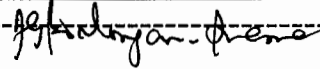


A.M. No. MTJ-12-1813 – OFFICE OF THE COURT
ADMINISTRATOR, *petitioner* v. JUDGE ELIZA B. YU, MeTC,
BRANCH 47, PASAY CITY, *respondent*.

Promulgated:

November 22, 2016



CONCURRING AND DISSENTING OPINION

BRION, J.:

I **CONCUR** with the *ponencia's* findings and conclusions. I find, as the *ponencia* finds, that Judge Eliza B. Yu (*Judge Yu*) is **guilty** of gross insubordination, gross ignorance of the law, gross misconduct, grave abuse of authority, oppression, and conduct unbecoming of a judicial official; and should therefore be **dismissed from the service** effective immediately, with forfeiture of all benefits and disqualification from reinstatement or appointment to any public office or employment, and **disqualified** from reinstatement or appointment to any public office or employment.

I **DISAGREE**, however, with the *ponencia's* conclusion that, notwithstanding the severity and grossness of the various administrative offenses committed by Judge Yu that warrants her disbarment, the Court cannot, in these proceedings, order her disbarment. It reasons that the Court must first allow her to defend her professional standing as a lawyer before it proceeds to mete out the ultimate sanction of disbarment.

I submit that the Court can properly **disbar** Judge Yu in these same proceedings. The proceedings the OCA and the Court undertook in the various administrative cases filed against Judge Yu, as borne by the records, sufficiently supports the conclusion that Judge Yu had been accorded more than ample opportunity to defend her professional standing as a lawyer justifying her disbarment.

More than anything, her ignorance, arrogance, recalcitrant attitude, uncharacteristic insubordination, megalomania, and lack of humility demonstrate her incompetence and unfitness to discharge not only the office and duties of judge; more than anything, they reveal an utter incompetence and unfitness to continue discharging the trust and respect invested her as a member of the Bar.



SUPPORTING REASONS FOR MY DISSENT

I. The cases and proceedings against Judge Yu.

A. The administrative complaints.

Based on the records, the following are the administrative cases filed against Judge Yu:

Complainant	Docket Number and Date	Charges
Gito, Emily L. San Gaspar (MeTC, Br. 20 Judge)	AM No. MTJ-13-1821 (formerly OCA IPI No. 10-2308-MTJ) (September 2, 2010)	Conduct unbecoming of a Judge. ➤ Stemmed from the July 12, 2010 Letter-Complaint of Judge Emily San Gaspar-Gito, Branch 20, MeTC, Manila concerning the former's Facebook and Yahoo messages with sexual undertones. ¹
Luchavez, Gabina Punzalan	OCA IPI No. 10-2335-MTJ (December 21, 2010)	Conduct unbecoming of a Judge, gross ignorance of the law, and violation of RA No. 3019. ²
Colasito, Bibiano G. (MeTC Judge), et al.	OCA IPI No. 11-2378-MTJ (June 2, 2011)	Gross insubordination, refusal to perform official duty, gross ignorance of the law/procedure, grave misconduct, violation of SC circulars, violation of the Code of Professional Responsibility, violation of the Oath , and oppressive conduct. ➤ In Re: Judge Yu's refusal to comply with AO No. 19-2011 (Night Courts); her request for an audit of the Clerk of Court of Pasay City concerning the remittance of the fees in <i>ex parte</i> presentation of evidence; her order for the <i>ex parte</i> presentation of evidence

¹ Rollo, pp. 741-749.

² Id. at 144.

		<p>before the OIC who is not a lawyer; her act of authorizing the prosecution of a criminal case without the presence of the public prosecutor; and her offensive remarks against Court Administrator Midas Marquez and the judiciary.</p> <p>(The case stemmed from the Affidavit-Complaint signed by four (4) Pasay City MeTC judges³ and seventy (70) court personnel⁴ of Pasay City Courts).</p>
Labid, Josefina G.	<p>OCA IPI No. 11-2398-MTJ⁵</p> <p>(August 8, 2011)</p>	<p>Oppression, gross ignorance of the law, and conduct unbecoming of a judge.</p> <p>➤ In Re: Judge Yu’s refusal to approve Noel Labid’s application for sick leave.</p> <p>(Related with OCA IPI No. 11-2378-MTJ)</p>
Abad, Amor V. (Court Interpreter), et. al.	<p>OCA IPI No. 11-2399-MTJ⁶</p> <p>(August 8, 2011)</p>	<p>Grave misconduct, oppression, gross ignorance of the law, and violation of the Code of Judicial Conduct.</p> <p>➤ Directing three (3) non-court employees (allegedly OJTs) to correct the draft decisions in <i>ex parte</i> cases and other court orders and resolutions; ordering the complainant-court personnel of Branch 47, Pasay City, to advertise and offer for sale the books she</p>

³ These are: Judge Catherine P. Manodon (now Presiding Judge of Branch 104, RTC, Quezon City), Judge Bonifacio S. Pascua (now Presiding Judge of Branch 56, RTC, Makati City; Judge Bibiano G. Colastino (now Presiding Judge of Branch 50, RTC, Manila; and Judge Restituto V. Mangalindan, Branch 46, MeTC, Pasay City. Id. at 712.

⁴ Id. at 712-715.

⁵ Filed by Ms. Josefina G. Labid, mother of Noel Labid, Utility Worker 1, Branch 47, MeTC, Pasay City. Id. at 726-727.

⁶ Filed by the staff of Branch 47, MeTC, Pasay City, who were also complainant in OCA IPI No. 11-2378, namely: Amor V. Abad (Court Interpreter), Froilan I. Tomas (Court Stenographer), Roman H. Aviles (Court Stenographer), Norman D.S. Garcia (Deputy Sheriff IV), Maximo Sayo (Process Server), Emelina J. San Miguel (Records Officer), and Dennis Echegoyen (Deputy Sheriff). Id. at 720.

