

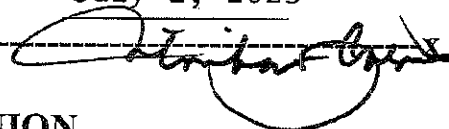
EN BANC

A.M. No. 23-04-15-SC – (Re: Post in Social Media Page, “Abogadong Pinoy”, Relative to an Alleged Untoward Behavior and Actuations of a Certain Marikina “Judge” towards a Public Attorney’s Office Lawyer Involving a Parking Incident)

Promulgated:

July 1, 2025

X



DISSENTING OPINION

DIMAAMPAO, J.:

This is an administrative case initiated by the Office of the Court Administrator (OCA) against Judge Rey P. Inciong (Judge Inciong), Presiding Judge of Branch 263, Regional Trial Court, Marikina City.¹ The case has its provenance in an information received by the OCA anent a viral social media post depicting the alleged misbehavior of a “Marikina Judge,” who was later identified to be Judge Inciong.² This incident was likewise the subject matter of an anonymous complaint³ filed before the Judicial Integrity Board (JIB) by a certain Karen Nina, who claimed to be working at the Justice Hall of Marikina City. Karen Nina’s complaint was treated as an anonymous complaint and referred to the Office of the General Counsel of the JIB, which, in turn, indorsed the same to the Office of the Executive Director of the JIB for consolidation with the instant case.⁴

The *ponencia* totally exonerates Judge Rey P. Inciong (Judge Inciong) from liability on the sole reason that he “was simply enforcing order in the courthouse.”

I strongly disagree.

Judge Inciong must be held guilty of prejudicial conduct that gravely besmirches or taints the reputation of the service.

The New Code of Judicial Conduct for the Philippine Judiciary⁵ sets in stone the general norms of conduct among the members of the Judiciary.

¹ Rollo, pp. 1–15. The April 13, 2023 Memorandum addressed to Chief Justice Alexander G. Gesmundo was signed by Court Administrator Raul B. Villanueva and Assistant Court Administrator Lilian C. Barribal-Co.

² *Id.* at 1.

³ *Id.* at 165.

⁴ *Id.* at 167–168. See September 15, 2023 Report and Recommendation of the JIB signed by JIB Acting Executive Director James D.V. Navarrete.

⁵ A.M. No. 03-05-01-SC, April 27, 2004.



Embodied under Canon 2, Sections 1 and 2 and Canon 4, Sections 1, 2, and 8 are the following inviolable edicts for observance by all judges, viz.:

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 the view of a reasonable observer.

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

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.

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

SEC. 8. Judges shall not use or lend the prestige of the judicial office to advance their private interests...

Being the visible representation of the law and the embodiment of the people's sense of justice, a judge should constantly keep himself away from any act of impropriety, not only in the performance of his official duties but also in his everyday actuations.⁶ In sooth, judges must possess the virtue of *gravitas*, be learned in the law, dignified in demeanor, refined in speech and virtuous in character. He must exhibit that hallmark of judicial temperament of utmost sobriety and self-restraint.⁷

In absolving Judge Inciong from any liability, the *ponencia* zeroes in on his supposedly good intention in reprimanding Atty. Gatdula as the practice of PAO lawyers of parking in front of the access ramp for Persons with Disability. However, in doing so, the *ponencia* utterly brushes aside the existence of overwhelming evidence that establish Judge Inciong's failure to live up to the exacting standards adumbrated above.

⁶ *Obiedo v. Santos, Jr.*, A.M. No. RTJ-20-2600, January 12, 2021 [Per J. Zalameda, First Division].

⁷ *See Re: Laarni N. Dajao*, A.M. No. RTJ-16-2456, March 2, 2020 [Per J. Delos Santos, Second Division].

Prefatorily, the *ponencia* fails to characterize whether Judge Inciong's acts were committed in the discharge of his official duties or in his personal capacity. This is an important threshold issue that sets the proper lens from which the Court should view Judge Inciong's purported violations.

