A.M. No. RTJ-14-2388 June 10, 2014
[Formerly OCA IPI No. 10-3554-RTJ]

EMILIE SISON-BARIAS, Complainant,
vs.
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.

D E C I S I O N

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 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 Avenuein 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 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 JudgeRubia 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

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 toher 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 noncompliance 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 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 knwwat? 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 tlaga. 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 sminwidout 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.)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 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 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

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

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.

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.

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 untrammeled 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.

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.*1âwphi1* 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 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 sheet[118] 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 number[120] as well as respondent Pecaña's.[121] Respondent Pecaña admitted that the number identified by complainant was her number.[122] On March 2 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 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 kngmkpg 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:

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 anong 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 becauseit 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 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.
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> 3. Respondent Pecaña was having dinner with complainant whom she knew had a pending case before respondent Judge Rubia.
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> 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

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 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 Personnel[136] 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]

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 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 Gandeza 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 INDEPENDECE

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 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

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 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.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 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 Bonifacio151 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 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 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 tore docket 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 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.

RE: LETTER OF JUDGE AUGUSTUS C. DIAZ, METROPOLITAN TRIAL COURT OF QUEZON CITY, BRANCH 37,

APPEALING FOR JUDICIAL CLEMENCY.

A.M. No. 07-7-17-SC

Present :

PUNO, *C.J.*,
QUISUMBING,
YNARES-SANTIAGO,
SANDOVAL-GUTIERREZ,
CARPIO,
AUSTRIA-MARTINEZ,
CORONA,
CARPIO MORALES,
AZCUNA,
TINGA,
CHICO-NAZARIO,
GARCIA,
VELASCO, JR.,
NACHURA and
REYES, *JJ.*

Promulgated:

September 19, 2007

x - x

R E S O L U T I O N

CORONA, *J.*:

In a letter dated July 18, 2007, Judge Augustus C. Diaz, presiding judge of Branch 37 of the Metropolitan Trial Court of Quezon City, informed the Court that he is an applicant for judgeship in one of the vacant Regional Trial Court branches in Metro Manila. In connection therewith, he was interviewed by the Judicial and Bar Council on July 10, 2007. He was told to seek judicial clemency due to the fact that he was once fined P20,000 for not hearing a motion for demolition. He claims that this lapse happened only once as a result of oversight. He requests judicial clemency and, in particular, that he be allowed to again be nominated to one of the vacant branches of the Regional Trial Court of Manila or in any of the cities where [his] application [is being] considered.

In a subsequent letter,1[1] Judge Diaz stated that he has been the presiding judge of Branch 37 of the Metropolitan Trial Court of Quezon City since March 1, 1995. He expressed deep remorse for the lapse for which he was held administratively liable in *Alvarez v. Diaz*.2[2] He confessed that [t]he stain of the penalty has taught [him] a bitter lesson and promised to avoid the commission of the same or similar acts. He submitted himself to the judicious discretion of this Court for whatever action the Court may take on his plea for judicial clemency.

In *Alvarez*, Judge Diaz was found guilty of gross ignorance of the law when he granted the following motions: (1) a motion for execution which was fatally defective for lack of notice to the defendant and (2) a motion for demolition without notice and hearing. His action on the motion for demolition also made him liable for grave abuse of authority.3[3] He was fined P20,000.4[4]

Section 5, Rule 4 of the Rules of the Judicial and Bar Council provides:

SEC. 5. *Disqualification*. The following are disqualified from being nominated for appointment to any judicial post or as Ombudsman or Deputy Ombudsman:

1. Those with pending criminal or regular administrative cases;

2. Those with pending criminal cases in foreign courts or tribunals; and

3. **Those who have been convicted** in any criminal case; or **in an administrative case, where the penalty imposed is at least a fine of more than P10,000, unless he has been granted judicial clemency**. 5[5] (emphasis supplied)

Under the said provision, Judge Diaz is disqualified from being nominated for appointment to any judicial post, until and unless his request for judicial clemency is granted.