		<p>wrote; humiliating her staff in open court; making unsavory remarks against CA Marquez; directing the <i>ex parte</i> presentation of evidence before the court's officer-in-charge who is not a member of the Bar; authorizing the arraignment of the accused without the presence of the public prosecutor; and in refusing to approve the sick leave application of Noel Labid, among others.⁷</p> <p>(Related with OCA IPI No. 11-2378-MTJ)</p>
Lopez, Leilani A. Tejero (Court Personnel)	<p>AM No. MTJ-12-1815 (formerly OCA IPI No. 11-2401-MTJ)</p> <p>(August 8, 2011 and August 23, 2012 respectively)</p>	<p>Refusal to obey court order.</p> <p>➤ Stemmed from the "Sworn Statement" dated June 16, 2011 of Leilani A. Tejero Lopez, Clerk III, Branch 47, Pasay City., claiming that Judge Yu questioned the selection process of the OCA-SPB concerning her appointment as Branch Clerk of Court.⁸</p>
Chun Suy Tay c/o Charlie V. Tumaru	<p>OCA IPI No. 11-2411-MTJ</p> <p>(September 8, 2011)</p>	<p>Knowingly rendering unjust resolution and conduct prejudicial to the best interest of the service.⁹</p>
Colsaito, Bibiano, et. al. (MeTC Pasay)	<p>OCA IPI No. 12-2456-MTJ</p> <p>(January 13, 2012)</p>	<p>Grave abuse of authority and oppression.</p> <p>➤ Stemmed from the December 1, 2011 Order of Judge Yu in Criminal Case No. M. PSY-09-08592-CR, entitled "<i>People of the Philippines v. Ramil Fuentes, et al.</i>" directing the complainants in</p>

⁷ Id. at 720-724.
⁸ Id. at 738.
⁹ Id. at 144.

		OCA IPI No. 11-2378-MTJ to show cause why they should not be held liable for contempt for the alleged surreptitious taking of a copy of TSN dated March 22, 2011 in the said case. ¹⁰
OCA	AM No. MTJ-12-1813 (formerly AM No. 12-5-42-MeTC) (June 26, 2012)	RE: Incidents related to AO No. 19-2011 (the establishment of Night Courts) and the adverse actuations of Judge Eliza B. Yu anent the said Court issuance. ➤ Stemmed from the July 21, 2011 Letter of the judges of MeTC, Pasay City, requesting for the immediate suspension or detail to another station of Judge Yu pending investigation of all the administrative cases filed against the latter, namely: OCA IPI Nos. 11-2378-MTJ, 12-2456-MTJ, 2398-MTJ, 11-2399-MTJ, 10-2308-MTJ, and 12-1815B. ¹¹
OCA	AM No. 12-1-09-MeTC	RE: Letter dated 7-21-11 of Exec. Judge Bibiano G. Colastino and 3 other judges of MeTC Pasay City, for the suspension or detail to another station of Judge Eliza B. Yu, Branch 47 of the same court.
OCA	AM No. MTJ-13-1836 (formerly AM No. 11-11-115-MeTC)	Misconduct and insubordination. ➤ Stemmed from the May 2, 2011 Letter of Judge Yu to CA Marquez requesting for an investigation on the (1) alleged delayed appointment of the Branch Clerk of Court at MeTC, Branch 47, Pasay

¹⁰ Id. at 734.

¹¹ Id. at 751.

		City, and (2) appointment of Ms. Mariejoy P. Lagman as Clerk III, RTC, Br. 108, Pasay City, despite the pending administrative case against the latter involving grave offenses. ¹²
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B. Judge Yu’s pleadings, letters, etc. filed before or sent to the OCA and/or Court and the Court’s resolutions, orders, etc. in relation with these cases.

On the other, the following are the Motions, Memoranda, Manifestations, Letters, and other papers filed before and/or sent to the Court by Judge Yu *vis-à-vis* the Resolutions, Orders, and other Notices issued by the Court in relation with these proceedings.

Date	Court Issuances, etc.	Date	Judge Yu’s Pleadings, etc.
		June 29, 2011	Comment in OCA IPI No. 11-2378-MTJ. ¹³
		September 1, 2011	Comment to AM No. MTJ-12-1815. ¹⁴
		September 2, 2011	Comment in OCA IPI No. 11-2399-MTJ. ¹⁵
		January 26, 2012	Comment to OCA IPI No. 11-2398-MTJ, and adopts her Comment in OCA IPI Nos. 11-2378-MTJ, 11-2399-MTJ, 11-2401-MTJ, and 11-3728.
February 1, 2012	Resolution (of the Court’s First Division) in AM No. 12-1-09-MeTC placing Judge Yu under preventive suspension.	February 1, 2012	Motion to Declare Null and Void the February 1, 2012 Resolution.
February 6, 2012	Resolution ¹⁶ noting Judge Yu’s February 2, 2012 MR.	February 2, 2012	MR to the Court’s February 1, 2012 Resolution placing Judge Yu under preventive suspension.

¹² Id. at 736.
¹³ Id. at 718-720.
¹⁴ Id. at 738-739.
¹⁵ Id. at 724-726.
¹⁶ Id.

		February 3, 2012	Comment to OCA IPI No. 12-2456-MTJ. ¹⁷
		March 1, 2012	Omnibus Motion to Lift Preventive Suspension, Motion for Clarification of Resolution dated February 1, 2012, Motion to Obtain Copy of Memorandum dated January 25, 2012 of the OCA, and Motion for Early Resolution of the Administrative Cases to the SC First Division.
June 26, 2012	Resolution. ¹⁸ (1) Treated the Memorandum dated April 25, 2012 of the OCA as an Administrative Complaint against Judge Yu to be docketed as AM No. MTJ-12-1813; and (2) Required Judge Yu to Comment on the OCA's April 25, 2012 Memorandum.		
July 24, 2012	Resolution ¹⁹ noting Judge Yu's June 29, 2012 Comment.	July 16, 2012	Comment ²⁰ to the Court's June 26, 2012 Resolution.
		AM No. 11-11-115-MTC and AM No. MTJ-12-1813 (formerly AM No. 12-5-42-MeTC)	
		February 28, 2012	Omnibus Motion to Lift Preventive Suspension, Motion for Clarification of Resolution dated February 1, 2012, Motion to Obtain Copy of Memorandum dated January 25, 2012 of the OCA, and Motion for Early Resolution of the Administrative Cases
		March 14, 2012	Motion to Re-Raffle

¹⁷ Id. at 734-735.

¹⁸ Id. at 41-42.

¹⁹ Id. at 97.

²⁰ Id. at 43-73.

