaint is not a defense**

¹³² TSN, January 17, 2012, p. 4.

The investigation report placed particular emphasis on the eight-month period between the alleged dinner meeting and the filing of the administrative complaint. The eight-month delay in the filing of the administrative complaint is of no consequence.

Delay in filing an administrative complaint should not be construed as basis to question its veracity or credibility. There are considerations that a litigant must think about before filing an administrative case against judges and court personnel. This is more so for lawyers where the possibility of appearing before the judge where an administrative complaint has been filed is high.

Here, respondent Judge Rubia presided over three cases that involved complainant and her late husband's estate. He wielded an unmistakable amount of control over the proceedings.

Filing an administrative case against respondents is a time-consuming ordeal, and it would require additional time and resources that litigants would rather not expend in the interest of preserving their rights in the suit. Complainant might have decided to tread with caution so as not to incur the ire of respondent Judge Rubia for fear of the reprisal that could take place after the filing of an administrative complaint.

Judges and court personnel wield extraordinary control over court proceedings of cases filed. Thus, litigants are always cautious in filing administrative cases against judges and court personnel.

In any case, administrative offenses, including those committed by members of the bench and bar, are not subject to a fixed period within which they must be reported. In *Heck v. Judge Santos*,¹³³ this court held that:

Pursuant to the foregoing, there can be no other conclusion than that an administrative complaint against an erring lawyer who was thereafter appointed as a judge, albeit filed only after **twenty-four years** after the offending act was committed, is not barred by prescription. If the rule were otherwise, members of the bar would be emboldened to disregard the very oath they took as lawyers, prescinding from the fact that as long as no private complainant would immediately come forward, they stand a chance of being completely exonerated from whatever administrative liability they ought to answer for. It is the duty of this Court to protect the integrity of the practice of law as well as the administration of justice. **No matter how much time has elapsed from the time of the commission of the act complained of and the time of the institution of the complaint, erring members of the bench and**

¹³³ 467 Phil. 798 (2004) [Per J. Callejo, En Banc].

bar cannot escape the disciplining arm of the Court. This categorical pronouncement is aimed at unscrupulous members of the bench and bar, to deter them from committing acts which violate the Code of Professional Responsibility, the Code of Judicial Conduct, or the Lawyer's Oath.¹³⁴ (Emphasis supplied)

If this court saw fit to penalize a member of the bench for an offense committed more than twenty years prior to the filing of the complaint, then the eight-month period cannot prejudice the complainant.

The interval between the time when the offense was committed and the time when the offense was officially reported cannot serve as a basis to doubt the veracity of complainant's allegations.

This court's mandate to discipline members of the judiciary and its personnel is implemented by pertinent rules and statutes. Judges are disciplined based on whether their actions violated the New Code of Judicial Conduct.¹³⁵ Court personnel are also governed by the Code of Conduct for Court Personnel¹³⁶ and are appointed in accordance with the Civil Service Law, as provided for in Section 5, Article VIII of the 1987 Constitution. None of these rules for administrative discipline mandates a period within which a complaint must be filed after the commission or discovery of the offense. This court determines with finality the liability of erring members of the judiciary and its employees. The gravity of an administrative offense cannot be diminished by a delay in the filing of a complaint.

To dismiss the commission of the offense based on this eight-month period is to ignore the distinct and tangible possibility that the offense was actually committed. The commission of the offense is not contingent on the period of revelation or disclosure. To dismiss the complaint on this ground is tantamount to attaching a period of prescription to the offense, which does not apply in administrative charges.

Respondent Pecaña's actions amount to violations of the Code of Conduct for Court Personnel

“Court personnel, regardless of position or rank, are expected to conduct themselves in accordance with the strict standards of integrity and morality.”¹³⁷

¹³⁴ Id. at 824-825.

¹³⁵ Administrative Matter No. 03-05-01-SC (2004).

¹³⁶ Administrative Matter No. 03-06-13-SC (2004).

¹³⁷ *Villahermosa v. Sarcia*, A.M. No. CA-14-28-P, February 11, 2014 <

The complaint states that respondents were allegedly acting in favor of Atty. Noe Zarate, counsel for the opposing parties in the three cases pending in the sala of respondent Judge Rubia. Because of respondents' actions, complainant and all who will be made aware of the events of this case will harbor distrust toward the judiciary and its processes. For this alone, respondents should be held administratively liable.

