

FELICIDAD TENENAN, COMPLAINANT, VS. JUDGE FERNANDO F. FLOR, JR., RESPONDENT.*A.M. No. RTJ-06-1995 (Formerly OCA IPI No. 02-1480-RTJ). September 25, 2007*

Ponente: NACHURA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/0728dcaba1a8/>**NACHURA, J.:**

An administrative complaint for Gross Negligence, Gross Incompetence, and Abuse of Authority was lodged by Felicidad Tenenan (complainant) before the Office of the Court Administrator (OCA) against Judge Fernando F. Flor, Jr. (respondent), Acting Presiding Judge of the Regional Trial Court, Branch 14, Lagawe, Ifugao, for violating Rules 1.01, 2.01, 2.03, and 3.12(d) of the Code of Judicial Conduct and Section 1, Rule 137 of the Rules of Court.

After respondent filed his Comment, the OCA referred the matter to Court of Appeals Associate Justice Danilo B. Pine (Investigating Justice) for investigation, report, and recommendation.

After due proceedings, the Investigating Justice made the following findings and recommendations:

I. Violation of Rules 1.01[1] and 2.01[2]

The complaint alleged that complainant, in March 1998, started a construction on the land she is claiming in Banting, Lamut, Ifugao for which respondent and his wife, Atty. Ester Flor, filed against complainant for Abatement of Illegal Construction and Recovery of Ownership and Possession with the Municipal Circuit Trial Court (MCTC), Lamut-Kiangan-Tinoc, Lamut, Ifugao. The MCTC later dismissed the case. Thereafter, respondent and his wife started harassing complainant, one instance of which was when respondent allegedly ordered three men to cut two Gemelina trees planted on complainant's claimed land. Complainant learned of the cutting of the trees from witnesses to whom two of the three men admitted that respondent verbally instructed them to do so.

The Investigating Justice found nothing improper on the part of respondent and his wife in filing the case. He said that while complainant claimed the subject land, respondent and his wife are not precluded from protecting their interest on the same land, which is still classified as a forest zone. He also found that complainant should not fault respondent for instituting the case considering that she made the construction without a building permit. He further found insufficient the evidence that it was respondent who directed the cutting of Gemelina trees, as the affidavits and testimonies of complainant's witnesses regarding the admission of the men who felled the trees were hearsay in nature. Thus, the Investigating Justice recommended the dismissal of this charge.

II. Violation of Rule 2.03[3]

Complainant claimed that respondent and his wife harassed her when they filed a criminal case against her for violation of Section 68, P.D. 75 (should be P.D. No. 705)[4] when the couple saw her pruning a Gemelina tree on her claimed land. Said case was docketed as Criminal Case No. 1325 and filed before the Regional Trial Court, Lagawe, Ifugao, Branch 14, presided by respondent. Allegedly, they also filed charges for malicious mischief and

light threats arising from the same incident before the MCTC without resorting to the mandatory barangay conciliation process.

The Investigating Justice found that respondent was justified in not resorting to the barangay conciliation process because he was able to proffer competent evidence that he is not a resident, nor even a member, of Barangay Banting in Lamut, Ifugao, but that his official residence is at 208 Brgy. San Geronimo, Bagabag, Nueva Viscaya. The Investigating Justice recommended that this charge should likewise be dismissed.

III. Violation of Rule 3.12 (d)[5] of the Code of Judicial Conduct and Section 1, Rule 137 [6] of the Rules of Court

The complaint stated that, in the criminal case for violation of Section 68 of P.D. 705 before his sala, respondent issued a warrant for the arrest of complainant, knowing that the private complainant therein was his wife, Atty. Ester Flor. Complainant claimed that only after she filed a motion for his inhibition did respondent try to rectify his act by recalling the warrant and thereafter inhibiting himself from the case.

In his Comment, respondent explained that the warrant of arrest was inadvertently issued because it was mixed with the alias warrants placed by the criminal docket clerk on his table for his signature. The Investigating Justice found this explanation preposterous. He said that it would be incredible for respondent not to notice that the warrant he issued against complainant was an original warrant distinguishable from an alias warrant, especially as the clerk placed only six case folders on his table. More importantly, the Investigating Justice pointed out that, with the knowledge of the circumstances which gave rise to the case and their personal involvement therein, respondent ought to have inhibited himself from taking cognizance of the case at the outset. According to the Investigating Justice, by his failure to inhibit himself from the said criminal case, respondent is indeed guilty of violations of Section 1, Rule 137 of the Rules of Court and of Rule 2.03, Canon 2 of the Code of Judicial Conduct, and deserves a penalty of fine in the amount of P20,000.00 with a stern warning that a repetition of the same or similar act in the future would merit a more severe penalty.