Concerned with safeguarding the integrity of the judiciary, this Court has come down hard6[6] and wielded the rod of discipline against members of the judiciary who have fallen short of the exacting standards of judicial conduct.7[7] This is because a judge is the visible representation of the law and of justice.8[8] He must comport himself in a manner that his conduct must be free of a whiff of impropriety, not only with respect to the performance of his official duties but also as to his behavior outside his sala and as a private individual.9[9] His character must be able to withstand the most searching public scrutiny because the ethical principles and sense of propriety of a judge are essential to the preservation of the peoples faith in the judicial system.10[10]

Clemency, as an act of mercy removing any disqualification, should be balanced with the preservation of public confidence in the courts. The Court will grant it only if there is a showing that it is merited. Proof of reformation and a showing of potential and promise are indispensable.11[11]

In the exercise of its constitutional power of administrative supervision over all courts and all personnel thereof,12[12] the Court lays down the following guidelines in resolving requests for judicial clemency:

1. There must be proof of remorse and reformation.13[13] These shall include but should not be limited to certifications or testimonials of the officer(s) or chapter(s) of the Integrated Bar of the Philippines, judges or judges associations and prominent members of the community with proven integrity and probity. A subsequent finding of guilt in an administrative case for the same or similar misconduct will give rise to a strong presumption of non-reformation.

2. Sufficient time must have lapsed from the imposition of the penalty14[14] to ensure a period of reformation.

3. The age of the person asking for clemency must show that he still has productive years ahead of him that can be put to good use by giving him a chance to redeem himself.15[15]

4. There must be a showing of promise16[16] (such as intellectual aptitude, learning or legal acumen or contribution to legal scholarship and the development of the legal system or administrative and other relevant skills), as well as potential for public service.17[17]

5. There must be other relevant factors and circumstances that may justify clemency.

In this case, Judge Diaz expressed sincere repentance for his past malfeasance. He humbly accepted the verdict of this Court in *Alvarez*. Three years have elapsed since the promulgation of *Alvarez*. It is sufficient to ensure that he has learned his lesson and that he has reformed. His 12 years of service in the judiciary may be taken as proof of his dedication to the institution. Thus, the Court may now open the door of further opportunities in the judiciary for him.

Accordingly, the letter dated July 18, 2007 of Judge Augustus C. Diaz is hereby **NOTED**. His request for judicial clemency is **GRANTED.**

SO ORDERED.

G.R. No. 191002 April 20, 2010

ARTURO M. DE CASTRO, Petitioner,
vs.
JUDICIAL AND BAR COUNCIL (JBC) and PRESIDENT GLORIA MACAPAGAL - ARROYO, Respondents.

x -x

G.R. No. 191032

JAIME N. SORIANO, Petitioner,
vs.
JUDICIAL AND BAR COUNCIL (JBC), Respondent.

x -x

G.R. No. 191057

PHILIPPINE CONSTITUTION ASSOCIATION (PHILCONSA), Petitioner,
vs.
JUDICIAL AND BAR COUNCIL (JBC), Respondent.

x -x

A.M. No. 10-2-5-SC

IN RE APPLICABILITY OF SECTION 15, ARTICLE VII OF THE CONSTITUTION TO APPOINTMENTS TO THE JUDICIARY, ESTELITO P. MENDOZA, Petitioner,