To my mind, Judge Inciong's acts towards Atty. Gatdula during the twin incidents at the lobby of the Marikina Justice Hall and inside the PAO were committed in his personal capacity. Verily, he was not acting in the discharge of his official duties when he confronted and publicly ridiculed Atty. Gatdula as the same barely form part of his authority as a judge. Even his *intention* to call out Atty. Gatdula for his alleged improper parking barely cuts the ice as this, again, is not part of his *official* duties as a judge. Along this grain, Judge Inciong's own averments demystify the true nature of his dealings with Atty. Gatdula —

7. To reiterate, the undersigned did not introduce himself as a Judge or in anyway or manner invoke his authority as a Judge when speaking to Atty. Gatdula and Atty. Larracas. No order or imperative was issued to them under any authority as a Judge.

....

32. ... I said, Your Honor, that I asked for an apology from Atty. Gatdula. But, reflection reveals to me that what I was seeking was perhaps some sort of accountability on his part for his brazen behavior by parking and blocking the PWD access ramp of the Justice Hall. **When I told Atty. Gatdula that he should apologize to the people he inconvenienced, I said so as a man who speaks to another man,** having no other expectation than to receive an answer as a man expects another to answer. **It was not a command or an order, Your Honor.**⁸ (Emphasis supplied)

*Rodil v. Posadas*⁹ enunciates that administrative offenses involving acts of misconduct that do not relate or are not connected with the official functions and duties of the respondent-public officer are designated as Conduct Prejudicial to the Best Interest of Service.¹⁰ In the recent case of *Judge Jayme v. Roco*,¹¹ the Court explicated that following the refinement of the Rules of Court, conduct prejudicial to the best interest of the service now falls under the serious charge of *Grave Abuse of Authority and/or Prejudicial Conduct that Gravely Besmirches or Taints the Reputation of the Service*, provided in Section 14(1) of Rule 140 of the Rules of Court, as amended by A.M. No. 21-08-09-SC.¹²

⁸ *Rollo*, p. 84; 88.

⁹ A.M. No. CA-20-36-P, August 3, 2021 [*Per Curiam, En Banc*].

¹⁰ *See id.*

¹¹ OCA IPI No. 17-4749-P, August 8, 2023 [*Per Curiam, En Banc*].

¹² *See id.*



Upon this point, it behooves the Court to clarify the conditions before a member or personnel of the Judiciary may be held liable for Gravely Prejudicial Conduct under Section 14(1). In shedding light on this novel offense, *Judge Jayme* appositely referred to the annotations on A.M. No. 21-08-09-SC, viz.:

...To further understand this new designation, the Court's annotations thereto is (sic) instructive, to wit:

NOTES: This charge is added to cover acts or omissions which are not strictly part of the performance of one's official functions, but nonetheless are punished as they diminish or tend to diminish the people's faith in the Judiciary.

This covers *oppression*, as well as *conduct prejudicial to the best interest of the service* under the 2017 RACCS. "Oppression is also known as grave abuse of authority, which is a misdemeanor committed by a public officer, who under color of his office, wrongfully inflict[s] upon any person any bodily harm, imprisonment or other injury. It is an act of cruelty, severity, or excessive use of authority." (See *Ombudsman v. Caberoy*, G.R. No. 188066, October 22, 2014)

On the other hand, *conduct prejudicial to the best interest of the service* refers to acts that "tarnish the image and integrity of [a] public office" without a "direct relation to or connection with the performance of [one's] official duties." (*Office of the Ombudsman-Visayas v. Castro*, 759 Phil. 68 [2015]) **It must be noted, however, that based on existing jurisprudence, "conduct prejudicial to the best interest of the service" tends to become some sort of a blanket offense to cover all other misdeeds not falling under any specific offense already listed in the Rule. To remedy this situation, the offense is reformulated to "prejudicial conduct that gravely besmirches or taints the reputation of the service."**¹³ (Emphasis in the original)