		March 22, 2012	Supplemental to Omnibus Motion
		May 7, 2012	Motion to Reinstate with Manifestations
		May 28, 2012	Supplemental to Motion to Reinstate with Manifestations
		June 15, 2012	Letter to the OCA “Re OCA IPI No. 10-2308-MTJ”
		June 18, 2012	Manifestation
		June 25, 2012	Second Manifestation
		June 29, 2012	Comment²¹ in relation with the establishment of Night Courts in AM No. 12-1-09-MTC.
July 31, 2012	Resolution: ²² noted Judge Yu’s July 23, 2012 Manifestation.	July 23, 2012	Manifestation²³ expounding certain legal concepts in her July 16, 2012 Comment to Support her dismissal plea – of the charges of Insubordination, Gross Misconduct, and Violation of the New Code of Judicial Conduct.
November 13, 2012	Resolution: ²⁴ noted Judge Yu’s October 29, 2012 Letter and granted her Request for change of mailing address.		
March 12, 2013	Resolution: ²⁵ noted Judge Yu’s March 6, 2013 Manifestation, stating that February 28, 2013 Certificate of Appreciation for her 2-day lecture on Barangay Justice in Catbalogan City will refute the false		

²¹ Id. at 41-50.

²² Id. at 134.

²³ Id. at 98-113.

²⁴ Id. at 147.

²⁵ Id. at 204.

	and malicious complaint dated May 12, 2011 filed against her by Executive Judge Bibiano Colastino, <i>et al.</i>		
March 19, 2013	Resolution ²⁶ noted Judge Yu's March 7, 2013 Manifestation.	March 7, 2013	Manifestation ²⁷ (that DCA Bahia should have inhibited herself from signing the April 25, 2012 Memorandum in re AM No. MTJ-12-1813).
		March 31, 2013	Letter ²⁸ to Court Administrator Marquez (Re: March 14, 2013 Letter on Compliance with the Directive to Submit Additional Copies of Complaint)
June 4, 2013	Resolution: ²⁹ noted Judge Yu's May 2, 2013 Manifestation; and consolidated AM No. MTJ-12-1813 and AM No. 12-1-09-MeTC.	May 2, 2013	Manifestation ³⁰ (in relation with her April 8, 2013 Letter to the OCA in re: AM No. MTJ-12-1813)
June 18, 2013	Resolution: ³¹ noted Judge Yu's April 8, 2013 Letter in AM No. 12-1813-MTJ.		
August 6, 2013 (In AM Nos. MTJ-12-1813 and 12-1-09-MeTC)	Resolution: ³² directed the resending to Judge Yu of the Court's March 12, 2013 Resolution, which was returned unserved, at her permanent address, per 201 File.		
August 27, 2013 (In AM No. MTJ-12-	Resolution: ³³ noted Judge Yu's July 21, 2013 Letter and Motion, and the August 14, 2013 Letter	July 21, 2013	Letter ³⁴ and Motion to Declare Null and Void ³⁵ the February 21, 2012 Resolution of the Court's

26 Id. at 152.
 27 Id. at 151.
 28 Id. at 404.
 29 Id. at 157.
 30 Id. at 153-156.
 31 Id. at 214.
 32 Id. at 175.
 33 Id. at 183-184.
 34 Id. at 177
 35 Id. at 178-182.

<p>1813 and AM No. 12-1-09-MeTC)</p>	<p>of Atty. Oliveros referring Judge Yu's July 21, 2013 Letter requesting for the Constitution of a Fact-Finding Committee to determine the administrative liability of CA Marquez; and consolidated AM Nos. 11-11-115-MeTC, MTJ-12-1815; OCA IPI Nos. 11-2398-MTJ, 11-2399-MTJ, 11-2378-MTJ, and 12-2456-MTJ with AM Nos. 12-1813 and 12-1-09-MeTC.</p>		<p>First Division</p>
<p>September 3, 2013 (In AM Nos. 12-1813, 12-1-09-MeTC, 11-11-115-MeTC, and MTJ-12-1815; and OCA IPI Nos. 1123-99-MTJ, 11-2378-MTJ, and 12-2456-MTJ)</p>	<p>Resolution: noted the August 8, 2013 Memorandum of CA Marquez in compliance with the Court's February 3, 2013 Resolution in AM No. 12-1-09-MeTC.</p>		
		<p>September 7, 2013</p>	<p>Manifestation³⁶ Re the Consolidation of Administrative Cases: AM Nos. MTJ-12-1813, 12-1-09-MeTC, 11-11-115-MeTC, and MTJ-12-1815; OCA IPI Nos. 11-2398-MTJ, 11-2399-MTJ, 11-2378-MTJ, and 12-2456-MTJ in the Court <i>En Banc's</i> August 27, 2013 Resolution.</p>
		<p>September 18, 2013</p>	<p>Letter³⁷ to CJ thru Atty. Oliveros (Re: Fact-Finding Committee on Administrative Liability of the OCA).</p>

³⁶ Id. at 185-188.

³⁷ Id. at 207-210.

<p>October 8, 2013</p> <p>(In AM Nos. 12-1813, 12-1-09-MeTC, 11-11-115-MeTC, and MTJ-12-1815; and OCA IPI Nos. 1123-99-MTJ, 11-2378-MTJ, and 12-2456-MTJ)</p>	<p>Resolution:³⁸ noted Judge Yu's September 27, 2013 Manifestation relative to the Court's August 27, 2013 Resolution.</p>	<p>September 27, 2013</p>	<p>Manifestation³⁹ (Re: Consolidation of Administrative Cases).</p>
		<p>October 8, 2013</p>	<p>Letter⁴⁰ to Atty. Geronga (Chief, SC Legal Office) Re: Motion to Strike Out dated October 7, 2013 – in relation with the testimonies of Amor Abad, <i>et al.</i></p>
<p>October 22, 2013</p> <p>(In AM Nos. 12-1813, 12-1-09-MeTC, 11-11-115-MeTC, and MTJ-12-1815; and OCA IPI Nos. 1123-99-MTJ, 11-2378-MTJ, and 12-2456-MTJ)</p>	<p>Resolution:⁴¹ noted Judge Yu's October 9, 2013 Manifestation.</p>	<p>October 9, 2013</p>	<p>Manifestation⁴² Re the Consolidation of Administrative Cases (Acknowledging receipt of the Court's August 6, 2013 Resolution).</p>
<p>November 12, 2013</p> <p>(In AM Nos. 12-1813, 12-1-09-MeTC, 11-11-115-MeTC, and</p>	<p>Resolution:⁴³ directed the resending to Judge Yu at her permanent address per her 201 filed of the Court's June 4, 2013 and August 27, 2013 Resolutions which were returned unserved.</p>		

³⁸ Id. at 189-190.
³⁹ Id. at 185-188.1
⁴⁰ Id. at 193-195.
⁴¹ Id. at 196-197.
⁴² Id. at 191-192.
⁴³ Id. at 201-202.