x -x

G.R. No. 191149

JOHN G. PERALTA, Petitioner,
vs.
JUDICIAL AND BAR COUNCIL (JBC). Respondent.
PETER IRVING CORVERA; CHRISTIAN ROBERT S. LIM; ALFONSO V. TAN, JR.; NATIONAL UNION OF PEOPLE'S LAWYERS; MARLOU B. UBANO; INTEGRATED BAR OF THE PHILIPPINES-DAVAO DEL SUR CHAPTER, represented by its Immediate Past President, ATTY. ISRAELITO P. TORREON, and the latter in his own personal capacity as a MEMBER of the PHILIPPINE BAR; MITCHELL JOHN L. BOISER; BAGONG ALYANSANG BAYAN (BAYAN) CHAIRMAN DR. CAROLINA P. ARAULLO; BAYAN SECRETARY GENERAL RENATO M. REYES, JR.; CONFEDERATION FOR UNITY, RECOGNITION AND ADVANCE-MENT OF GOVERNMENT EMPLOYEES (COURAGE) CHAIRMAN FERDINAND GAITE; KALIPUNAN NG DAMAYANG MAHIHIRAP (KADAMAY) SECRETARY GENERAL GLORIA ARELLANO; ALYANSA NG NAGKAKAISANG KABATAAN NG SAMBAYANAN PARA SA KAUNLARAN (ANAKBAYAN) CHAIRMAN KEN LEONARD RAMOS; TAYO ANG PAG-ASA CONVENOR ALVIN PETERS; LEAGUE OF FILIPINO STUDENTS (LFS) CHAIRMAN JAMES MARK TERRY LACUANAN RIDON; NATIONAL UNION OF STUDENTS OF THE PHILIPPINES (NUSP) CHAIRMAN EINSTEIN RECEDES; COLLEGE EDITORS GUILD OF THE PHILIPPINES (CEGP) CHAIRMAN VIJAE ALQUISOLA; and STUDENT CHRISTIAN MOVEMENT OF THE PHILIPPINES (SCMP) CHAIRMAN MA. CRISTINA ANGELA GUEVARRA; WALDEN F. BELLO and LORETTA ANN P. ROSALES; WOMEN TRIAL LAWYERS ORGANIZATION OF THE PHILIPPINES, represented by YOLANDA QUISUMBING-JAVELLANA; BELLEZA ALOJADO DEMAISIP; TERESITA GANDIONCO-OLEDAN; MA. VERENA KASILAG-VILLANUEVA; MARILYN STA. ROMANA; LEONILA DE JESUS; and GUINEVERE DE LEON; AQUILINO Q. PIMENTEL, JR.; Intervenors.

x -x

G.R. No. 191342

ATTY. AMADOR Z. TOLENTINO, JR., (IBP Governor-Southern Luzon), and ATTY. ROLAND B. INTING (IBP Governor-Eastern Visayas), Petitioners,

vs.
JUDICIAL AND BAR COUNCIL (JBC), Respondent.

x -x

G.R. No. 191420

PHILIPPINE BAR ASSOCIATION, INC., Petitioner,
vs.
JUDICIAL AND BAR COUNCIL and HER EXCELLENCY GLORIA MACAPAGAL-ARROYO, Respondents.

R E S O L U T I O N

BERSAMIN, *J.:*

On March 17, 2010, the Court promulgated its decision, holding:

WHEREFORE, the Court:

1. Dismisses the petitions for certiorari and mandamus in G.R. No. 191002 and G.R. No. 191149, and the petition for mandamus in G.R. No. 191057 for being premature;

2. Dismisses the petitions for prohibition in G.R. No. 191032 and G.R. No. 191342 for lack of merit; and

3. Grants the petition in A.M. No. 10-2-5-SC and, accordingly, directs the Judicial and Bar Council:

(a) To resume its proceedings for the nomination of candidates to fill the vacancy to be created by the compulsory retirement of Chief Justice Reynato S. Puno by May 17, 2010;

(b) To prepare the short list of nominees for the position of Chief Justice;

(c) To submit to the incumbent President the short list of nominees for the position of Chief Justice on or before May 17, 2010; and

(d) To continue its proceedings for the nomination of candidates to fill other vacancies in the Judiciary and submit to the President the short list of nominees corresponding thereto in accordance with this decision.

SO ORDERED.

Motions for Reconsideration

Petitioners Jaime N. Soriano (G.R. No. 191032), Amador Z. Tolentino and Roland B. Inting (G.R. No. 191342), and Philippine Bar Association (G.R. No. 191420), as well as intervenors Integrated Bar of the Philippines-Davao del Sur (IBP-Davao del Sur, et al.); Christian Robert S. Lim; Peter Irving Corvera; Bagong Alyansang Bayan and others (BAYAN, et al.); Alfonso V. Tan, Jr.; the Women Trial Lawyers Organization of the Philippines (WTLOP); Marlou B. Ubano; Mitchell John L. Boiser; and Walden F. Bello and Loretta Ann P. Rosales (Bello, et al.), filed their respective motions for reconsideration. Also filing a motion for reconsideration was Senator Aquilino Q. Pimentel, Jr., whose belated intervention was allowed.