Judge Jayme further instructs that to constitute a violation under Section 14(1), the act complained of must: 1) be without a direct relation or connection with the performance of the respondent-public officer's official duties; and 2) not be covered by any other specific offense already listed in the Rules.¹⁴

To fully breathe life into the spirit behind the reformulation of the offense, two elements are proposed to be added to the requisites espoused in *Judge Jayme*, i.e., *one*, that the act complained of must be prejudicial; and *two*, it gravely besmirches or taints the reputation of the service. This will provide a clearer delineation between Sections 14(1) and 16(a) of the current

¹³ OCA IPI No. 17-4749-P, August 8, 2023 [*Per Curiam, En Banc*].

¹⁴ *Id.*

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Rule 140, which both deal with unbecoming conduct of court personnel. The addition of the last requisite will essentially “remedy [the] situation” where the offense, as previously designated, becomes the blanket offense to cover all misdeeds not otherwise falling under any other provisions under the Rules. Accordingly, if the prejudicial conduct (1) has no direct relation or connection with the performance of the respondent-public officer’s official duties; (2) is not covered by any other specific offense in the Rules; and (3) does not gravely besmirch or taint the reputation of the service, the same is not contemplated under Section 14(1), Rule 140. At best, it may only be considered as “vulgar or unbecoming conduct,” a light charge under Section 16(a) of the current Rule 140.

To recapitulate, I respectfully submit that the elements of Gravely Prejudicial Conduct as a serious offense under Section 14(1) of Rule 140, as amended by A.M. No. 21-08-09-SC include the following: *1) the respondent-public officer commits a prejudicial act; 2) the act has no direct relation or connection with the performance of the respondent-public officer’s official duties; 3) the act is not covered by any other specific offense listed in the Rules; and 4) the prejudicial conduct gravely besmirches or taints the reputation of the service.*

Taking cue from the foregoing disquisitions, the substantial evidence at hand unmistakably prove Judge Inciong’s liability under Section 14(1) of Rule 140, as amended by A.M. No. 21-08-09-SC.

One. It is undisputed, in light of Judge Inciong’s own admissions, that he indeed uttered ‘imprudent,’ ‘harsh,’ and ‘profane’ words and even ‘violated [Atty. Gatdula’s] personal space.’¹⁵ Judge Inciong’s obnoxious remarks were described in greater detail and sans euphemism by Atty. Gatdula, as he so vividly recalled being on the receiving end of the former’s wrath, uttered in the following expressions:

1. “Anong good morning? Tarantado ka! ...”
2. “Wala kang modo!”
3. “Anong niyayabang mo?”; “Sikat ka sa Hall of Justice?”; “PAO ka pa lang, arogante ka na!”
4. “Gusto mong ipatapon kita sa Tawi-Tawi?”
5. “Sinong nagpalaki sa’yo?”; “Wala? Kaya ka pala ugaling squatter.”
6. “Get your god[]damn hands out of your pocket!”
7. “Get your god[]damn hands out of my (sic) pocket! Hindi ka na natuto! Nasaan ang apology mo? Ano, wala? Wala kang plano?”
8. “I know you! Do you think I don’t know you? ‘Yan ba ang itinuro sa’yo sa UST o sa San Beda, kung saan ka man grumaduate?”¹⁶

¹⁵ Rollo, p. 87.

¹⁶ *Id.* at 25–28.

Therewithal, Judge Inciong invaded Atty. Gatdula's personal space by aggressively coming chest-to-chest with him.

A conduct is considered "prejudicial" if it is "detrimental or derogatory to a party; naturally, probably or actually bringing about a wrong result."¹⁷ The viciousness in Judge Inciong's behavior evidently derogates from his duty to *always* act with propriety. It is prejudicial *first*, to Atty. Gatdula, and *second*, to the Court.

