



Republic of the Philippines
 Supreme Court
 Manila

EN BANC

ALDRIN B. MAGAOAY, A.M. No. MTJ-23-017 [Formerly
Complainant, OCA IPI No. 19-3073-MTJ]

PRESENT:

GESMUNDO, C.J.,
 LEONEN,
 CAGUIOA,*
 HERNANDO,
 LAZARO-JAVIER,
 INTING,
 ZALAMEDA,
 LOPEZ, M.,
 GAERLAN,
 ROSARIO,
 LOPEZ, J.,
 DIMAAMPAO,
 MARQUEZ,
 KHO, JR., and
 SINGH, JJ.

-versus-

HON. ATENEONES S.
 BACALE, PRESIDING
 JUDGE, MUNICIPAL
 CIRCUIT TRIAL COURT,
 BILIRAN-CABUCGAYAN,
 BILIRAN,

Promulgated:

Respondent.

July 23, 2024

X-----X

DECISION

* On official leave.

PER CURIAM:**The Case**

This administrative complaint¹ charges respondent Judge Ateneones S. Bacale (Judge Bacale), Presiding Judge, of the Municipal Circuit Trial Court (MCTC), of Biliran-Cabucgayan, Biliran, with gross misconduct in violation of the Code of Judicial Conduct.

Antecedents

Complainant Aldrin Magaoay (Magaoay) alleged that he is a pharmaceutical supplier/distributor based in Biliran. In 2016, Judge Bacale informed him of a project where four hospitals in Manila needed medicine supplies worth PHP 129,000,000.00, and that the Executive Secretary of Mayor Joseph Estrada (Mayor Estrada) was his (Judge Bacale's) wife, Romilda Amago Bacale (Romilda), who can facilitate the procurement of medicines, implying that they need not undergo the required bidding process. Judge Bacale demanded from him an initial sum of PHP 100,000.00, supposedly for his company's accreditation. Magaoay personally handed the amount to Judge Bacale in full confidence that he would be assisted in executing a contract with the City of Manila. Judge Bacale then instructed Magaoay to meet with a certain Joaquin Ashley Dela Cruz (Dela Cruz), an alleged court employee.² As will be further shown below, during the JIB proceedings Magaoay clarified that Dela Cruz was not a court employee but only a personal assistant or "boy" of Judge Bacale.

Romilda and Dela Cruz constantly demanded from him certain amounts of money supposedly for the execution of a project contract. For the next few years, he had given Dela Cruz and Romilda a total of around PHP 20,000,000.00, either through bank transfer or by personal delivery.³

When he eventually realized that the project would never materialize and that he was only being deceived into giving more money, he filed the present administrative complaint against Judge Bacale for gross misconduct.⁴

¹ *Rollo*, Vol. 1, pp. 7-12.

² *Rollo*, Vol. 2, pp. 258-259.

³ *Id.* at 263-264.

⁴ *Id.* at 264.

In his Comment,⁵ Judge Bacale admitted that he met Magaoay but denied that he conspired with his wife Romilda regarding the procurement of medicine. In fact, they have been separated for more than 30 years. It was only in 2013 that they again started communicating with each other after his house in Tacloban was destroyed by typhoon Yolanda. He did not know the nature of her work, the people she was working with, and the transactions she entered, except those she would occasionally relay to him. He was asked by his wife to “look for a supplier of medicines.” He claimed that it was his wife who arranged his meeting with Magaoay and that when he was handed an envelope by complainant, he did not know what it was for, nor did he open it. He never represented nor promised that he could secure a contract for the supply of medicines to hospitals in Manila.⁶

Proceedings before the Office of the Executive Director and the Judicial Integrity Board

In its Report and Recommendation⁷ dated March 4, 2022, the Office of the Executive Director recommended to the Judicial Integrity Board (JIB) that the complaint should be subject to formal investigation, since it appears from the records that Judge Bacale’s involvement in the anomalous transaction was more than just an innocent messenger.

In its Report⁸ dated April 3, 2023, the JIB found a *prima facie* case and held that the substantial factual issue of whether Judge Bacale conspired with his wife in defrauding Magaoay must be resolved. It recommended to the Court that the administrative complaint be re-docketed as a regular administrative matter and a formal investigation be conducted. The Court approved the JIB’s recommendation through its Resolution⁹ dated July 3, 2023. Consequently, the JIB set the case for hearing and during which, the parties presented their respective testimonial and documentary evidence.¹⁰

Magaoay testified that in 2016, his friend, Bill Flores (Flores), asked him if he wanted to do business with the City of Manila. Flores claimed that he is acquainted with a certain judge who can help him in securing contracts from the City of Manila. In July 2016, he was introduced to Judge Bacale, who represented himself as the husband of Romilda, the Executive Secretary of then Mayor Estrada. Judge Bacale showed him a list of available contracts.