We summarize the arguments and submissions of the various motions for reconsideration, in the aforegiven order:

Soriano

1. The Court has not squarely ruled upon or addressed the issue of whether or not the power to designate the Chief Justice belonged to the Supreme Court en banc.

2. The Mendoza petition should have been dismissed, because it sought a mere declaratory judgment and did not involve a justiciable controversy.

3. All Justices of the Court should participate in the next deliberations. The mere fact that the Chief Justice sits as ex officio head of the JBC should not prevail over the more compelling state interest for him to participate as a Member of the Court.

Tolentino and Inting

1. A plain reading of Section 15, Article VII does not lead to an interpretation that exempts judicial appointments from the express ban on midnight appointments.

2. In excluding the Judiciary from the ban, the Court has made distinctions and has created exemptions when none exists.

3. The ban on midnight appointments is placed in Article VII, not in Article VIII, because it limits an executive, not a judicial, power.

4. Resort to the deliberations of the Constitutional Commission is superfluous, and is powerless to vary the terms of the clear prohibition.

5. The Court has given too much credit to the position taken by Justice Regalado. Thereby, the Court has raised the Constitution to the level of a venerated text whose intent can only be divined by its framers as to be outside the realm of understanding by the sovereign people that ratified it.

6. Valenzuela should not be reversed.

7. The petitioners, as taxpayers and lawyers, have the clear legal standing to question the illegal composition of the JBC.

Philippine Bar Association

1. The Court's strained interpretation of the Constitution violates the basic principle that the Court should not formulate a rule of constitutional law broader than what is required by the precise facts of the case.

2. Considering that Section 15, Article VII is clear and straightforward, the only duty of the Court is to apply it. The provision expressly and clearly provides a general limitation on the appointing power of the President in prohibiting the appointment of any person to any position in the Government without any qualification and distinction.

3. The Court gravely erred in unilaterally ignoring the constitutional safeguard against midnight appointments.

4. The Constitution has installed two constitutional safeguards:- the prohibition against midnight appointments, and the creation of the JBC. It is not within the authority of the Court to prefer one over the other, for the Court's duty is to apply the safeguards as they are, not as the Court likes them to be.

5. The Court has erred in failing to apply the basic principles of statutory construction in interpreting the Constitution.

6. The Court has erred in relying heavily on the title, chapter or section headings, despite precedents on statutory construction holding that such headings carried very little weight.

7. The Constitution has provided a general rule on midnight appointments, and the only exception is that on temporary appointments to executive positions.

8. The Court has erred in directing the JBC to resume the proceedings for the nomination of the candidates to fill the vacancy to be created by the compulsory retirement of Chief Justice Puno with a view to submitting the list of nominees for Chief Justice to President Arroyo on or before May 17, 2010. The Constitution grants the Court only the power of supervision over the JBC; hence, the Court cannot tell the JBC what to do, how to do it, or when to do it, especially in the absence of a real and justiciable case assailing any specific action or inaction of the JBC.

9. The Court has engaged in rendering an advisory opinion and has indulged in speculations.

10. The constitutional ban on appointments being already in effect, the Court's directing the JBC to comply with the decision constitutes a culpable violation of the Constitution and the commission of an election offense.

11. The Court cannot reverse on the basis of a secondary authority a doctrine unanimously formulated by the Court en banc.

12. The practice has been for the most senior Justice to act as Chief Justice whenever the incumbent is indisposed. Thus, the appointment of the successor Chief Justice is not urgently necessary.

13. The principal purpose for the ban on midnight appointments is to arrest any attempt to prolong the outgoing President's powers by means of proxies. The attempt of the incumbent President to appoint the next Chief Justice is undeniably intended to perpetuate her power beyond her term of office.

IBP-Davao del Sur, et al.

1. Its language being unambiguous, Section 15, Article VII of the Constitution applies to appointments to the Judiciary. Hence, no cogent reason exists to warrant the reversal of the Valenzuela pronouncement.