For respondent Pecaña, the fact that she allowed herself to be placed in a position that could cause suspicion toward her work as a court personnel is disconcerting.

As a court employee, respondent Pecaña should have known better than to interact with litigants in a way that could compromise the confidence that the general public places in the judiciary. Respondent Pecaña should have refused to meet with complainant in her home. She should have refused any other form of extended communication with complainant, save for those in her official capacity as a Data Encoder of the court. This continued communication between complainant and respondent Pecaña makes her culpable for failure to adhere to the strict standard of propriety mandated of court personnel.

Respondent Pecaña admitted to meeting with complainant several times, despite the former's knowledge of the pendency of cases in the court where she is employed and in addition to the text messages exchanged between them. She had a duty to sever all forms of communication with complainant or to inform her superiors or the proper authority of complainant's attempts to communicate with her. Respondent Pecaña failed to do so. Instead, she continued to communicate with complainant, even to the extent of advising complainant against filing an administrative case against her and respondent Judge Rubia.

Respondent Pecaña violated Canon 1 of the Code of Conduct for Court Personnel:

CANON I

FIDELITY TO DUTY

....

SECTION 3. Court personnel shall not discriminate by dispensing special favors to anyone. They shall not allow kinship, rank, position or favors from any party to influence their official acts or duties.

....

SECTION 5. Court personnel shall use the resources, property and funds under their official custody in a judicious manner and solely in accordance with the prescribed statutory and regulatory guidelines or procedures.

Respondent Pecaña's actions constitute a clear violation of the requirement that all court personnel uphold integrity and prudence in all their actions. As stated in *Villaros v. Orpiano*:¹³⁸

Time and time again, we have stressed that the behavior of all employees and officials involved in the administration of justice, from judges to the most junior clerks, is circumscribed with a heavy responsibility. Their conduct must be guided by strict propriety and decorum at all times in order to merit and maintain the public's respect for and trust in the judiciary. Needless to say, all court personnel must conduct themselves in a manner exemplifying integrity, honesty and uprightness.¹³⁹

Respondent Pecaña should, thus, be held administratively liable for her actions.

**Respondent Judge Rubia
committed gross violations of the
New Code of Judicial Conduct**

By meeting a litigant and advising her to talk to opposing counsel, respondent Judge Rubia violated several canons of the New Code of Judicial Conduct.

Respondent Judge Rubia failed to act in a manner that upholds the dignity mandated by his office. He was already made aware of the impropriety of respondent Pecaña's actions by virtue of her admissions in her comment. At the time of the referral of the complaint to the Office of the Court Administrator, respondent Judge Rubia was already the Executive Judge of Branch 24 of the Regional Trial Court of Biñan, Laguna.¹⁴⁰ As a judge, he had the authority to ensure that all court employees, whether or not they were under his direct supervision, act in accordance with the esteem of their office.

Respondent Pecaña even alleged that respondent Judge Rubia made

¹³⁸ 459 Phil. 1 (2003) [Per Curiam, En Banc].

¹³⁹ Id. at 6-7.

¹⁴⁰ *Rollo*, p. 54.

several warnings to all court employees not to intercede in any case pending before any court under his jurisdiction as Executive Judge.¹⁴¹ However, nothing in the record shows that respondent Judge Rubia took action *after being informed of respondent Pecaña's interactions with a litigant*, such as ascertaining her actions, conducting an inquiry to admonish or discipline her, or at least reporting her actions to the Office of the Court Administrator.

For this failure alone, respondent Judge Rubia should be held administratively liable.

Furthermore, the evidence on record supports the allegations that a meeting with complainant, a litigant with several cases pending before his sala, took place. Respondent Judge Rubia's mere presence in the dinner meeting provides a ground for administrative liability.

In *Gandez Jr. v. Tabin*,¹⁴² this court reminded judges:

Canon 2 of the Code of Judicial Conduct requires a judge to avoid not only impropriety but also the mere appearance of impropriety in **all activities**.

To stress how the law frowns upon even any appearance of impropriety in a magistrate's activities, it has often been held that a judge must be like Caesar's wife - above suspicion and beyond reproach. Respondent's act discloses a deficiency in prudence and discretion that a member of the Judiciary must exercise in the performance of his official functions and of his activities as a private individual. It is never trite to caution respondent to be prudent and circumspect in both speech and action, keeping in mind that her conduct in and outside the courtroom is always under constant observation.¹⁴³ (Emphasis supplied, citations omitted)

Respondent Judge Rubia clearly failed to live up to the standards of his office. By participating in the dinner meeting and by failing to admonish respondent Pecaña for her admitted impropriety, respondent Judge Rubia violated Canons 1 and 2 of the New Code of Judicial Conduct.