After a judicious review of the records of this case, this Court finds the findings and recommendations of the Investigating Justice to be well taken.

In administrative proceedings, the complainant has the burden of proving, by substantial evidence, the allegations in the complaint. The basic rule that mere allegation is not evidence cannot be disregarded. This is particularly true in the instant case.[7]

With respect to the first two charges, the complainant has failed to adduce substantial evidence to support her allegations.

However, with respect to the third charge of failure to inhibit himself despite his disqualification, respondent was rightfully found to have violated Section 1, Rule 137 of the Rules of Court and Rule 2.03 of the Code of Judicial Conduct. We also hold, for the same reason, respondent guilty of violation of Rule 3.12 of the Code of Judicial Conduct as charged.

In line with jurisprudence,[8] a magistrate found culpable of administrative offenses relative to the impartial exercise of judicial functions is usually meted the penalty of fine ranging from P10,000.00 to P20,000.00. In this case, the penalty of fine in the amount of P20,000.00 is proper under the circumstances.

WHEREFORE, Judge Fernando F. Flor, Jr., presiding judge of the Regional Trial Court, Branch 14, Lagawe, Ifugao, is found administratively liable for violation of Section 1, Rule 137 of the Rules of Court and of Rule 2.03, Canon 2 and Rule 3.12, Canon 3 of the Code of Judicial Conduct for taking cognizance of Criminal Case No. 1325 where he and his wife are economically interested in its outcome, and with the latter listed as private

complainant therein. Judge Flor, Jr. is FINED P20,000.00 and is sternly warned that the commission of the same or similar act in the future will warrant a more severe penalty.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Reyes, JJ., concur.

[1] Rule 1.01 – A judge should be the embodiment of competence, integrity, and independence.

[2] Rule 2.01 – A judge should so behave, at all times, to promote public confidence in the integrity and impartiality of the judiciary.

[3]Rule 2.03 – A judge shall not allow family, social, or other relationships to influence judicial conduct or judgment. The prestige of judicial office shall not be used or lent to advance the private interests of others, nor convey or permit others to convey the impression that they are in a special position to influence the Judge.

[4]SECTION 68. Cutting, gathering and/or collecting timber or other products without license. — Any person who shall cut, gather, collect, or remove timber or other forest products from any forest land, or timber from alienable and disposable public lands, or from private lands, without any authority under a license agreement, lease, license or permit, shall be guilty of qualified theft as defined and punished under Articles 309 and 310 of the Revised Penal Code; Provided, That in the case of partnership, association or corporation, the officers who ordered the cutting, gathering or collecting shall be liable, and if such officers are aliens, they shall, in addition to the penalty, be deported without further proceedings on the part of the Commission on Immigration and Deportation.

The Court shall further order the confiscation in favor of the government of the timber or forest products to cut, gathered, collected or removed, and the machinery, equipment, implements and tools used therein, and the forfeiture of his improvements in the area.

The same penalty plus cancellation of his license agreement, lease, license or permit and perpetual disqualification from acquiring any such privilege shall be imposed upon any licensee, lessee, or permittee who cuts timber from the licensed or leased area of another, without prejudice to whatever civil action the latter may bring against the offender.

[5]Rule 3.12 – A judge should take no part in the proceeding where the Judge's impartiality might reasonably be questioned. These cases include, among others, proceedings where:

x x x (d) the judge is related by consanguinity or affinity to a party litigant within the sixth degree or to counsel within the fourth degree; x x x

[6] Section 1. - Disqualification of Judges. - No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties-in-interest, signed by them and entered upon the record.

A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above.

[7] Valdez, Jr. v. Judge Gabales, A.M. No. RTJ-05-1956, September 20, 2005, 470 SCRA 225, 234.

[8] See Re: Inhibition of Judge Eddie R. Rojas, A.M. No. 98-6-185-RTC, October 30, 1998, for violation of Section 1, Rule 137 of the Rules of Court was fined P10,000.00; In Ortiz v. Judge Jaculbe, Jr., A.M. No. RTJ-04-1833, June 28, 2005, 461 SCRA 361, 368, Judge Jaculbe, Jr., for the same violation, was fined P11,000.00; and in Siawan v. Judge Inopiquez, Jr., A.M. No. MTJ-95-1056, May 21, 2001, 358 SCRA 10, 24-25, Judge Inopiquez, Jr., for the same offense, for grave abuse of authority, and for gross ignorance of the law, was fined P20,000.00 and suspended for three (3) months without pay.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.