A deep dive analysis into the statements of Judge Inciong towards Atty. Gatdula would disclose that they are hardly superficial as they unreasonably and unnecessarily impinge Atty. Gatdula's *values, upbringing, educational background, and training*. So, too, Judge Inciong's distasteful remarks reek of a baseless sense of entitlement as he belittled public attorneys, as well as impressed upon Atty. Gatdula that he had the power to cast him to Tawi-Tawi. Judge Inciong's act of summoning Atty. Gatdula's superior, Atty. Larracas, as if he had the power to do so in the first place, likewise shows his conceit and egotism. All the more that his temerity to even storm to the PAO, an agency of a co-equal branch, is a badge of his pomposity and arrogance.

As succinctly put by the Atty. Navarrete, "... the rude behavior [Judge Inciong] displayed towards Atty. Gatdula is not befitting a judge. While it may be argued [that] Atty. Gatdula was at fault for blocking the access ramp for the PWD, the manner by which [Judge Inciong] addressed the situation was uncalled for."¹⁸ **Judge Inciong cannot thus hide behind the mantle of his supposed bona fide intention to seek accountability over the parking incident, as his resolve to inflict humiliation and embarrassment upon Atty. Gatdula and Atty. Larracas became manifest when he pursued his demand of public apology even after a considerable lapse of time.** Naturally, Judge Inciong would have recovered his moral equanimity during the interstice, but he did not. On the contrary, it was during the incident at the PAO where Judge Inciong put the nail in his coffin by flaunting an even more aggressive and hostile behavior and going as far as getting physically in contact with Atty. Gatdula.

In point of fact, the video recording attached to Karen Nina's anonymous complaint perfectly depicted Judge Inciong's despicable behavior during the PAO Office incident. Besides, it bears stressing that Judge Inciong openly exhibited his misdeeds in two public spaces, i.e., the lobby of Marikina Justice Hall and the PAO. Inevitably, Judge Inciong's invocation of his right to privacy is out on a limb. He cannot, in the first place, have a reasonable

¹⁷ See *Re: Complaint Against Mr. De Leon, EA III, OAJ Perez on the Alleged Dishonesty and Deceit in Soliciting Money for Investments*, A.M. No. 2014-16-SC, 845 Phil. 680, 709 (2019) [Per J. Gesmundo, *En Banc*].

¹⁸ *Rollo*, p. 7.

expectation of privacy when his scurrilous conduct was displayed for all the court users, as well as the people present in the PAO, to see.

Judge Inciong wantonly disregarded his duty to uphold the integrity of the Court and observe propriety in his dealings. Thus, there can be no quibbling that his conduct is also prejudicial to the Judiciary.

In a forlorn attempt to justify his misdeeds, Judge Inciong resorted to the human frailty defense, averring that in ‘the most unexpected way and in impromptu situations[,] a sliver of base humanity may seep through the stoic robes of Judicial office and [catch] him unaware[.]’¹⁹ However, as early as the case of *P/S Insp. Fidel v. Judge Caraos*,²⁰ this Court has invariably pronounced that although judges may attribute their intemperate language to human frailty, their noble position in the bench nevertheless demands from them courteous speech *in and out of the court*. Judges are demanded to be always temperate, patient and courteous both in conduct and in language.²¹

Two. As earlier stated, Judge Inciong was acting in his personal capacity when he called out Atty. Gatdula and committed the subject misdemeanor. His acts of calling out an individual over a parking incident and reprimanding him have no direct relation or connection with the performance of his official duties as a judge. Suffice it to say that things would have been different had Judge Inciong been the Executive Judge of the Marikina RTC because if such had been the case, he would have the authority to outrightly call for accountability over Atty. Gatdula’s act. Consequently, the second element is likewise present.