Canon 1 INDEPENDENCE

Judicial Independence is a pre-requisite to the rule of law and a fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects.

Section 1. Judges shall exercise the judicial function independently

¹⁴¹ Id.

¹⁴² A.M. No. MTJ-09-1736, July 25, 2011, 654 SCRA 268 [Per J. Peralta, Third Division].

¹⁴³ Id. at 274-275.

on the basis of their assessment of the facts and in accordance with a conscientious understanding of the law, free of any extraneous influence, inducement, pressure, threat or interference, direct or indirect, from any quarter or for any reason.

Section 6. Judges shall be independent in relation to society in general and in relation to the particular parties to a dispute which he or she has to adjudicate.

Section 8. Judges shall exhibit and promote high standards of judicial conduct in order to reinforce public confidence in the judiciary, which is fundamental to the maintenance of judicial independence.

Canon 2 INTEGRITY

Integrity is essential not only to the proper discharge of the judicial office but also to the personal demeanor of judges.

Section 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.

Section 2. The behavior and conduct of judges must reaffirm the people's faith in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done.

Section 3. Judges should take or initiate appropriate disciplinary measures against lawyers or court personnel for unprofessional conduct of which the judge may have become aware.

In *De la Cruz v. Judge Bersamira*,¹⁴⁴ this court explained the necessity of a judge's integrity:

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.¹⁴⁵

¹⁴⁴ 402 Phil. 671 (2001) [Per J. Ynares-Santiago, First Division].

¹⁴⁵ Id. at 679-680.

In *Castillo v. Judge Calanog, Jr.*,¹⁴⁶ this 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 behavior of a judge, both in the performance of official duties and in private life should be above suspicion.¹⁴⁷ (Citations omitted)

In *De la Cruz*, this court emphasized the need for impartiality of judges:

. . . [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. x x x Public confidence in the judiciary is eroded by irresponsible or improper conduct of judges.

. . . 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 frontliners who have direct contact with the litigating parties.

¹⁴⁶ 276 Phil. 70 (1991) [Per Curiam, En Banc].

¹⁴⁷ Id. at 81-82.

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.¹⁴⁸ (Citations omitted, emphasis supplied)

In the motion for intervention filed by Atty. Zarate before Justice Gaerlan, Atty. Zarate stated that even if respondent Judge Rubia was present at the dinner meeting, it was merely an attempt to reconcile the parties and reach an extrajudicial solution.¹⁴⁹

This is telling of a culture of tolerance that has led to the decay of the exacting nature of judicial propriety. Instead of being outraged by respondent Judge Rubia's meeting an opposing party, Atty. Zarate defended respondent Judge Rubia's actions.

Had it been true that a settlement was being brokered by respondent Judge Rubia, it should have been done in open court with the record reflecting such an initiative.

As to complainant's questioning of respondent Judge Rubia's actions in the issuance of the orders in her pending cases and the exercise of his judgment, this court agrees that complainant should resort to the appropriate judicial remedies. This, however, does not negate the administrative liability of respondent Judge Rubia. His actions failed to assure complainant and other litigants before his court of the required "cold neutrality of an impartial judge."¹⁵⁰ Because of this, respondent Judge Rubia also violated Canon 3 of the New Code of Judicial Conduct on Impartiality:

CANON 3. IMPARTIALITY

Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.

Section 1. Judges shall perform their judicial duties without favor, bias, or prejudice.

Section 2. Judges shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary.

Section 3. Judges shall, so far as is reasonable, so conduct

¹⁴⁸ *De la Cruz v. Judge Bersamira*, 402 Phil. 671, 681-682 (2001) [Per J. Ynares-Santiago, First Division].

¹⁴⁹ *Rollo*, pp. 261-262.

¹⁵⁰ *Pascual v. Judge Bonifacio*, 447 Phil. 11, 20 (2003) [Per J. Quisimbing, Second Division], citing *Gutierrez v. Santos*, 112 Phil. 184, 189 (1961) [Per J. Dizon, En Banc].

themselves as to minimize the occasions on which it will be necessary for them to be disqualified from hearing or deciding cases.