MTJ-12-1815; and OCA IPI Nos. 1123-99-MTJ, 11-2378-MTJ, and 12-2456-MTJ)			
November 19, 2013 (In AM Nos. 12-1813, 12-1-09-MeTC, 11-11-115-MeTC, and MTJ-12-1815; and OCA IPI Nos. 1123-99-MTJ, 11-2378-MTJ, and 12-2456-MTJ)	Resolution: ⁴⁴ directing the resending to Judge Yu at her permanent address per her 201 File of the Court's August 6, 2013 Resolution which was returned unserved; and denied Judge Yu's November 7, 2013 Motion to Inhibit.	November 7, 2013	Motion to inhibit CA Marquez ⁴⁵
December 3, 2013 (In AM Nos. 12-1813, 12-1-09-MeTC, 11-11-115-MeTC, and MTJ-12-1815; and OCA IPI Nos. 1123-99-MTJ, 11-2378-MTJ, and 12-2456-MTJ)	Resolution: ⁴⁶ ordered the resending to Judge Yu of the Court's June 18, 2013 Resolution, which was returned unserved, at her permanent address per her 201 File.		
December 10, 2013 (In AM Nos. 12-1813, 12-1-09-MeTC, 11-11-115-MeTC, and MTJ-12-	Resolution: ⁴⁷ noted the December 9, 2013 Letter of Atty. Oliveros referring Judge Yu's September 18, 2013 Letter and her Letter regarding AM No. 11-11-115-MTJ.		

⁴⁴ Id. at 212-213.

⁴⁵ Id. at 205-206.

⁴⁶ Id. at 217-218.

⁴⁷ Id. at 225-226.

<p>1815; and OCA IPI Nos. 1123-99-MTJ, 11-2378-MTJ, and 12-2456-MTJ)</p>			
<p>January 28, 2014 (In AM Nos. 12-1813, 12-1-09-MeTC, 11-11-115-MeTC, and MTJ-12-1815; and OCA IPI Nos. 1123-99-MTJ, 11-2378-MTJ, and 12-2456-MTJ)</p>	<p>Resolution:⁴⁸ ordered the resending to Judge Yu of the Court's September 3, 2013 and October 8, 2013 Resolutions, which were returned unserved, including all court processes intended for her.</p>		
		<p>February 1, 2014</p>	<p>Letter⁴⁹ (in support of the Complaint of Clerk III Ferdinand A. Santos against Court Administrator Marquez).</p>
<p>March 18, 2014 (In AM Nos. 12-1813, 12-1-09-MeTC, 11-11-115-MeTC, and MTJ-12-1815; and OCA IPI Nos. 1123-99-MTJ, 11-2378-MTJ, and 12-2456-MTJ)</p>	<p>Resolution:⁵⁰ noted Judge Yu's February 7, 2014 Manifestation; denied her MR; noted and denied her March 7, 2014 Supplement to the MR.</p>	<p>February 7, 2014</p>	<p>Manifestation⁵¹ (Confirmation of January 14, 2014 Manifestation).</p>
		<p>February 8, 2014</p>	<p>Letter⁵² to CJ Sereno thru Atty. Oliveros (in support of the Complaint of Clerk</p>

⁴⁸ Id. at 229-230.
⁴⁹ Id. at 449-454.
⁵⁰ Id. at 400-402.
⁵¹ Id. at 383-391.
⁵² Id. at 437-444.

			III Ferdinand A. Santos against Court Administrator Marquez).
		February 24, 2014	MR ⁵³ to the November 19, 2013 Resolution denying her Motion to Inhibit (against CA Marquez).
		March 28, 2014	Letter ⁵⁴ to CJ Sereno thru Atty. Oliveros (Re: Supplemental Complaint Against the OCA).
		March 28, 2014	Letter ⁵⁵ to Atty. Geronga (Re: Delayed Resolution of Administrative Case).
		March 31, 2014	Letter ⁵⁶ to CJ Sereno thru Atty. Oliveros (Re: Supplemental Administrative Complaint against the OCA in relation with her September 18, 2013 Letter on Re; fact-Finding Committee of Administrative Liability of OCA).
		April 2, 2014	Letter ⁵⁷ to CJ Sereno thru Atty. Oliveros (Re: Substantiation of Supplemental Administrative Complaint against the OCA).
		July 9, 2014	Motion to Dismiss Administrative Complaints. ⁵⁸
		July 21, 2014	Letter ⁵⁹ to Atty. Geronga (Re: Submitting Amended Joint Motion to Dismiss dated July 9, 2014).
August 12, 2014	Resolution: ⁶⁰ noted Judge Yu's July 21, 2014 Letter		

⁵³ Id. at 393-399.

⁵⁴ Id. at 513-528.

⁵⁵ Id. at 533-535.

⁵⁶ Id. at 361-376.

⁵⁷ Id. at 277-278.

⁵⁸ Id. at 537-630.

⁵⁹ Id. at 536.

⁶⁰ Id. at 639-641.