Three. Judge Inciong’s conduct is not covered by any other *specific* offense listed under the Further Amendments to Rule 140. The JIB recommended that Judge Inciong be held liable for two counts of vulgar and unbecoming conduct under Section 16(a) of the same Rule.

I could not agree less.

The above discussion on the reformulation of the offense of “conduct unbecoming” now clearly delineates Section 14(1) from 16(a), which respectively provide:

SECTION 14. *Serious Charges.* — Serious charges include:

....

(1) Grave abuse of authority, and/or prejudicial conduct that gravely besmirches or taints the reputation of the service;

¹⁹ *Id.* at 91.

²⁰ A.M. No. MTJ-99-1224, 442 Phil 236 (2002) [Per J. Ynares-Santiago, First Division].

²¹ *See id.* at 243.

SECTION 16. Light Charges. – Light charges include:

- (a) Vulgar and unbecoming conduct;

The two offenses are clearly demarcated by the requisite of **specificity** — under Section 14(1), the prejudicial conduct must *gravely besmirch or taint the reputation of the judiciary*, whereas Section 16(a) *generally* covers all other vulgar and unbecoming conduct of court personnel. Needless to state, the third element is satisfied as no other specific offense deals with Judge Inciong's misdemeanor, which is characterized by the presence of the fourth qualifying element.

Four. The gravity, manner, and circumstances by which Judge Inciong delivered his statements, *along with the public perception of his gravely prejudicial conduct*, all fortify the presence of the final and central element of grave damage to the reputation of the service.

In the various pleadings filed by Judge Inciong, he invariably admitted his misdeeds and acknowledged the shame he has brought the Court and the image of judges, viz.—

33. Your Honor, hindsight as 20/20 visions and advances in modern technology gives us total recall and a memory that has yet, no end. Your Honor, this incident has given the undersigned the opportunity for quiet reflection. **I am pained and hurt by how I have brought shame to the Supreme Court and the image of Judges in the mind of the public whom we serve.** The critical eyes of the public are unblinking in this digital age. The need for steadfast vigilance in guarding thoughts, words and actions is needed now more than ever. I waived, and I am sorry[.]²² (Emphasis supplied)

And, to cause shame and embarrassment to the Court, he did.

Several telling circumstances likewise point to the ineffable conclusion that Judge Inciong's prejudicial conduct went beyond the confines of a 'private conversation,' as he intransigently insists, and actually gravely tainted the judiciary's image.

To recall, Atty. Larracas narrated that upon arriving at the Marikina Justice Hall that fateful morning, he was approached by a staff of the Prosecutor's Office, who told her, "*Atty[.] si Atty. Gatdula po yata iyon na inaaway po ng private lawyer.*" Atty. Larracas then discovered that it was Judge Inciong who was confronting Atty. Gatdula. She further recounted that Judge Inciong hurled insults at Atty. Gatdula in the presence of "so many employees who were passing by."²³ This was bolstered by Baua, Lucido, and Besagar, who jointly executed their statement as eyewitnesses to the lobby

²² *Rollo*, p. 88.

²³ *Id.* at 33.

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incident.²⁴ Unsatiated, Judge Inciong further showed off his raging discontent and arrogance at the PAO, this time with the public attorneys, staff, and all other persons present therein as his audience. Exasperated by Judge Inciong's behavior, Atty. Larracas even had to ask him, "I'm sorry, Judge. Do you think that what you are doing now is good for a Judge? *Tama po ba ang ginagawa n[i]yo;*" "*Pwede n[i]yo naman po s[i]yang kausapin, pero para harapin n[i]yo s[i]ya ng (sic) ganyan[,] [']di naman po tama [']yang ginawa n[i]yo kasi pwede namang pag[-]usapan [']yan.*"²⁵

A video recording of the PAO incident was later posted on the social media page "Abogadong Pinoy". Judge Inciong himself avers that even after the viral post was deleted, the video, together with his and his wife's photos, has since been uploaded and shared through various social media posts and group chats and subjected to public ridicule. The proliferation of the video professedly caused severe embarrassment, humiliation, and chagrin on his part, as well as his family.²⁶ While it may be decorous to commiserate with Judge Inciong insofar as matters of private interest are concerned, such as his wife and the rest of his family, had to be dragged into this controversy, suffice it to say that Judge Inciong only has himself to blame.

Ultimately, the outrageous reactions and feedback of people on social networking sites only depict the perilous effect on the reputation of the Court and the judges brought about by Judge Inciong's actions.

In a nutshell, it cannot be gainsaid that Judge Inciong's prejudicial conduct gravely besmirched and tainted the reputation of the judiciary.

Judge Inciong violated Sections 2, 4, and 6 of the Code of Professional Responsibility and Accountability.

Section 4, Paragraph 1 of Rule 140, as amended, provides that:

SECTION 4. *Administrative Case Considered as Disciplinary Action Against Members of the Philippine Bar.* – An administrative case against any of those mentioned in Section 1 (1) of this Rule shall also be considered as a disciplinary action against him or her as a member of the Philippine Bar, provided, that the complaint specifically states that the imputed acts or omissions therein likewise constitute a violation of the Lawyer's Oath, the Code of Professional Responsibility, the Canons of Professional Ethics, or such other forms of breaches of conduct that have been traditionally recognized as grounds for the discipline of lawyers.

²⁴ *Id.* at 35.

²⁵ *Id.* at 33.

²⁶ *Id.* at 91.

By virtue of the foregoing rule, the JIB directed Judge Inciong to show cause why he should not be sanctioned as a member of the Philippine Bar for violations of Canon II, Sections 1, 2, 3, 5, and 6 of the CPRA.

For his part, Judge Inciong denied having engaged in unlawful, dishonest, immoral, or deceitful conduct. In the same vein, he averred that despite being harsh, he neither hurled any abusive, intemperate, or offensive language towards Atty. Gatdula and Atty. Larracas nor committed any physical, sexual, or psychological abuse towards them. Finally, Judge Inciong avowed that he did not threaten or employ violence upon Atty. Gatdula and Atty. Larracas.²⁷

On this score, Sections 2, 4, and 6, Canon II of the CPRA are apropos:

SECTION 2. *Dignified conduct.* – A lawyer shall respect the law, the courts, tribunals, and other government agencies, their officials, employees, and processes, and act with courtesy, civility, fairness, and candor towards fellow members of the bar.

A lawyer shall not engage in conduct that adversely reflects on one's fitness to practice law, nor behave in a scandalous manner, whether in public or private life, to the discredit of the legal profession.

SECTION 4. *Use of dignified, gender-fair, and child- and culturally-sensitive Language.* – A lawyer shall use only dignified, gender-fair, child- and culturally-sensitive language in all personal and professional dealings.

To this end, a lawyer shall not use language which is abusive, intemperate, offensive or otherwise improper, oral or written, and whether made through traditional or electronic means, including all forms or types of mass or social media.

SECTION 6. *Harassing or threatening conduct.* – A lawyer shall not harass or threaten a fellow lawyer, the latter's client or principal, a witness, or any official or employee of a court, tribunal, or other government agency.

These rules of conduct must be examined vis-à-vis Judge Inciong's acts in one fell swoop.

The JIB finds Judge Inciong liable for two counts of use of vulgar or offensive language under Section 35(b) of the CPRA and recommends that he be fined in the amount of PHP 5,000.00 for each count.

I humbly agree with the JIB, albeit with modification insofar as Judge Inciong must also be held liable for Simple Misconduct under Section 34(a) of the CPRA.

²⁷ *Id.* at 90.