2. Section 16, Article VII of the Constitution provides for presidential appointments to the Constitutional Commissions and the JBC with the consent of the Commission on Appointments. Its phrase "other officers whose appointments are vested in him in this Constitution" is enough proof that the limitation on the appointing power of the President extends to appointments to the Judiciary. Thus, Section 14, Section 15, and Section 16 of Article VII apply to all presidential appointments in the Executive and Judicial Branches of the Government.

3. There is no evidence that the framers of the Constitution abhorred the idea of an Acting Chief Justice in all cases.

Lim

1. There is no justiciable controversy that warrants the Court's exercise of judicial review.

2. The election ban under Section 15, Article VII applies to appointments to fill a vacancy in the Court and to other appointments to the Judiciary.

3. The creation of the JBC does not justify the removal of the safeguard under Section 15 of Article VII against midnight appointments in the Judiciary.

Corvera

1. The Court's exclusion of appointments to the Judiciary from the Constitutional ban on midnight appointments is based on an interpretation beyond the plain and unequivocal language of the Constitution.

2. The intent of the ban on midnight appointments is to cover appointments in both the Executive and Judicial Departments. The application of the principle of verba legis (ordinary meaning) would have obviated dwelling on the organization and arrangement of the provisions of the Constitution. If there is any ambiguity in Section 15, Article VII, the intent behind the provision, which is to prevent political partisanship in all branches of the Government, should have controlled.

3. A plain reading is preferred to a contorted and strained interpretation based on compartmentalization and physical arrangement, especially considering that the Constitution must be interpreted as a whole.

4. Resort to the deliberations or to the personal interpretation of the framers of the Constitution should yield to the plain and unequivocal language of the Constitution.

5. There is no sufficient reason for reversing Valenzuela, a ruling that is reasonable and in accord with the Constitution.

BAYAN, et al.

1. The Court erred in granting the petition in A.M. No. 10-2-5-SC, because the petition did not present a justiciable controversy. The issues it raised were not yet ripe for adjudication, considering that the office of the Chief Justice was not yet vacant and that the JBC itself has yet to decide whether or not to submit a list of nominees to the President.

2. The collective wisdom of Valenzuela Court is more important and compelling than the opinion of Justice Regalado.

3. In ruling that Section 15, Article VII is in conflict with Section 4(1), Article VIII, the Court has violated the principle of ut magis valeat quam pereat (which mandates that the Constitution should be interpreted as a whole, such that any conflicting provisions are to be harmonized as to fully give effect to all). There is no conflict between the provisions; they complement each other.

4. The form and structure of the Constitution's titles, chapters, sections, and draftsmanship carry little weight in statutory construction. The clear and plain language of Section 15, Article VII precludes interpretation.

Tan, Jr.

1. The factual antecedents do not present an actual case or controversy. The clash of legal rights and interests in the present case are merely anticipated. Even if it is anticipated with certainty, no actual vacancy in the position of the Chief Justice has yet occurred.

2. The ruling that Section 15, Article VII does not apply to a vacancy in the Court and the Judiciary runs in conflict with long standing principles and doctrines of statutory construction. The provision admits only one exception, temporary appointments in the Executive Department. Thus, the Court should not distinguish, because the law itself makes no distinction.

3. Valenzuela was erroneously reversed. The framers of the Constitution clearly intended the ban on midnight appointments to cover the members of the Judiciary. Hence, giving more weight to the opinion of Justice Regalado to reverse the en banc decision in Valenzuela was unwarranted.

4. Section 15, Article VII is not incompatible with Section 4(1), Article VIII. The 90-day mandate to fill any vacancy lasts until August 15, 2010, or a month and a half after the end of the ban. The next President has roughly the same time of 45 days as the incumbent President (i.e., 44 days) within which to scrutinize and study the qualifications of the next Chief Justice. Thus, the JBC has more than enough opportunity to examine the nominees without haste and political uncertainty.*1avvphi1*

5. When the constitutional ban is in place, the 90-day period under Section 4(1), Article VIII is suspended.

6. There is no basis to direct the JBC to submit the list of nominees on or before May 17, 2010. The directive to the JBC sanctions a culpable violation of the Constitution and constitutes an election offense.

7. There is no pressing necessity for the appointment of a Chief Justice, because the Court sits en banc, even when it acts as the sole judge of all contests relative to the election, returns and qualifications of the President and Vice-President. Fourteen other Members of the Court can validly comprise the Presidential Electoral Tribunal.

WTLOP

1. The Court exceeded its jurisdiction in ordering the JBC to submit the list of nominees for Chief Justice to the President on or before May 17, 2010, and to continue its proceedings for the nomination of the candidates, because it granted a relief not prayed for; imposed on the JBC a deadline not provided by law or the Constitution; exercised control instead of mere supervision over the JBC; and lacked sufficient votes to reverse Valenzuela.

2. In interpreting Section 15, Article VII, the Court has ignored the basic principle of statutory construction to the effect that the literal meaning of the law must be applied when it is clear and unambiguous; and that we should not distinguish where the law does not distinguish.

3. There is no urgency to appoint the next Chief Justice, considering that the Judiciary Act of 1948 already provides that the power and duties of the office devolve on the most senior Associate Justice in case of a vacancy in the office of the Chief Justice.

Ubano

1. The language of Section 15, Article VII, being clear and unequivocal, needs no interpretation

2. The Constitution must be construed in its entirety, not by resort to the organization and arrangement of its provisions.

3. The opinion of Justice Regalado is irrelevant, because Section 15, Article VII and the pertinent records of the Constitutional Commission are clear and unambiguous.

4. The Court has erred in ordering the JBC to submit the list of nominees to the President by May 17, 2010 at the latest, because no specific law requires the JBC to submit the list of nominees even before the vacancy has occurred.

Boiser

1. Under Section 15, Article VII, the only exemption from the ban on midnight appointments is the temporary appointment to an executive position. The limitation is in keeping with the clear intent of the framers of the Constitution to place a restriction on the power of the outgoing Chief Executive to make appointments.

2. To exempt the appointment of the next Chief Justice from the ban on midnight appointments makes the appointee beholden to the outgoing Chief Executive, and compromises the independence of the Chief Justice by having the outgoing President be continually influential.

3. The Court's reversal of Valenzuela without stating the sufficient reason violates the principle of stare decisis.

Bello, et al.

1. Section 15, Article VII does not distinguish as to the type of appointments an outgoing President is prohibited from making within the prescribed period. Plain

textual reading and the records of the Constitutional Commission support the view that the ban on midnight appointments extends to judicial appointments.

2. Supervision of the JBC by the Court involves oversight. The subordinate subject to oversight must first act not in accord with prescribed rules before the act can be redone to conform to the prescribed rules.

3. The Court erred in granting the petition in A.M. No. 10-2-5-SC, because the petition did not present a justiciable controversy.

Pimentel

1. Any constitutional interpretative changes must be reasonable, rational, and conformable to the general intent of the Constitution as a limitation to the powers of Government and as a bastion for the protection of the rights of the people. Thus, in harmonizing seemingly conflicting provisions of the Constitution, the interpretation should always be one that protects the citizenry from an ever expanding grant of authority to its representatives.

2. The decision expands the constitutional powers of the President in a manner totally repugnant to republican constitutional democracy, and is tantamount to a judicial amendment of the Constitution without proper authority.

Comments

The Office of the Solicitor General (OSG) and the JBC separately represent in their respective comments, thus:

OSG

1. The JBC may be compelled to submit to the President a short list of its nominees for the position of Chief Justice.

2. The incumbent President has the power to appoint the next Chief Justice.

3. Section 15, Article VII does not apply to the Judiciary.

4. The principles of constitutional construction favor the exemption of the Judiciary from the ban on midnight appointments.*1awph!1*

5. The Court has the duty to consider and resolve all issues raised by the parties as well as other related matters.

JBC

1. The consolidated petitions should have been dismissed for prematurity, because the JBC has not yet decided at the time the petitions were filed whether the incumbent President has the power to appoint the new Chief Justice, and because the JBC, having yet to interview the candidates, has not submitted a short list to the President.