<p>(In AM Nos. 12-1813, 12-1-09-MeTC, 11-11-115-MeTC, and MTJ-12-1815; and OCA IPI Nos. 1123-99-MTJ, 11-2378-MTJ, and 12-2456-MTJ)</p>	<p>submitting her Amended Joint Motion to Dismiss in OCA IPI Nos. 11-2378-MTJ, 11-2398-MTJ, 11-2399-MTJ, and 12-2456-MTJ, and AM Nos. MTJ-12-1815 and 12-1-09-MeTC; and the March 31, 2014 Supplemental Administrative Complaints of CA Marquez in relation with Judge Yu's September 18, 2013 Letter concerning the alleged administrative liability of CA Marquez.</p>		
<p>August 21, 2014</p>	<p>Resolution:⁶¹ noted Judge Yu's Letters.</p>		
<p>September 1, 2014</p>	<p>Resolution:⁶² noted Judge Yu's July 9, 2014 Joint Motion to Dismiss and July 9, 2014 Motion to Dismiss; denied her Partial MR and her June 18, 2014 Letter; and noted without action her July 17, 2014 Letter.</p>		
		<p>May 27, 2015</p>	<p>Letter questioning her preventive suspension; and seeking the early resolution of the administrative cases against her.⁶³</p>
<p>September 1, 2015 (In AM Nos. 12-1813, 12-1-09-MeTC, 11-11-115-MeTC, and MTJ-12-1815; and OCA IPI Nos. 1123-</p>	<p>Resolution:⁶⁴ noted without action Judge Yu's: (1) July 9, 2014 Joint Motion to Dismiss in AM Nos. 12-1-09-MeTC and MTJ-12-1815; and OCA IPI Nos. 11-2399-MTJ, 11-2378-MTJ, and 12-2456-MTJ); (2) July 9, 2014 Motion to Dismiss in AM No. MTJ-12-1813; and (3)</p>		

⁶¹ Id. at 639-641.

⁶² Id. at 681-684.

⁶³ Id. at 752.

⁶⁴ Id. at 681-684.

<p>99-MTJ, 11-2378-MTJ, and 12-2456-MTJ)</p>	<p>July 9, 2013 Motion to Dismiss in AM No. MTJ-18-1821; denied for lack of merit the Partial Motion for Reconsideration of the Denial of the Motion for Severance of Consolidated Administrative Cases by the Honorable Supreme Court <i>En Banc</i> dated July 14, 2014; denied for lack of basis Judge Yu's June 18, 2014 Letter praying that Atty. Gito be impleaded as co-respondent of Judge San Gaspar-Gito in AM No. 13-1821; and noted without action Judge Yu's July 17, 2014 Letter stating that she wants to correct an error on page 7 of her September 2, 2011 Comment in OCA IPI No. 11-2399-MTJ.</p>		
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II. The OCA's findings as affirmed by the Court.

A. The OCA's findings and recommendation.

Through a Memorandum⁶⁵ dated February 11, 2016, the Office of the Court Administrator (*OCA*), through Deputy Court Administrator Jenny Lind R. Aldecoa-Delorino, recommended the following:

RECOMMENDATION: It is respectfully recommended for the consideration of the Honorable Court that respondent Judge Eliza B. Yu, Branch 47, Metropolitan Trial Court, Pasay City be found **GUILTY** of INSUBORDINATION, GROSS IGNORANCE OF THE LAW, REFUSAL TO PERFORM OFFICIAL FUNCTIONS, GROSS MISCONDUCT AMOUNTING TO VIOLATION OF THE CODE OF JUDICIAL CONDUCT, GRAVE ABUSE OF AUTHORITY, OPPRESSION, and CONDUCT UNBECOMING OF A JUDGE, and be DISMISSED FROM THE SERVICE with forfeiture of all benefits, except accrued leave credits, and disqualification from reinstatement or appointment to any public office including government-owned or controlled corporations.

The OCA found Judge Yu Guilty of: (1) insubordination for her refusal to comply with AO No. 19-2011 and to honor the appointments of Ms. Lagman and Ms. Tejero-Lopez; (2) gross misconduct and violation of Section 6, Canon 4 of the New Code of Judicial Conduct for her letter to the

⁶⁵ Id. at 701-755.

Department of Tourism Secretary Lim; (3) oppression for her conduct in relation with Noel Labid's request for sick leave; (4) gross ignorance of the law for her act of allowing the criminal proceedings in her court to continue without the presence of the public prosecutor and for ordering the reception of evidence by the OIC who was not a member of the Bar; and (5) grave abuse of authority for issuing a show cause order against Judge Colasito, *et al.*

The OCA likewise agreed with the findings and recommendation of Judge Abdulwahid but clarified that her use of the court's official letterhead in summoning the brother of Judge San Gaspar-Gito demonstrated abuse of power and a violation of Section 8, Canon 4 of the New Code of Judicial Conduct.

The OCA, however, recommended the dismissal of the charges of gross ignorance of the law for allowing OJTs and in directing the court staff to sell her books, including the alleged malicious utterances against Court Administrator Marquez; and upheld Judge Yu's requiring the plaintiffs with pending replevin cases to pay legal fees for transcripts pursuant to her prerogative to ensure that the court funds are properly accounted for.

B. The *ponencia's* ruling.

The *ponencia* agreed with the recommendations and findings of the OCA.

In re Judge Yu's non-compliance with AO No. 19-2011. The *ponencia* rules that the manner by which Judge Yu chose to express her dissent against AO No. 19-2011 has transgressed the bounds of judicial ethics. The *ponencia* reminds that Judge Yu has sworn to obey the orders and processes of the Court without delay. Her unjustified refusal to comply with the directives/orders of the OCA and the Court made her liable for gross insubordination and gross misconduct. More importantly, the *ponencia* emphasizes, Judge Yu's refusal to submit to night duty openly defied the Court's authority, to issue AO No. 19-2011, that the Constitution grants it under Article VIII, Section 5(5) of the Constitution.

In re Judge Yu's refusal to honor the appointments of court personnel. The *ponencia* agrees that Judge Yu's persistent refusal to honor the appointments amounted to a brazen challenge against the Court's power and discretion to appoint court employees. It emphasizes that these appointments are in the form of an order or directive from the Court which Judge Yu had no right to reject. For these acts, Judge Yu is liable for gross insubordination and gross misconduct.

In re Judge Yu's issuing of a show cause order against judges and court personnel. The *ponencia* likewise agrees with the OCA that the show cause order Judge Yu issued in OCA IPI No. 11-2378-MTJ demonstrated her clear abuse of court processes and flagrant abuse of authority, as well as



her motivation to retaliate against her accusers, thereby violating Section 8, Canon 4 of the New Code of Judicial Conduct.