The pertinent findings of Atty. Navarrete encapsulate Judge Inciong's misdemeanor towards Atty. Gatdula, his fellow lawyer, viz.:

Respondent Judge Inciong claimed the heated conversation was just a "private conversation" between him and Atty. Gatdula but the fact that he shouted at the top of his voice and hurled acerbic words at Atty. Gatdula, in full view of employees from [sic] the courts and the PAO, belied such claim. Respondent Judge Inciong claimed [that] he can no longer recall the harsh words he hurled but from the standpoint of Atty. Gatdula[,] it was as if the incident took place only the other day. Atty. Gatdula vividly recalled the insulting words he received from respondent Judge and this was seconded by Atty. Larracas. Respondent Judge Inciong even went as far as ordering Atty. Gatdula to post a public apology at the lobby of the Justice Hall by lunch time, a clear abuse of his position. This was the reason he went to the PAO [] in the afternoon, to confirm if the apology had been posted. When he realized that Atty. Gatdula did not post one, respondent Judge scolded him again. As evidenced by the video posted on the social media [page] "*Abogadong Pinoy*,"[] respondent Judge Inciong was more aggressive when he confronted Atty. Gatdula in the afternoon.

Given the time interval, everybody at the PAO [] thought respondent Judge Inciong had simmered down and realized his mistake when he showed up at their office in the afternoon. Instead, he continued his verbal tirades at Atty. Gatdula. He even tried to provoke Atty. Gatdula sparks [sic] a physical confrontation by pushing his chest.²⁸

To ingeminate, Judge Inciong's deprecating remarks against Atty. Gatdula included curses, a threat to cast him out to Tawi Tawi, and an attack against the latter's upbringing. These demeaning statements, coupled with Judge Inciong's act of aggressively advancing towards Atty. Gatdula, coming chest-to-chest with him, and pointing a finger at him, irrefragably constitute a violation of the foregoing rules of conduct envisaged in the CPRA. Verily, Judge Inciong also committed the less serious offense of simple misconduct, or such misconduct without the manifest elements of corruption, clear intent to violate the law, or flagrant disregard of established rules.²⁹

The Penalties

Prejudicial conduct that gravely besmirches or taints the reputation of the service is classified as a serious charge under Section 14(1) of the current Rule 140 of the Rules of Court. Section 17 of the same Rule provides that a serious charge is punishable either by a) dismissal from service with forfeiture of all or part of the benefits and disqualification from reinstatement or appointment to any public office; b) suspension from office without salary and other benefits for more than six months but not exceeding one year; or c) a fine of more than PHP 100,000.00 but not exceeding PHP 200,000.00. Nevertheless, Section 19 of the current Rule 140 considers the fact that the

²⁸ *Id.* at 173.

²⁹ CPRA, Canon VI (Accountability), sec. 34(a).

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respondent is a first-time offender as a mitigating circumstance, which gives the Court the discretion to impose the penalties of suspension or fine for a period or amount not less than half of the minimum prescribed.

Applying the foregoing rules, and considering that this is Judge Inciong's first offense, I respectfully submit that Judge Inciong must be meted with a fine in the amount of PHP 80,000.00.

On the other hand, for Judge Inciong's use of vulgar or offensive language under Section 35(b) *and* simple misconduct under Section 34(a) of the CPRA, he must be fined in the amount of PHP 30,000.00 pursuant to Sections 37(b), in relation to Sections 38(a)(1) and (4) and 39 of the CPRA, which pertinently provide as follows:

SECTION 37. *Sanctions.* –

....

(b) If the respondent is found guilty of a less serious offense, any of the following sanctions, or a combination thereof, shall be imposed:

(1) Suspension from the practice of law for a period within the range of one (1) month to six (6) months, or revocation of notarial commission and disqualification as notary public for less than two (2) years;

(2) A fine within the range of [PHP] 35,000.00 to [PHP] 100,000.00.

