



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ANONYMOUS,
Complainant,

A.M. No. MTJ-11-1801
(Formerly OCA I.P.I. No. 11-2438 MTJ)

Present:

- versus -

VELASCO, JR., *J. Chairperson*,
PERALTA,
ABAD,
MENDOZA, and
LEONEN, *JJ.*

JUDGE RIO C. ACHAS,
Municipal Trial Court
in Cities, Branch 2, Ozamiz City,
Misamis Occidental,
Respondent.

Promulgated:

February 27, 2013

Macapian

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RESOLUTION

MENDOZA, J.:

Before the Court is an anonymous letter-complaint,¹ dated August 2, 2010, alleging immorality and conduct unbecoming of a judge against respondent Judge Rio C. Achas (*Judge Achas*), Presiding Judge, Municipal Trial Court in Cities, Branch 2, Ozamiz City, Misamis Occidental.

The letter calls on the Court to look into the morality of respondent Judge Achas and alleges that: (1) it is of public knowledge in the city that Judge Achas is living scandalously with a woman who is not his wife; (2) he lives beyond his means; (3) he is involved with illegal activities through his connection with bad elements, the *kuratongs*; (4) he comes to court very

¹ *Rollo*, p. 6.

untidy and dirty; (5) he decides his cases unfairly in exchange for material and monetary consideration; and (6) he is involved with cockfighting/gambling.

In the Indorsement,² dated September 30, 2010, the Office of the Court Administrator (*OCA*) referred the matter to Executive Judge Miriam Orquieza-Angot (*Judge Angot*) for Discreet Investigation and Report.

In her Report,³ dated November 26, 2010, Judge Angot found that Judge Achas had been separated from his legal wife for quite some time and they are living apart; and that he found for himself a young woman with whom he would occasionally go out with in public and it was not a secret around town. Anent the allegations that Judge Achas was living beyond his means and was involved in illegal activities, Judge Angot reported that she could not be certain whether such were true, and only ascertained that he had established friendships or alliances with people of different social standings from around the city. Judge Angot opined that the allegation that Judge Achas would come to court untidy and dirty was a matter of personal hygiene and in the eye of the beholder. Lastly, she found the charge that Judge Achas decided cases unfairly in exchange for consideration to be vague and unsubstantiated.

In his Comment,⁴ dated February 4, 2011, Judge Achas denied all the allegations against him and claimed that they were hatched to harass him, pointing to disgruntled professionals, supporters and local candidates who lost during the May 2010 elections. He asserted that after 28 years in the government service, he had remained loyal to his work and conducted himself in a righteous manner.

In the Resolution, dated December 14, 2011, the Court resolved to re-docket the case as a regular administrative matter and to refer the same to the Executive Judge of the Regional Trial Court of Ozamiz City for investigation, report and recommendation.

In her Report,⁵ dated April 4, 2012, Executive Judge Salome P. Dungog (*Judge Dungog*) stated that an investigation was conducted. Judge Achas and his two witnesses testified in his defense, namely, his Branch Clerk of Court, Renato Zapatos; and his Process Server, Michael Del Rosario. The anonymous complainant never appeared to testify. During the investigation, Judge Achas again denied all the charges but admitted that he

² Id. at 8.

³ Id. at 10.

⁴ Id. at 15-16.

⁵ Id. at 98-99.

was married and only separated *de facto* from his legal wife for 26 years, and that he reared game cocks for leisure and extra income, having inherited such from his forefathers. Judge Dungog found that “it is not commendable, proper or moral per Canons of Judicial Ethics to be perceived as going out with a woman not his wife,”⁶ and for him to be involved in rearing game cocks.

In its Memorandum, dated December 17, 2012, the OCA recommended that Judge Achas be reprimanded as to the charge of immorality. It was further recommended that he be ordered to refrain from going to cockpits or avoid such places altogether, with a warning that the same or similar complaint in the future shall be dealt with more severely. The other charges were recommended to be dismissed for lack of merit.

The Court agrees, with modification.

Under Section 1 of Rule 140 of the Rules of Court, anonymous complaints may be filed against judges, but they must be supported by public records of indubitable integrity. Courts have acted in such instances needing no corroboration by evidence to be offered by the complainant. Thus, for anonymous complaints, the burden of proof in administrative proceedings which usually rests with the complainant, must be buttressed by indubitable public records and by what is sufficiently proven during the investigation. If the burden of proof is not overcome, the respondent is under no obligation to prove his defense.⁷

In the present case, no evidence was attached to the letter-complaint. The complainant never appeared, and no public records were brought forth during the investigation. Respondent Judge Achas denied all the charges made against him, only admitting that he was separated *de facto* from his wife and that he reared fighting cocks.

The charges that he (1) lives beyond his means, (2) is involved with illegal activities through his connection with the *kuratongs*, (3) comes to court very untidy and dirty, and (4) decides his cases unfairly in exchange for material and monetary consideration were, therefore, properly recommended dismissed by the OCA for lack of evidence.

⁶ Id. at 99.