2. The statement in the decision that there is a doubt on whether a JBC short list is necessary for the President to appoint a Chief Justice should be struck down as bereft of constitutional and legal basis. The statement undermines the independence of the JBC.

3. The JBC will abide by the final decision of the Court, but in accord with its constitutional mandate and its implementing rules and regulations.

For his part, petitioner Estelito P. Mendoza (A.M. No. 10-2-5-SC) submits his comment even if the OSG and the JBC were the only ones the Court has required to do so. He states that the motions for reconsideration were directed at the administrative matter he initiated and which the Court resolved. His comment asserts:

1. The grounds of the motions for reconsideration were already resolved by the decision and the separate opinion.

2. The administrative matter he brought invoked the Court's power of supervision over the JBC as provided by Section 8(1), Article VIII of the Constitution, as distinguished from the Court's adjudicatory power under Section 1, Article VIII. In the former, the requisites for judicial review are not required, which was why *Valenzuela* was docketed as an administrative matter. Considering that the JBC itself has yet to take a position on when to submit the short list to the proper appointing authority, it has effectively solicited the exercise by the Court of its power of supervision over the JBC.

3. To apply Section 15, Article VII to Section 4(1) and Section 9, Article VIII is to amend the Constitution.

4. The portions of the deliberations of the Constitutional Commission quoted in the dissent of Justice Carpio Morales, as well as in some of the motions for reconsideration do not refer to either Section 15, Article VII or Section 4(1), Article VIII, but to Section 13, Article VII (on nepotism).

Ruling

We deny the motions for reconsideration for lack of merit, for all the matters being thereby raised and argued, not being new, have all been resolved by the decision of March 17, 2010.

Nonetheless, the Court opts to dwell on some matters only for the purpose of clarification and emphasis.

First: Most of the movants contend that the principle of stare decisis is controlling, and accordingly insist that the Court has erred in disobeying or abandoning Valenzuela.[1]

The contention has no basis.

Stare decisis derives its name from the Latin maxim stare decisis et non quieta movere, i.e., to adhere to precedent and not to unsettle things that are settled. It simply means that a principle underlying the decision in one case is deemed of imperative authority, controlling the decisions of like cases in the same court and in lower courts within the same jurisdiction, unless and until the decision in question is reversed or overruled by a court of competent authority. The decisions relied upon as precedents are commonly those of appellate courts, because the decisions of the trial courts may be appealed to higher courts and for that reason are probably not the best evidence of the rules of law laid down. [2]

Judicial decisions assume the same authority as a statute itself and, until authoritatively abandoned, necessarily become, to the extent that they are applicable, the criteria that must control the actuations, not only of those called upon to abide by them, but also of those duty-bound to enforce obedience to them.[3] In a hierarchical judicial system like ours, the decisions of the higher courts bind the lower courts, but the courts of co-ordinate authority do not bind each other. The one highest court does not bind itself, being invested with the innate authority to rule according to its best lights.[4]

The Court, as the highest court of the land, may be guided but is not controlled by precedent. Thus, the Court, especially with a new membership, is not obliged to follow blindly a particular decision that it determines, after re-examination, to call for a rectification.[5] The adherence to precedents is strict and rigid in a common-law setting like the United Kingdom, where judges make law as binding as an Act of Parliament.[6] But ours is not a common-law system; hence, judicial precedents are not always strictly and rigidly followed. A judicial pronouncement in an earlier decision may be followed as a precedent in a subsequent case only when its reasoning and justification are relevant, and the court in the latter case accepts such reasoning and justification to be applicable to the case. The application of the precedent is for the sake of convenience and stability.

For the intervenors to insist that Valenzuela ought not to be disobeyed, or abandoned, or reversed, and that its wisdom should guide, if not control, the Court in this case is, therefore, devoid of rationality and foundation. They seem to conveniently forget that the Constitution itself recognizes the innate authority of the Court en banc to modify or reverse a doctrine or principle of law laid down in any decision rendered en banc or in division.[7]

Second: Some intervenors are grossly misleading the public by their insistence that the Constitutional Commission extended to the Judiciary the ban on presidential appointments during the period stated in Section 15, Article VII.

