

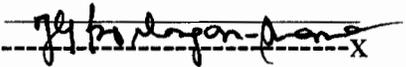
EN BANC

**A.M. No. RTJ-10-2219 (Office of the Court Administrator v. Retired Judge Pablo R. Chavez, Atty. Teofilo A. Dimaculangan, Jr., Mr. Armando Ermelito M. Marquez, and Mr. David Caguimbal)**

**A.M. No. 12-7-130-RTC (Re: Undated Anonymous Letter-Complaint Against the Presiding Judge, Clerk of Court and Court Stenographer of the Regional Trial Court, Branch 87, Rosario, Batangas)**

Promulgated:

August 1, 2017

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## SEPARATE OPINION

**VELASCO, JR., J.:**

I join the majority in partially granting the motion for reconsideration of Judge Pablo R. Chavez (Judge Chavez) and in tempering the penalty imposed upon the said judge, from forfeiture of benefits and disqualification from holding public office to a fine equivalent to three months of his last salary. The appreciation of several mitigating circumstances in favor of Judge Chavez, which was the basis of the new ruling, is only in tune with standing precedents on how administrative penalties ought to be imposed amidst the presence of extenuating circumstances.<sup>1</sup>

Be that as it may, I am compelled to submit this opinion in order to express my disagreement with the majority's pronouncement that Judge Chavez had been guilty of the offense of Gross Neglect of Duty under Section 46(A)(2), Rule 10 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS).<sup>2</sup> This pronouncement, which was originally made in our Decision dated March 7, 2017,<sup>3</sup> was effectively affirmed in the present resolution of the *en banc*.

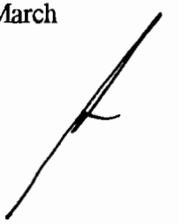
I believe that the majority's application of an offense under the RRACCS against Judge Chavez is erroneous. It is my position that the administrative offense or offenses with which a member of the judiciary,

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<sup>1</sup>See *Office of the Court Administrator v. Aguilar*, A.M. No. RTJ-07-2087, June 7, 2011, 651 SCRA 13; *Office of the Court Administrator v. Flores*, A.M. No. P-07-2366, 16 April 2009, 585 SCRA 82; *Concerned Employees of the Municipal Trial Court of Meycauayan, Bulacan v. Paguio-Bacani*, A.M. No. P-06-2217, 30 July 2009, 594 SCRA 242; *Re: Administrative Case for Dishonesty Against Elizabeth Ting, Court Secretary I & Angelita C. Esmerio, Clerk III, Office of the Division Clerk of Court, Third Division*, 502 Phil. 264 (2005); *Reyes-Domingo v. Morales*, 396 Phil. 150 (2000); *Floria v. Sunga*, 420 Phil. 637 (2001).

<sup>2</sup>*Office of the Court Administrator v. Chavez*, A.M. Nos. RTJ-10-2219 & 12-7-130-RTC, March 7, 2017.

<sup>3</sup>Id.



such as Judge Chavez, may be charged with and held liable under is governed by the provisions of Rule 140 of the Court and not by the RRACCS of the Civil Service Commission (CSC). I proffer the following reasons in support:

1. The RRACCS is intended to govern administrative proceedings in the entire civil service, *in general*.<sup>4</sup> Rule 140 of the Rules of the Court, on the other hand, is *specifically* meant to govern the disciplinary proceedings against members of the judiciary. Since the RRACCS could not possibly have repealed Rule 140, the latter rule ought to be considered as an exception to the former rule. **In other words, the RRACCS must yield to Rule 140 with respect to matters specifically treated in the latter.**

Among those specifically treated under Rule 140 of the Rules of Court are the different **administrative offenses that a member of the judiciary may be charged with and held liable under**.<sup>5</sup> Viewed thusly, the administrative offenses under RRACCS can have no application to members of the judiciary.