SECTION 38. *Modifying circumstances.* – In determining the appropriate penalty to be imposed, the Court may, in its discretion, appreciate the following mitigating and aggravating circumstances:

(a) Mitigating circumstances:

(1) First offense, except in charges of gross misconduct, bribery or corruption, grossly immoral conduct, misappropriating a client's funds or properties, sexual abuse, and sale, distribution, possession and/or use of illegal drugs or substances;

....

(4) Expression of remorse;

SECTION 39. *Manner of imposition* –

If one (1) or more mitigating circumstances and no aggravating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period

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or amount not less than half of the minimum prescribed under the CPRA.

In arriving at such penalty, the first offense rule and Judge Inciong's expression of remorse³⁰ are considered as mitigating circumstances. Judge Inciong's use of vulgar or offensive language under Section 35(b) *and* simple misconduct under Section 34(a) of the CPRA, must be punished with the appropriate penalty for the most serious offense, i.e., simple misconduct, pursuant to Section 40 of the CPRA.³¹

A final cadence. It cannot be stressed enough that a judge's duty to observe propriety does not cease the moment he doffs his or her judicial robe. Integrity and propriety are pillars of judicial practice and any attempt by a member of the bench to blemish the same must not come to pass unnoticed. The exacting requirement of unceasing propriety is a due requital imposed upon judges as consideration for the noble public positions they occupy. Judges are enjoined from engaging in undignified conduct, for propriety is not only a continuing undertaking but also a sacrosanct commitment that magistrates, being the most apparent personification of justice, must exemplify and uphold *at all times*.

Judge Inciong's behavior ruthlessly runs roughshod the respect due the Court and his office. If the Court were to truly breathe life into the truism that "lawyers are officers of the court," then the Court must *never* tolerate such public display of arrogance and impropriety directed against its officers, most especially when committed by the very judges who are entrusted to uphold the rule of law. To do so not only fosters double standards but completely turns to naught all the Court's recent efforts to improve access to justice and bring the Court closer to the public.

Indeed, the Court's clarion call for propriety among the members of the judiciary is reverberated in the case of *Cortes v. Judge Agcaoili*³² — "a magistrate of the law must comport himself at all times in such a manner that his conduct, official or otherwise, can bear the most searching scrutiny of the public that looks up to him as the epitome of integrity and justice."³³

ACCORDINGLY, I vote to find respondent Presiding Judge Rey P. Inciong of Branch 263, Regional Trial Court, Marikina City, **GUILTY** of Prejudicial Conduct that Gravely Besmirches or Taints the Reputation of the Service and **ORDER** him to **PAY** a **FINE** of PHP 80,000.00. Likewise, he must be found **GUILTY** of Use of Vulgar or Offensive Language under

³⁰ *Rollo*, pp. 87; 91.

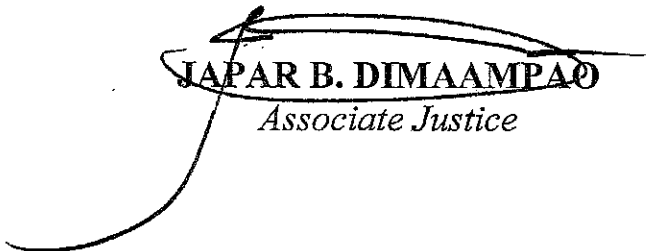
³¹ **SECTION 40. Penalty for multiple offenses** —

If a single act or omission gives rise to more than one (1) offense, the respondent shall still be found liable for such offenses, but shall, nonetheless, only be meted with the appropriate penalty for the most serious offense.

³² 355 Phil. 848 (1998) [Per J. Panganiban, *En Banc*].

³³ *Id.* at 877. (Citation omitted)

Section 35(b) and Simple Misconduct under Section 34(a) of the Code of Professional Responsibility and Accountability and meted with a **FINE** of PHP 30,000.00. Moreover, Presiding Judge Rey P. Inciong must be **STERNLY WARNED** that a repetition of the same or similar offenses shall be dealt with more severely.



JAPAR B. DIMAAMPAO
Associate Justice