Section 4. Judges shall not knowingly, while a proceeding is before, or could come before them, make any comment that might reasonably be expected to affect the outcome of such proceeding or impair the manifest fairness of the process. Nor shall judges make any comment in public or otherwise that might affect the fair trial of any person or issue.

Complainant correctly cited *Pascual v. Judge Bonifacio*¹⁵¹ where this court held:

Upon assumption of office, a judge becomes the visible representation of the law and of justice. Membership in the judiciary circumscribes one's personal conduct and imposes upon him a number of inhibitions, whose faithful observance is the price one has to pay for holding such an exalted position. Thus, a magistrate of the law must comport himself at all times in such a manner that his conduct, official or otherwise, can withstand the most searching public scrutiny, for the ethical principles and sense of propriety of a judge are essential to the preservation of the people's faith in the judicial system. This Court does not require of judges that they measure up to the standards of conduct of the saints and martyrs, but we do expect them to be like Caesar's wife in all their activities. Hence, we require them to abide strictly by the Code of Judicial Conduct.

It appears now that respondent has failed to live up to those rigorous standards. Whether or not he purposely went to the Manila Hotel on November 25, 1998 to meet complainant or only had a chance meeting with him, his act of trying to convince complainant to agree to his proposal is an act of impropriety. It is improper and highly unethical for a judge to suggest to a litigant what to do to resolve his case for such would generate the suspicion that the judge is in collusion with one party. A litigant in a case is entitled to no less than the cold neutrality of an impartial judge. Judges are not only required to be impartial, but also to appear to be so, for appearance is an essential manifestation of reality. Hence, not only must a judge render a just decision, he is also duty bound to render it in a manner completely free from suspicion as to its fairness and its integrity. Respondent's conduct in the instant case inevitably invites doubts about respondent's probity and integrity. It gives ground for a valid reproach. In the judiciary, moral integrity is more than a cardinal virtue, it is a necessity. Moreover, a judge's lack of impartiality or the mere appearance of bias would cause resentment if the party who refused the judge's proposal subsequently lost his case. It would give rise to suspicion that the judgment was "fixed" beforehand. Such circumstance tarnishes the image of the judiciary and brings to it public contempt, disrepute, and ridicule. Thus, we are constrained to rule that respondent violated Rule 2.01 of the Code of Judicial Conduct. His misconduct is not

¹⁵¹ 447 Phil. 11 (2003) [Per J. Quisimbing, Second Division].

excused but rather made more glaring by the fact that the controversy involving complainant was pending in his own sala.¹⁵² (Citations omitted)

The totality of the actions of respondent Judge Rubia is a clear manifestation of a lack of integrity and impartiality essential to a judge.

By meeting with complainant, respondent Judge Rubia also violated Canon 4 of the New Code of Judicial Conduct:

CANON 4. PROPRIETY

Propriety and the appearance of propriety are essential to the performance of all the activities of a judge.

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

Section 2. As a subject of constant public scrutiny, judges must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. In particular, judges shall conduct themselves in a way that is consistent with the dignity of the judicial office.

Section 3. Judges shall, in their personal relations with individual members of the legal profession who practice regularly in their court, avoid situations which might reasonably give rise to the suspicion or appearance of favoritism or partiality.

On propriety, this court held in *Atty. Raul L. Correa v. Judge Medel Arnaldo Belen*¹⁵³ that:

Indeed, the New Code of Judicial Conduct for the Philippine Judiciary exhorts members of the judiciary, in the discharge of their duties, to be models of propriety at all times.

....

A judge is the visible representation of the law. Thus, he must behave, at all times, in such a manner that his conduct, official or otherwise, can withstand the most searching public scrutiny. The ethical principles and sense of propriety of a judge are essential to the preservation of the people's faith in the judicial system.¹⁵⁴

Because of the meeting, and the subsequent orders issued after the meeting, respondent Judge Rubia violated the notions of propriety required of his office. Respondents have relentlessly stood by their position that the

¹⁵² Id. at 19-20.

¹⁵³ A.M. No. RTJ-10-2242, August 6, 2010, 627 SCRA 13 [Per J. Nachura, Second Division].

¹⁵⁴ Id. at 16-18.

meeting was a chance encounter, and, thus, no impropriety could be attributed to the meeting itself.

Respondent Judge Rubia's actions belittled the integrity required of judges in all their dealings inside and outside the courts. For these actions, respondent Judge Rubia now lost the requisite integrity, impartiality, and propriety fundamental to his office. He cannot be allowed to remain a member of the judiciary.

Respondents in this case failed to subscribe to the highest moral fiber mandated of the judiciary and its personnel. Their actions tainted their office and besmirched its integrity. In effect, both respondents are guilty of gross misconduct. This court defined misconduct as "a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer."¹⁵⁵ In *Camus v. The Civil Service Board of Appeals*,¹⁵⁶ this court held that "[m]isconduct has been defined as 'wrong or improper conduct' and 'gross' has been held to mean 'flagrant; shameful'. . . . This Court once held that the word misconduct implies a wrongful intention and not a mere error of judgment."¹⁵⁷

Both respondents are indeed guilty of gross misconduct. However, respondent Judge Rubia is also guilty of conduct unbecoming of a judge for violating Canons 2, 3, and 4 of the New Code of Judicial Conduct.

This is not to say that complainant comes to these proceedings with clean hands either. As a litigant, she is enjoined to act in such a way that will not place the integrity of the proceedings in jeopardy. Her liability, however, is not the subject of these proceedings. To ensure that these actions will no longer be committed by any party, respondents must be sanctioned accordingly, in keeping with the court's mandate to uphold a character of trust and integrity in society.

WHEREFORE, the court resolved to redocket the case as a regular administrative matter. Respondent Judge Marino Rubia is hereby **DISMISSED** from the service, with corresponding forfeiture of all retirement benefits, except accrued leave credits, and disqualified from reinstatement or appointment in any public office, including government-owned or -controlled corporations. Respondent Eileen Pecaña is **SUSPENDED** for one (1) year for gross misconduct.

This decision is immediately executory. Respondent Judge Rubia is

¹⁵⁵ *Civil Service Commission v. Ledesma*, 508 Phil. 569, 579 (2005) [Per J. Carpio, En Banc], citing *Bureau of Internal Revenue v. Organo*, 468 Phil. 111, 118 (2004) [Per J. Panganiban, First Division].

¹⁵⁶ 112 Phil. 301 (1961) [Per J. Paredes, En Banc].

¹⁵⁷ Id. at 306, citing *In Re: Impeachment of Honorable Antonio Horrilleno*, 43 Phil. 212, 214 (1922) [Per J. Malcolm, En Banc].

further ordered to cease and desist from discharging the functions of his office upon receipt of this decision. Let a copy hereof be entered in the personal records of respondents.

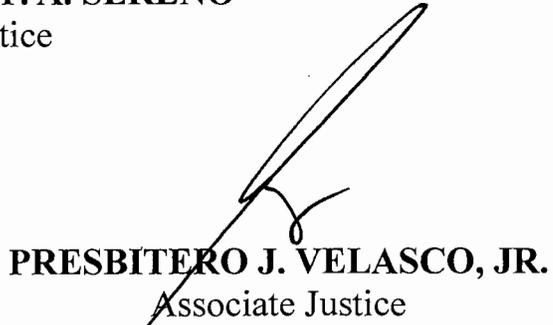
SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice



ANTONIO T. CARPIO
Associate Justice



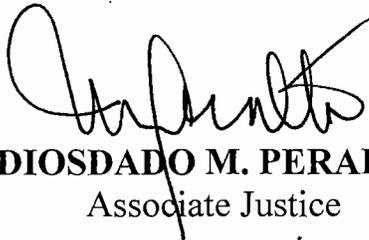
PRESBITERO J. VELASCO, JR.
Associate Justice



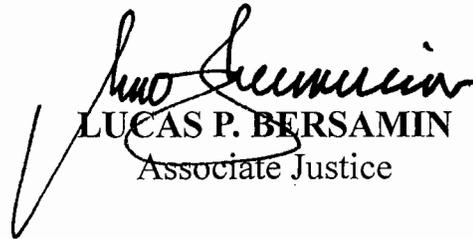
TERESITA J. LEONARDO-DE CASTRO
Associate Justice



ARTURO D. BRION
Associate Justice



DIOSDADO M. PERALTA
Associate Justice



LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice



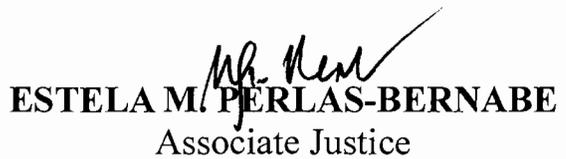
JOSE PORTUGAL PEREZ
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice



BIENVENIDO L. REYES
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice




MARVIC MARIO VICTOR F. LEONEN
Associate Justice

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for