⁵ Rollo, Vol. 1, pp. 421–423.

⁶ *Id.* at 421–422.

⁷ *Id.* at 424–429.

⁸ *Id.* at 424–429, The Report was penned by Justice Romeo J. Callejo, Sr. (Ret.), and concurred in by Justices Angelina Sandoval-Gutierrez (Ret.), Sesinadó E. Villon (Ret.), Rodolfo A. Ponferrada (Ret.), and Cielito M. Mindaro-Gruña (Ret.) of the Judicial Integrity Board, Supreme Court.

⁹ *Id.* at 439–440.

¹⁰ Rollo, Vol. 2, p. 261.

They chose four hospitals to which he could allegedly sell medical supplies worth up to PHP 50,000,000.00. Judge Bacale instructed Magaoay to give him all the necessary documents on their next meeting, including the amount of PHP 100,000.00 as fee for him to “lock in” the contracts.¹¹

They had their second meeting in August 2016 at Solaire Hotel in Pasay City. Before their meeting, Judge Bacale reminded Magaoay to bring cash, not a check. When they met at Solaire, Judge Bacale showed Magaoay the book-bound documents ready for submission to the City of Manila and then Magaoay handed Judge Bacale an envelope with PHP 100,000.00 cash. Judge Bacale counted the money before securing it inside his sling bag. Without the knowledge of Judge Bacale, he took a photograph of him while counting the money. The meeting ended with Judge Bacale thanking and assuring Magaoay that he would give the documents to his wife. When asked about the bidding process, Judge Bacale answered “that is why you have insiders, my wife will take care of that.”¹²

Months later, upon his inquiry, Judge Bacale informed him that he already talked to his wife and that the project may be implemented the following year. Judge Bacale introduced him to “one of his men” named Dela Cruz. According to Judge Bacale, Dela Cruz will give him instructions on the next phase of the project. As stated, when asked by Justice Ponferrada whether Dela Cruz was indeed a court employee, Magaoay clarified that Dela Cruz was only a personal assistant or “boy” of Judge Bacale.¹³ In March 2017, he

¹¹ *Id.* at 261–262.

¹² *Id.*

¹³ TSN, Aldrin B. Magaoay, August 23, 2023, pp. 62–63.

JUSTICE PONFERRADA:

You said earlier that this Ashley received some money from you, correct?

[MAGAOAY]:

Yes, your Honor.

JUSTICE PONFERRADA:

Is he a member of the court of the respondent or not?

[MAGAOAY]:

He’s a member.

JUSTICE PONFERRADA:

What is his position?

[MAGAOAY]:

Something like an errand boy.

JUSTICE PONFERRADA:

There is no “court errand boy” position in the court, so does this mean that you do not know?

[MAGAOAY]:

Actually, I don’t know his item in their circle, Your Honor.

JUSTICE PONFERRADA:

What is your basis for saying that he’s a member of the court staff?

[MAGAOAY]:

You mean the court, Your Honor, Biliran court?

JUSTICE PONFERRADA:

Yes.

[MAGAOAY]

met with Dela Cruz, who explained to him that he needed to buy three bid documents for the project amounting to PHP 60,000.00. One would be for his company while the two others would be for “dummy companies.” He paid the amount through online deposit.¹⁴

Over the next three years, Dela Cruz regularly texted him, asking him to pay for certain documents. Each time, he complied by depositing the money either in Dela Cruz’s or Romilda’s account. He was aware that he was engaging in an illegal transaction, but since he was dealing with Judge Bacale, he took his word as an assurance that he could secure contracts from the City of Manila. When the total amount deposited reached PHP 19,863,000.00 without any progress in the projects, he realized that Judge Bacale, in conspiracy with Dela Cruz and Romilda, had been defrauding him.¹⁵

Consequently, he filed an administrative complaint against Judge Bacale, as well as with criminal cases against the latter, Dela Cruz, and Romilda for estafa, and violation of Republic Act No. 10175, also known as Cybercrime Prevention Act, and of Section 3(e) of Republic Act No. 3019. He admitted though that after the criminal and administrative cases were filed, Romilda had started to deposit PHP 20,000.00 to PHP 30,000.00 to his account to partially return his money but he cannot tell exactly how much was already returned to him.¹⁶

Judge Bacale testified that he is the Presiding Judge of MCTC, Biliran-Cabucgayan, Biliran and he has been a judge for 17 years. He met Magaoay in a hotel in Quezon City a long time ago. The meeting was pre-arranged by his wife, who only instructed him to get some documents from Magaoay. After several days, Magaoay called him to meet at Solaire Hotel. Again, he only retrieved from Magaoay some documents as requested by his wife, as well as a brown envelope containing money. He did not bother to open the envelope or count the money inside. After said occasion, he never saw or communicated with Magaoay again. The whole time, he only acted as a messenger for his wife. He assumes that the complaint was filed only to pressure his wife to return the money she owed Magaoay.¹⁷

During cross-examination, Judge Bacale was shown photos of him apparently holding a brown envelope and counting money. He said that it was the first time he saw those photos. When asked as to what he was doing at the

No, Your Honor, He’s not a member of the Biliran court, He’s just a “boy,” I’m sorry to say that word, personal assistant, what I mean.