The deliberations that the dissent of Justice Carpio Morales quoted from the records of the Constitutional Commission did not concern either Section 15, Article VII or Section 4(1), Article VIII, but only Section 13, Article VII, a provision on nepotism. The records of the Constitutional Commission show that Commissioner Hilario G. Davide, Jr. had proposed to include judges and justices related to the President within the fourth civil degree of consanguinity or affinity among the persons whom the President might not appoint during his or her tenure. In the end, however, Commissioner Davide, Jr. withdrew the proposal to include the Judiciary in Section 13, Article VII "(t)o avoid any further complication,"[8] such that the final version of the second paragraph of Section 13, Article VII even completely omits any reference to the Judiciary, to wit:

Section 13. xxx

The spouse and relatives by consanguinity or affinity within the fourth civil degree of the President shall not during his tenure be appointed as Members of the Constitutional Commissions, or the Office of the Ombudsman, or as Secretaries, Undersecretaries, chairmen or heads of bureaus or offices, including government-owned or controlled corporations and their subsidiaries.

Last: The movants take the majority to task for holding that Section 15, Article VII does not apply to appointments in the Judiciary. They aver that the Court either ignored or refused to apply many principles of statutory construction.

The movants gravely err in their posture, and are themselves apparently contravening their avowed reliance on the principles of statutory construction.

For one, the movants, disregarding the absence from Section 15, Article VII of the express extension of the ban on appointments to the Judiciary, insist that the ban applied to the Judiciary under the principle of verba legis. That is self-contradiction at its worst.

Another instance is the movants' unhesitating willingness to read into Section 4(1) and Section 9, both of Article VIII, the express applicability of the ban under Section 15, Article VII during the period provided therein, despite the silence of said provisions thereon. Yet, construction cannot supply the omission, for doing so would generally constitute an encroachment upon the field of the Constitutional Commission. Rather, Section 4(1) and Section 9 should be left as they are, given that their meaning is clear and explicit, and no words can be interpolated in them.[9] Interpolation of words is unnecessary, because the law is more than likely to fail to express the legislative intent with the interpolation. In other words, the addition of new words may alter the thought intended to be conveyed. And, even where the meaning of the law is clear and sensible,

either with or without the omitted word or words, interpolation is improper, because the primary source of the legislative intent is in the language of the law itself.[10]

Thus, the decision of March 17, 2010 has fittingly observed:

Had the framers intended to extend the prohibition contained in Section 15, Article VII to the appointment of Members of the Supreme Court, they could have explicitly done so. They could not have ignored the meticulous ordering of the provisions. They would have easily and surely written the prohibition made explicit in Section 15, Article VII as being equally applicable to the appointment of Members of the Supreme Court in Article VIII itself, most likely in Section 4 (1), Article VIII. That such specification was not done only reveals that the prohibition against the President or Acting President making appointments within two months before the next presidential elections and up to the end of the President's or Acting President's term does not refer to the Members of the Supreme Court.

We cannot permit the meaning of the Constitution to be stretched to any unintended point in order to suit the purposes of any quarter.

Final Word

It has been insinuated as part of the polemics attendant to the controversy we are resolving that because all the Members of the present Court were appointed by the incumbent President, a majority of them are now granting to her the authority to appoint the successor of the retiring Chief Justice.

The insinuation is misguided and utterly unfair.

The Members of the Court vote on the sole basis of their conscience and the merits of the issues. Any claim to the contrary proceeds from malice and condescension. Neither the outgoing President nor the present Members of the Court had arranged the current situation to happen and to evolve as it has. None of the Members of the Court could have prevented the Members composing the Court when she assumed the Presidency about a decade ago from retiring during her prolonged term and tenure, for their retirements were mandatory. Yet, she is now left with an imperative duty under the Constitution to fill up the vacancies created by such inexorable retirements within 90 days from their occurrence. Her official duty she must comply with. So must we ours who are tasked by the Constitution to settle the controversy.

ACCORDINGLY, the motions for reconsideration are denied with finality.