In re Judge Yu's refusal to sign the application for leave of absence and other allegations of oppression. Equally, the *ponencia* agrees that Judge Yu's inordinate refusal to approve Noel Labid's leave of absence application, notwithstanding the latter's compliance with the requirements for sick leave application per the 2002 Revised Manual for Clerks of Court, reveals a motive to retaliate against Noel Labid for his joining the administrative complaint against her; these acts amount to grave abuse of authority and oppression.

The *ponencia* also dismisses the other allegations of oppression for lack of substantiation.

In re the charges of gross ignorance of the law. The *ponencia* however disagrees with the OCA's findings and rules that Judge Yu: (1) deliberately ignored OCA Circular No. 111-2005 in prohibiting on-the-job trainees when she issued the November 10, 2010 Memorandum naming the student, Ms. Rosali, as encoder and assigning her to court duties similar to a court employee; (2) violated CSC Memorandum Circular No. 06-05 when she designated Mr. Santos, as first level personnel, as OIC which is reserved to personnel belonging to the second level.

In re allowing criminal proceedings without the presence of the public prosecutor. The *ponencia* rules that Judge Yu should not only be cited for her failure to abide by Section 5, Rule 110 of the Rules of Court when she allowed the proceedings in *People v. Manduriao* to proceed without the actual presence of the public prosecutor. The *ponencia* points out that she should likewise be cited for her failure to comply with Section 6, Rule 116 of the same Rules when she allowed the change of plea by the accused in the same case without the assistance of counsel. To the *ponencia*, as a judge, she should know the fundamental substantive and procedural requirements on arraignment and right to counsel found in the Constitution and the Rules of Court (Revised Rules on Criminal Procedure).

In re her sending inappropriate messages. Finally, the *ponencia* agrees with Judge Abdulwahid's conclusions that Judge Yu's Facebook and Yahoo messages to Judge San Gaspar-Gito contained sexual innuendos that are improper for a magistrate to write and send to another who find them vexatious and annoying, conduct that is improper and unbecoming of a member of the judiciary.

In line with this conclusion, the *ponencia* likewise agrees with the OCA's findings and rules that Judge Yu's use of the court's official letterhead in summoning Atty. Reynaldo San Gaspar, Judge San Gaspar-Gito's brother, constitutes abuse of power and violates Section 8, Canon 4, as well as Section 4 of Canon 1 and Section 1 of Canon 4, all of the New Code of Judicial Conduct.

III. My reasons for the vote to disbar Judge Yu.

The *ponencia* refuses to disbar Judge Yu reasoning that “*this rule of fusing the dismissal of a judge with disbarment does not in any way dispense with or set aside [Judge Yu’s] right to due process. As such, his [sic] disbarment as an offshoot of A.M. No. 02-9-02-SC without requiring him [sic] to comment on the disbarment is violative of her right to due process. Thus, she should first be afforded the opportunity of defending her professional standing as a lawyer before she would be disbarred.*”

Notably, the *ponencia* recognizes that the administrative charges against Judge Yu in fact likewise constitutes as grounds for disciplinary actions against members of the Bar which the Court can very well treat as justifiable disciplinary initiatives to remove her from the Roll. It points out that Judge Yu’s membership in the Bar is an integral aspect of her qualification for judgeship. To the *ponencia*, “her moral and actual fitness to remain as a judge reflected her indelible unfitness to remain as a member of the Bar” who therefore must no longer “remain as its member because she thereby also violated her Lawyer’s Oath.”

I respect my colleague’s position that gives significance to Judge Yu’s right to due process. To be sure, everyone charged before any court or tribunal is entitled to due process or at the very least an opportunity to relay one’s side and defend himself or herself. No less than our Constitution guarantees this right as it provides that “no person shall be deprived of life, liberty, or property without due process of the law x x x.” Judges charged with administrative complaints are no exceptions to this due process requirement.

I disagree, however, with the *ponencia*’s refusal to disbar Judge Yu in these proceedings as I do not find that she had not been given ample opportunity to explain and defend her professional standing as a lawyer. Contrary to the *ponencia*’s observation, the records fully support the conclusion that Judge Yu has had more than the requisite minimum opportunity to explain herself against the disbarment charges that justifies her removal from the Roll of Attorneys.

A. Nature of disbarment.

Under A.M. No. 02-9-02-SC (which took effect on October 1, 2002), an administrative case against a judge of a regular court based on grounds which are also grounds for disciplinary action against members of the Bar, shall be considered as disciplinary proceedings against such judge as a member of the Bar. Likewise, it provides that **judgment in both respects may be incorporated in one decision or resolution.** A.M. No. 02-9-02-SC specifically states:

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 are based on grounds which are likewise

grounds for the disciplinary action of members of the Bar for violation of the Lawyer's Oath, the Code of Professional Responsibility, and the Canons of Professional Ethics, or for such other forms of breaches of conduct that have been traditionally recognized as grounds for the discipline of lawyers.

In any of the foregoing instances, **the administrative case shall also be considered a disciplinary action against the respondent justice, judge or court official concerned as a member of the Bar.** The respondent may forthwith be required to comment on the complaint and show cause why he should not also be suspended, disbarred or otherwise disciplinary sanctioned as a member of the Bar. **Judgment in both respects may be incorporated in one decision or resolution.**
[emphases and underscoring supplied]

The Rules of Court, on the other hand, provides, under Section 27 of Rule 138, that a lawyer may be removed or suspended from the practice of law, *among others*, for gross misconduct, for any violation of the Lawyer's Oath, and for willful disobedience to the Court's orders, circulars, and other issuances:

Sec. 27. Attorneys removed or suspended by Supreme Court on what grounds. — A member of the bar may be removed or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before the admission to practice, or for a willful disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.
[emphases and underscoring supplied]

It should be pointed out that the Lawyer's Oath is a source of a lawyer's obligations and its violation is a ground for disbarment or other disciplinary action. In addition to this, the Code of Professional Responsibility forbids a lawyer to engage in unlawful, dishonest, immoral, or deceitful conduct as provided under its Rule 1.01. Thus, every lawyer must pursue only the highest standards in the practice of his calling. This is because the practice of law is a privilege, and only those adjudged qualified are permitted to do so.⁶⁶

It must be stressed, however, that the purpose of disbarment is not meant as a punishment depriving a lawyer of a source of livelihood; rather, it is intended to protect the administration of justice that those who exercise this function should be competent, honorable, and reliable in order that the courts and clients may rightly repose confidence in them.⁶⁷

⁶⁶ See *Cojuanco, Jr. v. Atty. Palma*, 481 Phil. 646 (2004), citing *In Re: Gutierrez*, Adm. Case No. L-363, July 31, 1962, 5 SCRA 661; *Pantanosas, Jr. v. Atty. Elly L. Pamatong*, AC No. 7330, Jun 14, 2016; and *Spouses Garcia v. Atty. Bala*, 512 Phil. 486 (2005).