¹⁴ *Rollo*, Vol. 2, 262–263.

¹⁵ *Id.* at 263.

¹⁶ *Id.* at 263.

¹⁷ *Id.* at 265–266.

time the photographs were taken, he replied that he could not recall anymore. He maintained that he did not count the money and just received the envelope. He then gave the envelope to his wife as soon as he got home.¹⁸

He went on to explain that he and his wife have already been separated for 30 years. When typhoon Yolanda struck Leyte and completely destroyed his house, it was his wife who helped him get back on his feet. He admitted that he was aware that his transactions with Magaoay were illegal, but he was only complying with his wife's instructions to show his gratitude for her after everything she had done for him post-Yolanda.¹⁹

Romilda testified that she was an Administrative Officer IV at the Office of the City Mayor of Manila. She worked with a certain Mr. Pablo Casimiran (Casimiran), a consultant to Mayor Estrada, and Ms. Shiani Madayag (Madayag), Mayor Estrada's Secretary. As part of her work, she would look for suppliers of medicine for the public hospitals of the City of Manila. Casimiran instructed her to meet Magaoay. Due to her heavy workload, she asked her husband to be the one to meet Magaoay instead and to retrieve from the latter some documents regarding the project. Later, Casimiran informed her that she should get a PHP 100,000.00 accreditation fee from Magaoay. She relayed the instruction to her husband, who then obtained the accreditation fee from Magaoay. Every time Casimiran and Madayag would require advances from Magaoay, she would tell Magaoay to deposit the advances to either her account or the account of Dela Cruz. She realized later on that the bidding documents Madayag sent to her were fake. Outright, she promised Magaoay that she would return all the money he paid for the project.²⁰

On cross-examination, she admitted that she received in her account around PHP 18,000,000.00, which she gave to Casimiran who then gave the said amount to Madayag, albeit without any receipt or document as proof. As of that day, she has returned almost PHP 7,000,000.00 to Magaoay. She tried obtaining the money from Casimiran and Madayag, but both of them were always in the hospital due to cancer. Then, Casimiran died in 2017. She maintained that her husband was not involved in the project. It was too late when she realized the illegality of his participation.²¹

¹⁸ *Id.* at 267.

¹⁹ *Id.* at 266–267.

²⁰ *Id.* at 267–268.

²¹ *Id.* at 268–269.

Report and Recommendation of the Judicial Integrity Board

In its Report and Recommendation²² dated January 17, 2024, the JIB found Judge Bacale liable for gross misconduct constituting violations of Sections 1 and 2, Canon 2 and Sections 1 and 2, Canon 4 of the Code of Judicial Conduct. The JIB recommended that Judge Bacale be dismissed from the service, with forfeiture of all or part of his benefits as the Court may determine; and disqualification from reinstatement or appointment to any public office. Further, the JIB found that Judge Bacale also violated Sections 1, 2, and 12, Canon II and Section 2, Canon III of the Code of Professional Responsibility and Accountability (CPRA) and recommended that he be disbarred.²³

It noted that although Magaoay filed a Verified Motion/Manifestation²⁴ that he is no longer pursuing the case and is withdrawing his Formal Offer of Evidence, the investigation of the administrative complaint subsists as the Court has the power and duty to root out misconduct from among its employees.²⁵ Thus:

ACCORDINGLY, the Judicial Integrity Board respectfully **RECOMMENDS** to the Honorable Supreme Court that:

1. Presiding Judge Ateneones S. Bacale, Municipal Circuit Trial Court, Biliran-Cabucgayan, Biliran, be found **GUILTY** of gross misconduct constituting violations of the Code of Judicial Conduct; and be **DISMISSED** from the service, with **FORFEITURE** of all or part of the benefits as the Supreme Court may determine, and **DISQUALIFICATION** from reinstatement or appointment to any public office, including government-owned or controlled corporations. *Provided, however,* that the forfeiture of benefits shall in no case include accrued leave credits; and
2. Respondent Judge Bacale be **DISBARRED** for violation of Sections 1, 2, and 12, Canon II, and Section 2, Canon III of the Code of Professional Responsibility and Accountability, and his name be **ORDERED STRICKEN** from the Roll of Attorneys.²⁶

²² *Id.* at 258–288. The Report and Recommendation dated January 17, 2024 was penned by Justice Cielito N. Mindaro-Grulla (Ret.) and concurred in by Justices Angelina Sandoval-Gutierrez (Ret.) and Justice Rodolfo A. Ponferrada (Ret.) of the Judicial Integrity Board, Supreme Court.

²³ *Id.* at 282–286.

²⁴ *Rollo*, Vol. 1, pp. 715–716.

²⁵ *Rollo*, Vol. 2, pp. 270–271.

²⁶ *Id.* at 287.

Our Ruling

The Court resolves to adopt and approve with modification the Report and Recommendation²⁷ dated January 17, 2024 of the JIB.

First off, the purpose of Magaoay in filing the present case to allegedly recover the money from Judge Bacale's wife is irrelevant *vis-a-vis* the real nature of the present administrative case which aims to determine whether Judge Bacale is still qualified to continue as a member of the judiciary.

Notably, Judge Bacale did not even refute that he met Magaoay on two occasions and received money from the latter relative to the project in Manila. He was aware of the illegal transaction between his wife and Magaoay. In fact, he even assured Magaoay that he could facilitate the award to him by the City of Manila of the supply contract for medicines worth PHP 50,000,000.00 without the need of going through the procurement process. Magaoay testified:

ATTY. VALLEJO:

And what are the matters taken in your meeting with the said respondent Judge?

MAGAOAY:

During our first meeting, he introduced himself, and his wife is the Executive Secretary of then Mayor Joseph Estrada of [the] City of Manila. So, with those promises, that he can facilitate in giving me some business, I mean, delivering some drugs and medicines in the City of Manila.

.....

Since he introduced his wife to be as (sic) the Executive Secretary of then Mayor Joseph Estrada, he said "I can facilitate your company to get in []". During the meeting, he showed me some list of contracts, "So this will be yours, if we can agree."

ATTY. VALLEJO:

You mentioned "I can facilitate." Who in particular told you that, "I can facilitate"?

²⁷ *Id.* at 258–288.

MAGAOAY:

Judge Bacale himself, sir.

JUSTICE GUTIERREZ:

What was the nature of that transaction?

MAGAOAY:

I will be delivering drugs and medicines in the City of Manila, Your Honor.

JUSTICE GUTIERREZ:

You will be supplying?

MAGAOAY:

Yes, Your Honor, I will be supplying drugs and medicines in the City of Manila.

JUSTICE GUTIERREZ:

Counsel, continue.

ATTY. VALLEJO:

Yes, Your Honor. Did he mention a certain amount with regards those particular transactions? To supply drugs and medicines in the City of Manila?

MAGAOAY:

I remember sir, he showed me a document like 50 million, it does not end there, because he assured me, "once you get in, this will be [a] continuous project."²⁸

.....

²⁸ TSN, Aldrin B. Magaoay, August 23, 2023, pp. 25–28.

I know the bidding process, Your Honor, but I also know how it is being done, sad to say, in the government. That's why, when [Dela Cruz] told me that, there's a project, you need to buy three bid documents, so that it will be sure that it will [be] yours already. For a bidding there must be three suppliers to submit bid documents so that it would appear a perfect bidding. Since I knew already the system, he told me, "[okay,] you have to pay for the three bidding documents, so it will be yours." So I asked him (referring to [Judge Bacale]) "How about the bidding?" "No, no, that is why you have insiders, my wife will take care of that." And I'm talking to a judge, Your Honor, so I readily believe what he is saying, so I readily gave the money. That is the system so I accumulated almost PHP 20,000,000.00 by giving deposits.²⁹

....

JUSTICE GUTIERREZ:

He (Judge Bacale) assured you that you will be the supplier of medicines in these four hospitals?

MAGAOAY:

Yes, Your Honor. By way of saying that "my wife is the Executive Secretary, and you will be in good hands."

JUSTICE PONFERRADA:

No[w], you said earlier that you will give what you agreed upon, did I hear you right, Mr. Witness?

MAGAOAY:

Yes, Your Honor.

JUSTICE PONFERRADA:

Why? What was agreed upon?

MAGAOAY:

Yes, Your Honor. That I will be in, Your Honor. His term is "locked-in money". So, during the first meeting, once you send your legal

²⁹ *Id.* at 56.

documents, prepare for it, book bind then wait for my call, then we will meet. That is that time you give the money.

JUSTICE PONFERRADA:

How much money was agreed upon?

MAGAOAY:

That I will give him PHP 100,000.00, your Honor.³⁰

....

ATTY. VALLEJO:

Do you have any document to prove that indeed, he accepted this PHP 100,000.00?

MAGAOAY:

Actually, Judge, *paano ba ito? So habang binibigay, binibilang*, I took photograph, sir.

ATTY. VALLEJO:

Do you have that particular picture showing that respondent Judge actually accepted this PHP 100,000.00?

MAGAOAY:

Yes sir. I can readily show to this Honorable Board.

ATTY. VALLEJO:

Can you present that particular picture to this Honorable Board?

MAGAOAY:

Yes, sir.

³⁰ *Id.* at 33-34.

JUSTICE GUTIERREZ:

Show it before the tribunal.

ATTY. VALLEJO:

May we request, Your Honor, this picture introduced by private complainant, be marked as our evidence, Exhibit B?

JUSTICE GUTIERREZ:

Is this the respondent? (Justice Gutierrez is pointing to a man holding an envelope)

ATTY. VALLEJO:

Yes, Your Honor. The witness was able to identify the respondent in the picture, Your Honor.

JUSTICE GUTIERREZ:

Make it of record that the picture shows that.

ATTY. VALLEJO:

May I be allowed, Your Honor, to show to the counsel for respondent?

JUSTICE GUTIERREZ:

All right, pañero. Show this picture and ask him who this person is, and what was he doing[.]³¹

On cross-examination, Judge Bacale was shown a picture of himself counting the money handed to him by Magaoay inside a brown envelope and asked what he was doing in the picture. He answered that he could no longer recall and maintained that he only received the envelope but did not count the money inside. His wife Romilda, however, testified to the contrary, viz.:

³¹ *Id.* at 44-46.

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JUSTICE GRULLA:

The second meeting, there was an envelope given to your husband Judge Bacale, which contain PHP 100,000.00. Did you tell your husband that he will be receiving that amount? That envelope?

ROMILDA:

Yes, Your Honor.

JUSTICE GRULLA:

So he knew about the envelope containing the money?

ROMILDA:

Yes, your Honor.³²

Too, Judge Bacale himself testified on his direct participation in the transaction, viz.:

JUSTICE GUTIERREZ:

Mr. Witness, what exactly was this instruction of your wife? Can you clarify?

JUDGE BACALE:

She told me, Your Honor, to meet a certain person in a hotel somewhere in Quezon City and she told me that her companion somewhere in the City of Manila told her that the city needs a supply of medicines. And then, she told me that her friend in the City of Manila told her to meet this person. So, she instructed me to meet the complainant.

JUSITCE GUTIERREZ:

Did she tell you the purpose of your meeting with the complainant? Why will you meet the complainant according to your wife?

³² TSN, Romilda Amago Bacale, October 27, 2023, p. 59.

JUDGE BACALE:

She told me to inform the complainant that the City of Manila needs a [supply] of medicines and there are papers or documents to be prepared.

JUSTICE GUTIERREZ:

She told you that the hospitals in the City of Manila need medicines?

JUDGE BACALE:

Yes, Your Honor.

JUSTICE GUTIERREZ:

And then what is your role on that? Are you aware that these hospitals need medicine?

JUDGE BACALE:

Because she told me, Your Honor, that the person whom I am going to meet is a supplier of medicines.

JUSTICE GUTIERREZ:

What is your participation? What is the relevancy of your presence during that meeting? Will you tell the Court? Why should you be there? You are a judge.

JUDGE BACALE:

Yes, Your Honor. Because she instructed me, Your Honor, and also in order to help her because she rescued me from typhoon "Yolanda."³³

....

JUSTICE PONFERRADA:

During this time that you met the complainant upon instruction of your wife, was that the time that you were still separated?

³³ TSN, Judge Ateneones Bacale, October 18, 2023, pp. 46-48.

JUDGE BACALE:

No, Your Honor. Not anymore.

JUSTICE PONFERRADA:

You reconciled already?

JUDGE BACALE:

Yes, Your Honor.³⁴

.....
JUSTICE PONFERRADA:

And you, a judge, [has] been made an errand boy by a teacher, is that correct?

JUDGE BACALE:

Because she is my wife, Your Honor.

JUSTICE PONFERRADA:

But you did not, as a judge, tell your wife that "I am a judge. I must appear as I have learned from my duties and I must appear proper. It would not be proper for me to be engaged in this kind of transaction." Did you not advise your wife? I am sure you know that. You know the Code of Conduct for Judges?

JUDGE BACALE:

Yes, Your Honor. I did not anymore, Your Honor, because in order to pay back for her efforts in rescuing me, *tinulungan ko na lang*.

JUSTICE PONFERRADA:

Effort in what?

³⁴ *Id.* at 61-62.

JUDGE BACALE:

She rescued me when typhoon "Yolanda" struck. I had nothing, Your Honor. I had nowhere to go. *Ang bahay ko ay* raised to the ground. Nothing, only clothing and books. Everything. Just to show gratitude, Your Honor, I have to help her.

JUSTICE PONFERRADA:

Gratitude to your wife?

JUDGE BACALE:

Yes, Your Honor.

JUSTICE PONFERRADA:

So, even when you knew that it was wrong, because of your gratitude, you complied with the instructions of your wife, correct?

JUDGE BACALE:

That's right, Your Honor.

JUSTICE PONFERRADA:

In other words, you took the risk because of your gratitude.

JUDGE BACALE:

Yes, Your Honor.

JUSTICE PONFERRADA:

And you are ready to accept the consequences, correct?

JUDGE BACALE:

Yes, Your Honor.³⁵

³⁵ *Id.* at 64-67.

Judge Bacale himself admitted during the hearing that he knew that his wife was engaged in an illegal manipulation of the bidding process for medical supplies to the hospitals in the City of Manila. Despite its illegality, he readily participated in it by acting as his wife's "bag man" and received from Magaoay his bidding documents and "lock-in money" in the amount of PHP 100,000.00. He even affirmed that his actions were in violation of the Code of Judicial Conduct.

Too, the JIB gave credence to Magaoay's testimony that Romilda and Dela Cruz would not have been able to dupe him in the illegal transaction were it not for Judge Bacale's direct participation. Magaoay trusted him because of his position as a judge, a person in authority he could rely on. His judgeship gave Magaoay the impression that indeed, the project would push through because he and his wife would be the ones to facilitate it.

Judges are enjoined to strictly comply with the New Code of Judicial Conduct. Integrity is essential not only to the proper discharge of the judicial office but also to the personal demeanor of judges. Propriety and the appearance of propriety, on the other hand, are essential to the performance of all the activities of a judge.³⁶ Sections 1 and 2 of Canon 2 and Sections 1 and 2 of Canon 4 provide:

CANON 2 – Integrity

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

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.

.....

CANON 4 - Propriety

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

³⁶ *Office of the Court Administrator v. Reyes*, A.M. No. RTJ-20-2579, October 10, 2023 [*Per Curiam, En Banc*].

citizen and should do so freely and willingly. In particular, judges must conduct themselves in a way that is consistent with the dignity of the judicial office.

The Court has repeatedly admonished judges to adhere to the highest tenets of judicial conduct. They must be the embodiments of integrity and propriety. The exacting standards of conduct demanded from judges are designed to promote public confidence in the judiciary because the people's confidence in the judicial system is founded not only in the magnitude of legal knowledge and the diligence of the members of the bench, but also on the highest standard of integrity and moral uprightness they are expected to possess. When judges become the transgressor of any law which they are sworn to apply, they place their office in disrepute, encourage disrespect for the law, and impair public confidence in the integrity and impartiality of the judiciary itself. It is therefore paramount that the personal behavior of judges, both in the performance of their duties and daily life, be free from any appearance of impropriety as to be beyond reproach.³⁷

It is not enough that judges possess competence in the law. They must also have moral integrity, as magistrates are measured not only by their official acts but also by their private morals, to the extent that these are externalized.

In *Tobias v. Limsiaco, Jr.*,³⁸ the Court defined gross misconduct in this wise:

The aforementioned acts of respondent constitute gross misconduct. "Misconduct" means a transgression of some established and definite rule of action, willful in character, improper or wrong behavior. "Gross" has been defined as "out of all measure, beyond allowance; flagrant; shameful; such conduct as is not to be excused."³⁹

In *Gacad v. Clapis, Jr.*,⁴⁰ the Court further emphasized that gross misconduct exists if the judicial act complained of is inspired by corrupt motive or a persistent disregard of well-known rules, viz.:

Misconduct means intentional wrongdoing or deliberate violation of a rule of law or standard of behavior in connection with one's performance of official functions and duties. For grave or gross misconduct to exist, the judicial act complained of should be corrupt or inspired by the intention to

³⁷ *Tan v. Rosete*, 481 Phil. 189, 202 (2004), [Per J. Puno, Second Division].

³⁸ 655 Phil. 1, 10-11 (2011) [Per J. Peralta, Second Division].

³⁹ *Id.* at 10-11.

⁴⁰ 691 Phil. 126, 136 (2012) [*Per Curiam, En Banc*].

violate the law, or a persistent disregard of well-known rules. The misconduct must imply wrongful intention and not a mere error of judgment.⁴¹

Here, Judge Bacale has shown a stubborn disregard of the rules which casts doubt on his integrity and sense of propriety as shown by the totality of the circumstances relating to his participation in his wife's illegal transactions. He did not inform his wife that as a judge, it would not be proper for him to assist her in her transaction with Magaoay. He should have known that family concerns are only secondary to preserving the integrity of the judiciary.⁴²

Instead, Judge Bacale met with and even assured Magaoay that he could "facilitate" the award of contracts to the latter by the City of Manila for the supply of medicines worth PHP 50,000,000.00 without the need to undergo the procurement process. Indeed, his actions tainted the image of the judiciary. For knowingly participating in the act of manipulating the process of public bidding in violation of Sections 356 and 366 of Republic Act No. 7160,⁴³ in relation to Section 3(e) of Republic Act No. 3019,⁴⁴ the Court finds Judge Bacale guilty of gross misconduct under the New Code of Judicial Conduct.

Rule 140, Section 13 of the Rules of Court classifies gross misconduct as a serious charge, thus:

SECTION 14. Serious Charges.— Serious charges include:

- (a) Gross misconduct constituting violations of the Code of Judicial Conduct or of the Code of Conduct for Court Personnel;

⁴¹ *Id.* at 136.

⁴² *See Vidal v. Dojillo*, 501 Phil. 555, (2005) [Per J. Austria-Martinez, Second Division].

⁴³ Local Government Code of 1991, approved on October 10, 1991. SECTION 356. General Rule in Procurement or Disposal. — Except as otherwise provided herein, acquisition of supplies by local government units shall be through competitive public bidding. Supplies which have become unserviceable or no longer needed shall be sold, whenever applicable, at public auction, subject to applicable rules and regulations.

SECTION 366. Procurement without Public Bidding. — Procurement of supplies may be made without the benefit of public bidding under any of the following modes:

- (a) Personal canvass of responsible merchants;
(b) Emergency purchase;
(c) Negotiated purchase;
(d) Direct purchase from manufacturers or exclusive distributors; and
(e) Purchase from other government entities.

See Montejo v. People, 905 Phil. 1085, 1104–1105 (2021) [Per J. Inting, Third Division].

⁴⁴ Anti-Graft and Corrupt Practices Act, approved on August 17, 1960. For a successful prosecution under Section 3 (e) of RA 3019, the following elements must concur, to wit:

1. The offender must be a public officer;
2. The act was done in the discharge of the public officer's official, administrative, or judicial functions;
3. The act was done through manifest partiality, evident bad faith, or gross inexcusable negligence; and
4. The public officer caused any undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference.

See Montejo v. People, 905 Phil. 1085, 1105 (2021) [Per J. Inting, Third Division].

Rule 140, Section 17 of the same rules carries the sanctions to be imposed on a respondent found guilty of a serious charge, to wit:

SECTION 17. *Sanctions.* —

- (1) If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:
 - (a) *Dismissal from the service, forfeiture of all or part of the benefits as the Supreme Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;*
 - (b) Suspension from office without salary and other benefits for more than six (6) but not exceeding one (1) year; or
 - (c) A fine of more than P100,000.00 but not exceeding P200,000.00. (Emphasis supplied.)

For his gross misconduct affecting his fitness and worthiness of the honor and integrity attached to his office, Judge Bacale should suffer the supreme penalty of dismissal from the service.

As for the recommendation of the JIB for the simultaneous disbarment of Judge Bacale, we refer to our ruling in *Office of the Court Administrator v. Judge Eliza B. Yu*.⁴⁵ The Court dismissed Judge Eliza B. Yu from the service for gross insubordination, gross misconduct, gross ignorance of the law, grave abuse of authority, oppression, and conduct unbecoming of a judicial official. While the offenses charged against her were also considered as violations of the Lawyer's Oath, the Code of Professional Responsibility, and the Canons of Professional Ethics, it was shown that at that point in time, she has not been afforded yet an opportunity to show cause why she should not be disbarred or otherwise disciplined as a member of the Bar. Thus, apart from dismissing Judge Yu from the service, the Court directed her, among others, to show cause in writing why she should not be disbarred for her unlawful acts.⁴⁶ As it was, it was only after she submitted her written explanation that the Court disbarred her per its Resolution dated March 14, 2017.

⁴⁵ *Office of the Court Administrator v. Yu*, 800 Phil. 307 (2016) [*Per Curiam, En Banc*].

⁴⁶ *Id.* at 419-421.

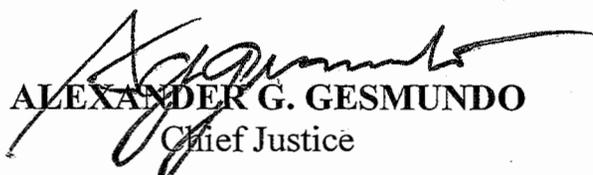
In the case of Judge Bacale, he too has not been given yet an opportunity to show cause why he should not be disbarred or otherwise disciplined as a member of the Bar, pursuant to A.M. No. 02-9-02-SC.⁴⁷ Verily, here and now, the Court orders him to show cause why his name should not be stricken off from the Roll of Attorneys.

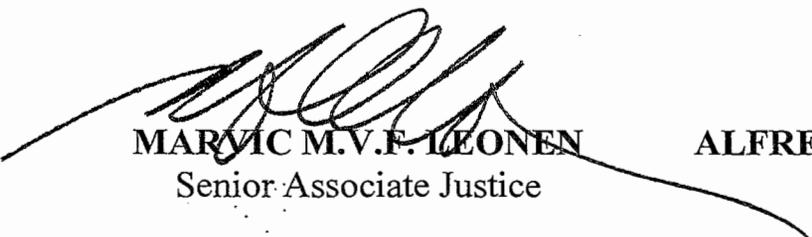
ACCORDINGLY, the Court finds respondent **JUDGE ATENEONES S. BACALE GUILTY** of gross misconduct for which he is **DISMISSED** from the service, with forfeiture of all the benefits due him, except accrued leave benefits, if any, with prejudice to re-employment in any branch of the government, including government-owned or -controlled corporations.

Respondent **JUDGE ATENEONES S. BACALE** is also directed to **SHOW CAUSE** in writing within 10 days from notice why he should not be disbarred for violation of the Code of Professional Responsibility and Accountability as outlined herein.

Let a copy of this Decision be entered into Judge Bacale's record as a member of the bar and notice of the same be served on the Integrated Bar of the Philippines and on the Office of the Court Administrator for circulation to all courts in the country.

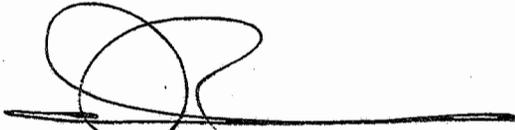
SO ORDERED.


ALEXANDER G. GESMUNDO
Chief Justice


MARVIC M.V.F. LEONEN
Senior Associate Justice

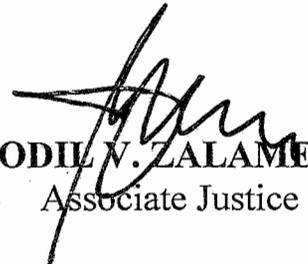
(on official leave)
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

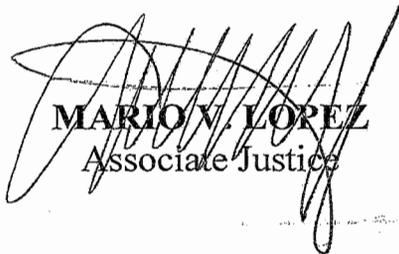
⁴⁷ Re: Automatic Conversion of Some Administrative Cases against Justices of the Court of Appeals and the Sandiganbayan; Judges of Regular and Special Courts; and Court Officials Who are Lawyers as Disciplinary Proceedings Against them Both as Such Officials and as Members of the Philippine Bar, dated September 17, 2002 and took effect on October 1, 2002.


RAMON PAUL L. HERNANDO
Associate Justice

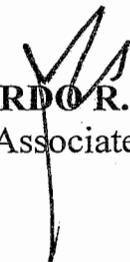

AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice

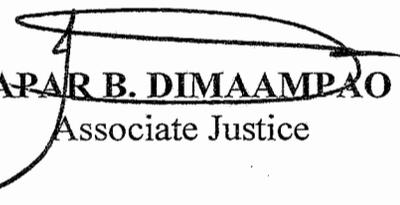

RODIL N. ZALAMEDA
Associate Justice


MARIO V. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

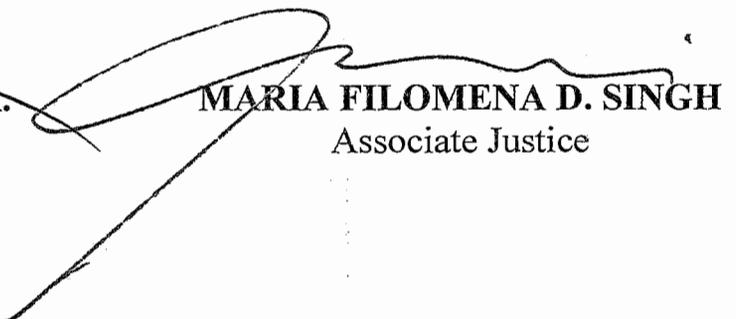

RICARDO R. ROSARIO
Associate Justice


JHOSEP V. LOPEZ
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice


MARIA FILOMENA D. SINGH
Associate Justice