2. The above conclusion is supported by the 1982 case of *Macariola v. Asuncion*.<sup>6</sup>

In *Macariola*, a judge, who associated himself with a private corporation as an officer and a stockholder during his incumbency, was administratively charged of, among others, violating a provision of the Civil Service Rules which was promulgated by the CSC pursuant to Republic Act (RA) No. 2260 or the Civil Service Act of 1959.<sup>7</sup> The issue then was whether the judge may be held administratively liable under such a charge.<sup>8</sup>

*Macariola* answered the issue in the negative and dismissed the said charge. **It ruled that administrative charges under the Civil Service Act of 1959 and the rules that were promulgated thereunder do not apply to judges, they being members of the judiciary and thus covered by the Judiciary Act of 1948 as to matters pertaining to grounds for their discipline.**<sup>9</sup>

3. While the rules and laws referred to in *Macariola* had since been superseded by more recent issuances and enactments, the doctrine established therein, *i.e.*, **the non-application of administrative offenses under the ordinary civil service**

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<sup>4</sup> See Section 2, Rule 1 of RRACCS.

<sup>5</sup> See RULES OF COURT, Rule 140, Sections 8, 9 and 10.

<sup>6</sup> A. M. No. 133-J, May 31, 1982, 114 SCRA 77.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

**rules with respect to judges by reason of them being covered by another set of rules or law that specially deals with the grounds for their discipline**, remains valid. Like it was during the time of *Macariola*, the grounds for the discipline of members of the judiciary are still provided for under a special set of rules distinct from the ordinary civil service rules promulgated by the CSC.

Rule 140 of the Rules of Court are the set of rules *especially* promulgated by the Court to govern disciplinary proceedings against members of the judiciary. Sections 8, 9 and 10 of the said rule, in turn, provide the specific administrative charges that can be applied against a member of the judiciary. These provisions are completely separate from the administrative offenses under Section 46 of the RRACCS.

4. There is also practical value in maintaining the *Macariola* doctrine. A contrary rule, *i.e.*, allowing the administrative offenses under the RRACCS to be concurrently applied with those under Rule 140, will only lead to confusion and even compromise the court's ability, in administrative proceedings against members of the judiciary, to impose uniform sanctions in cases that bear similar sets of facts. A couple of examples quickly comes to mind:
  - a. A judge who fails to render a decision within the reglementary period under the Constitution is liable for the *less serious* charge of Undue Delay in Rendering Decision under Rule 140 of the Rules of Court.<sup>10</sup> However, if the offenses under the RRACCS are rendered applicable, then another judge who commits the same fault may instead find himself charged with the *grave* offense of Gross Neglect of Duty under the said rule.<sup>11</sup>
  - b. A judge who is an alcoholic and a habitual drunk is liable for a *serious* charge under Rule 140 of the Rules of Court.<sup>12</sup> However, should the RRACCS be made applicable, a second judge who is every bit as alcoholic and drunk as the first may instead be held accountable only for a *less grave* offense under the said rule.<sup>13</sup>

The above examples, needless to state, are merely the proverbial tip of the iceberg of confusion that may follow

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<sup>10</sup> RULES OF COURT, Rule 140, Section 9(1).

<sup>11</sup> Section 46(A)(2), Rule 10 of the RRACCS.

<sup>12</sup> RULES OF COURT, Rule 140, Section 8(11).

<sup>13</sup> Section 46(D)(6), Rule 10 of the RRACCS.

should we allow the administrative offenses under the RRACCS to be applied against members of the judiciary.

Instead of Gross Neglect of Duty under the RRACCS, I thus find it more appropriate to find Judge Chavez—for his failure to diligently discharge his administrative responsibilities and inability to establish and maintain an organized system of record-keeping and docket management for his court branch—guilty of Simple Misconduct under Section 9(7) of Rule 140 of the Rules of Court. After all, the said shortcomings of Judge Chavez may be considered as indicative of the judge's possible breach of Supreme Court rules, directives and circulars.

Subject to the foregoing considerations, I concur with the resolution.



**PRESBITERO J. VELASCO, JR.**  
Associate Justice

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CLERK OF COURT, EN BANC  
SUPREME COURT