⁶⁷ See *Rosa Yap-Paras v. Atty. Justo Paras*, AC No. 4947, 551 Phil. 338 (2007); and *Avancena v. Judge Ricardo P. Liwanag*, 454 Phil. 20 (2003).

In *Office of the Court Administrator v. Judge Indar*,⁶⁸ the Court automatically disbarred the respondent judge pursuant to the provisions of A.M. No. 02-9-02-SC, adopting the reasoning held in *Samson v. Caballero* that:

Under the same rule, a respondent “may forthwith be required to comment on the complaint and show cause why he should not also be suspended, disbarred or otherwise disciplinarily sanctioned as member of the Bar.” The rule does not make it mandatory, before respondent may be held liable as a member of the bar, that respondent be required to comment on and show cause why he should not be disciplinarily sanctioned as a lawyer separately from the order for him to comment on why he should not be held administratively liable as a member of the bench. In other words, an order to comment on the complaint is an order to give an explanation on why he should not be held administratively liable not only as a member of the bench but also as a member of the bar. This is the fair and reasonable meaning of “automatic conversion” of administrative cases against justices and judges to disciplinary proceedings against them as lawyers. This will also serve the purpose of A.M. No. 02-9-02-SC to avoid the duplication or unnecessary replication of actions by treating an administrative complaint filed against a member of the bench also as a disciplinary proceeding against him as a lawyer by mere operation of the rule. Thus, a disciplinary proceeding as a member of the bar is impliedly instituted with the filing of an administrative case against a justice of the Sandiganbayan, Court of Appeals and Court of Tax Appeals or a judge of a first- or second-level court.

It cannot be denied that respondent’s dishonesty did not only affect the image of the judiciary, it also put his moral character in serious doubt and rendered him unfit to continue in the practice of law. Possession of good moral character is not only a prerequisite to admission to the bar but also a continuing requirement to the practice of law. If the practice of law is to remain an honorable profession and attain its basic ideals, those counted within its ranks should not only master its tenets and principles but should also accord continuing fidelity to them. **The requirement of good moral character is of much greater import, as far as the general public is concerned, than the possession of legal learning.**
[emphasis in the original]

The Court similarly ruled in the fairly recent case of *Office of the Court Administrator v. Presiding Judge Joseph Cedrick O. Ruiz*⁶⁹ where it dismissed from the service and at same time disbarred the erring respondent judge, Joseph Cedrick O. Ruiz.

B. Due process requirements in administrative proceedings for disbarment.

Jurisprudence settles that technical rules of procedure and evidence are not strictly applied to administrative proceedings. In administrative proceedings, it is enough that the party is given the chance to be heard before the case against him is decided. In the application of the principle of

⁶⁸ 685 Phil. 272, 292-293(2012), citing *Samson v. Caballero*, A.M. No. RTJ-08-2138, August 5, 2009, 595 SCRA 423, 435-436.

⁶⁹ A.M. No. RTJ-13-2361, February 2, 2016, sc.judiciary.gov.ph.

due process in administrative proceedings, what is sought to be safeguarded is not lack of previous notice but the denial of the opportunity to be heard.⁷⁰

In *Office of the Court Administrator v. Judge Indar*,⁷¹ the Court explained the underlying principle for the relaxation of the due process requirements in administrative proceedings. Citing *Cornejo*, the Court pointed out that “a public office is not property within the sense of the constitutional guaranties of due process of law, but is a public trust or agency.” Thus, the strict application of technical rules of procedure required in judicial proceedings are not required with equal force in administrative proceedings.⁷²

In the leading case of *Ang Tibay v. CIR*,⁷³ the Court laid down the following due process requirements that must be complied with in administrative proceedings: (1) the respondents’ right to a hearing, which includes the right to present one’s case and submit supporting evidence, must be observed; (2) the tribunal must consider the evidence presented; (3) the decision must have some basis to support itself; (4) there must be substantial evidence; (5) the decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected; (6) in arriving at a decision, the tribunal must have acted on its own consideration of the law and the facts of the controversy and must not have simply accepted the views of a subordinate; and (7) the decision must be rendered in such manner that respondents would know the reasons for it and the various issues involved.

C. Judge Yu had been afforded more than sufficient opportunity to defend her side in the numerous administrative complaints against her that included a charge for disbarment, and violation of the Code of Professional Responsibility and of the Lawyer’s Oath.

Based on the above considerations, I submit that the due process requirements in administrative proceedings had been sufficiently complied as the Court finds Judge Yu guilty of gross insubordination, gross ignorance of the law, gross misconduct, grave abuse of authority, oppression, and conduct unbecoming of a judicial official.

In the following cases, Judge Yu was charged with grounds that likewise constitute as grounds for disbarment: (1) OCA IPI No. 11-2378-MTJ⁷⁴ for gross insubordination, grave misconduct, violation of SC circulars, violation of the Code of Professional Responsibility, and violation

⁷⁰ See *Office of the Court Administrator v. Judge Indar*, 685 Phil. 272, 292-293(2012) [citations omitted].

⁷¹ 685 Phil. 272 (2012).

⁷² See *Office of the Court Administrator v. Judge Indar*, 685 Phil. 272, 292-293(2012), citing *Cornejo*, 41 Phil. 188, 194 (1920).

⁷³ 69 Phil. 635, 644 (1940).

⁷⁴ *Rollo*, pp. 712-715.

of the Oath, among others; (2) OCA IPI No. 11-2399-MTJ⁷⁵ for grave misconduct, among others; (3) AM No. MTJ-12-1815 (formerly OCA IPI No. 11-2401-MTJ) for refusal to obey court order; (4) AM No. MTJ-12-1813 (formerly AM No. 12-5-42-MeTC) concerning her refusal to abide by AO No. 19-2011; and (5) AM No. MTJ-13-1836 for misconduct and insubordination.