⁷ *Go v. Judge Achas*, 493 Phil. 343, 349 (2005).

The charges that (1) it is of public knowledge that he is living scandalously with a woman not his wife and that (2) he is involved with cockfighting/gambling are, however, another matter.

The New Code of Judicial Conduct for the Philippine Judiciary pertinently provides:

CANON 2
INTEGRITY

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

SEC. 1. Judges shall ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of a reasonable observer.

SEC. 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.

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CANON 4
PROPRIETY

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

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

SEC. 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.

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Judge Angot’s discreet investigation revealed that the respondent judge found “for himself a suitable young lass whom he occasionally goes out with in public and such a fact is not a secret around town.”⁸ Judge Achas denied this and no evidence was presented to prove the contrary. He did

⁸ *Rollo*, p. 10.

admit, however, that he had been estranged from his wife for the last 26 years. Notwithstanding his admission, the fact remains that he is still legally married to his wife. The Court, therefore, agrees with Judge Dungog in finding that it is not commendable, proper or moral for a judge to be perceived as going out with a woman not his wife. Such is a blemish to his integrity and propriety, as well as to that of the Judiciary.

For going out in public with a woman not his wife, Judge Achas has clearly failed to abide by the above-cited Canons of the New Code of Judicial Conduct for Philippine Judiciary.

Regarding his involvement in cockfighting, however, there is no clear evidence. Judge Achas denied engaging in cockfighting and betting. He admitted, however, that he reared fighting cocks for leisure, having inherited the practice from his forefathers. While gamecocks are bred and kept primarily for gambling, there is no proof that he goes to cockpits and gambles. While rearing fighting cocks is not illegal, Judge Achas should avoid mingling with a crowd of cockfighting enthusiasts and bettors as it undoubtedly impairs the respect due him. As a judge, he must impose upon himself personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

The Court further notes that in A.M. No. MTJ-04-1564,⁹ Judge Achas was charged with immorality for cohabiting with a woman not his wife, and with gross misconduct and dishonesty for personally accepting a cash bond in relation to a case and not depositing it with the clerk of court, and for maintaining a flock of fighting cocks and actively participating in cockfights. The Court, in 2005, found him guilty of gross misconduct for personally receiving the cash bond and fined him in the amount of ₱15,000.00 with a stern warning. The charge of immorality was dismissed for lack of evidence. Although the Court, at the same time, noted that the charge of maintaining a flock of fighting cocks and participating in cockfights was denied by the respondent judge, it made no ruling on the charge.

Seven years later, similar charges of immoral cohabitation and cockfighting have again been levelled against Judge Achas. Considering that his immoral behaviour is not a secret around town, it is apparent that respondent judge has failed to ensure that his conduct is *perceived* to be above reproach by the reasonable observer, and has failed to *avoid the appearance* of impropriety in his activities, to the detriment of the judiciary as a whole.

⁹ *Go v. Judge Achas*, supra note 7.

No position demands greater moral righteousness and uprightness from its occupant than does the judicial office. Judges in particular must be individuals of competence, honesty and probity, charged as they are with safeguarding the integrity of the court and its proceedings. He should behave at all times so as to promote public confidence in the integrity and impartiality of the judiciary, and avoid impropriety and the appearance of impropriety in all his activities. His personal behaviour outside the court, and not only while in the performance of his official duties, must be beyond reproach, for he is perceived to be the personification of law and justice. Thus, any demeaning act of a judge degrades the institution he represents.¹⁰

Under Section 10 in relation to Section 11 C (1) of Rule 140 of the Rules of Court, as amended, “unbecoming conduct” is classified as a light charge, punishable by any of the following sanctions: (1) a fine of not less than P1,000.00 but not exceeding P10,000.00; and/or (2) censure; (3) reprimand; (4) admonition with warning. The Court, thus, finds that the penalty of a fine in the amount of ₱5,000.00 and reprimand are proper under the circumstances.

WHEREFORE, for violation of the New Code of Judicial Conduct, respondent Judge Rio Concepcion Achas is **REPRIMANDED** and **FINED** in the amount of FIVE THOUSAND PESOS (₱5,000.00), **ADMONISHED** not to socially mingle with cockfighting enthusiasts and bettors, and **STERNLY WARNED** that a repetition of the same or similar acts shall be dealt with more severely.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

¹⁰ *City of Tagbilaran v. Judge Hontanosas, Jr.* 425 Phil. 592, 601 (2002).

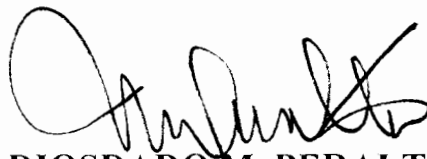
WE CONCUR:



PRESBITERIO J. VELASCO, JR.

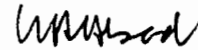
Associate Justice

Chairperson



DIOSDADO M. PERALTA

Associate Justice



ROBERTO A. ABAD

Associate Justice



MARVIC MARIO VICTOR F. LEONEN

Associate Justice