In all of these cases, Judge Yu had been able to defend herself *via* Comment, Manifestations, Motions, Letters, and other papers she filed with or sent to the Court, namely:

- In OCA IPI No. 11-2378-MTJ:⁷⁶
 - Comment dated June 29, 2011.
- In AM No. MTJ-12-1815:
 - Comment dated September 1, 2011.
- In OCA IPI No. 11-2399-MTJ:⁷⁷
 - Comment dated September 2, 2011.
- In AM No. MTJ-12-1813:
 - July 16, 2012 Comment to the Court's June 26, 2012 Resolution treating the April 25, 2012 OCA Memorandum as Administrative Complaint against her to be docketed as AM No. MTJ-12-1813;
 - February 28, 2012 Omnibus Motion to Lift Preventive Suspension, Motion for Clarification of Resolution dated February 1, 2012, Motion to Obtain Copy of Memorandum dated January 25, 2012 of the OCA, and Motion for Early Resolution of the Administrative Cases;
 - March 14, 2012 Motion to Re-Raffle;
 - March 22, 2012 Supplemental to Omnibus Motion;
 - May 7, 2012 Motion to Reinstate with Manifestations;
 - May 28, 2012 Supplemental to Motion to Reinstate with Manifestations;
 - June 15, 2012 Letter to the OCA "Re OCA IPI No. 10-2308-MTJ";
 - June 18, 2012 Manifestation;
 - June 25, 2012 Second Manifestation;
 - June 29, 2012 Comment⁷⁸ in relation with the establishment of Night Courts in AM No. 12-1-09-MTC;

⁷⁵ Filed by the staff of Branch 47, MeTC, Pasay City, who were also complainant in OCA IPI No. 11-2378, namely: Amor V. Abad (Court Interpreter), Froilan I. Tomas (Court Stenographer), Roman H. Aviles (Court Stenographer), Norman D.S. Garcia (Deputy Sheriff IV), Maximo Sayo (Process Server), Emelina J. San Miguel (Records Officer), and Dennis Echevoyen (Deputy Sheriff). *Id.* at 720.

⁷⁶ *Id.* at 718-720.

⁷⁷ Filed by the staff of Branch 47, MeTC, Pasay City, who were also complainant in OCA IPI No. 11-2378, namely: Amor V. Abad (Court Interpreter), Froilan I. Tomas (Court Stenographer), Roman H. Aviles (Court Stenographer), Norman D.S. Garcia (Deputy Sheriff IV), Maximo Sayo (Process Server), Emelina J. San Miguel (Records Officer), and Dennis Echevoyen (Deputy Sheriff). *Id.* at 720.

⁷⁸ *Id.* at 41-50.

- July 23, 2012 Manifestation⁷⁹ expounding certain legal concepts in her July 16, 2012 Comment to Support her dismissal plea – of the charges of Insubordination, Gross Misconduct, and Violation of the New Code of Judicial Conduct;
- March 7, 2013 Manifestation⁸⁰ (that DCA Bahia should have inhibited herself from signing the April 25, 2012 Memorandum in re AM No. MTJ-12-1813);
- May 2, 2013 Manifestation⁸¹ (in relation with her April 8, 2013 Letter to the OCA in re: AM No. MTJ-12-1813).

Judge Yu likewise filed the following: (1) September 7, 2013 Manifestation⁸² Re the Consolidation of Administrative Cases: AM Nos. MTJ-12-1813, 12-1-09-MeTC, 11-11-115-MeTC, and MTJ-12-1815; OCA IPI Nos. 11-2398-MTJ, 11-2399-MTJ, 11-2378-MTJ, and 12-2456-MTJ in the Court *En Banc*'s August 27, 2013 Resolution; (2) September 27, 2013 Manifestation⁸³ (Re: Consolidation of Administrative Cases); (3) October 9, 2013 Manifestation⁸⁴ Re the Consolidation of Administrative Cases (Acknowledging receipt of the Court's August 6, 2013 Resolution); (4) May 27, 2015 Letter questioning her preventive suspension; and seeking the early resolution of the administrative cases against her;⁸⁵ and the several pleadings she filed praying that CA Marquez inhibit in the administrative proceedings against her.

The Court duly noted these filings and submissions thru the Resolutions and notices that the Court sent and re-sent to her permanent address written on her 201 File, as well as to the address she stated in her October 29, 2012 Letter⁸⁶ request for change of her mailing address. (I enumerated these numerous Court Resolutions under Part I-B of this Opinion).

All of these – the filings and submissions of Judge Yu and the Resolutions and other processes of the Court that were sent re-sent to Judge Yu – confirm the conclusion that Judge Yu had been sufficiently apprised of the charges against her, some of which could likewise potentially cause her disbarment; that she had been given ample opportunity to rebut these charges and present controverting evidence; and that she had used the granted opportunities through the various pleadings and Letters she filed with and sent to the Court.

79 Id. at 98-113.

80 Id. at 151.

81 Id. at 153-156.

82 Id. at 185-188.

83 Id. at 185-188.1

84 Id. at 191-192.

85 Id. at 752.

86 See the Court's November 13, 2012 Resolution.

In other words, Judge Yu had been accorded every opportunity to defend her professional standing as a lawyer sufficient to warrant the ultimate sanction of disbarment.

A final word. Judge Yu is a disgrace to both the bench and the bar. As I pointed out above, her ignorance, arrogance, recalcitrant attitude, uncharacteristic insubordination, megalomania, and lack of humility demonstrate her incompetence and unfitness to discharge not only the office and duties of judge; more than anything, they reveal an utter incompetence and unfitness to continue discharging the trust and respect invested her as a member of the Bar. Thus, I submit that – aside from being **dismissed from the service** and as a consequence of the findings of this Court which no other tribunal in the land can reverse– she should likewise be **disbarred** and her name stricken out from the roll of attorneys.

In sum, I **CONCUR** with the *ponencia's* ruling finding Judge Eliza B. Yu guilty of the administrative charges hailed against her and dismissing her from the service, subject to the above reservations.

I **VOTE** that Judge Eliza B. Yu should likewise be disbarred and her name be stricken off from the roll of attorneys.


ARTURO D. BRION
Associate Justice

CERTIFIED XEROX COPY:


FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT