

RIZALIA CAPUNO AND THELMA VILLANUEVA, COMPLAINANTS, VS. JUDGE AUSBERTO B. JARAMILLO, JR., RESPONDENT.*A.M. No. RTJ-93-944. July 20, 1994*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/19585ffed133/>**PER CURIAM:**

In these two (2) administrative complaints, respondent Judge Ausberto B. Jaramillo, Jr., of the Regional Trial Court, Br. 30, San Pablo City, is charged with various corrupt practices detrimental to the administration of justice.

Per resolutions of the Court, Adm. Matter No. RTJ-93-944 was referred to Mme. Justice Corona Ibay-Somera of the Court of Appeals,[1] and Adm. Matter No. RTJ-93-959 to Deputy Court Administrator Reynaldo L. Suarez,[2] for investigation, report and recommendation. In the meantime, we directed respondent judge to go on leave.[3] On 27 October 1993, we ordered the consolidation of the complaints.[4]

Thereafter, in compliance with our directives, Justice Corona Ibay-Somera and Deputy Court Administrator Reynaldo L. Suarez submitted their reports. We shall deal with respondent's administrative liability on the basis of the investigators' findings and recommendations.[5]

I. Adm. Matter No. RTJ-93-944

The complaint in this case was initiated by a "Sinumpaang Salaysay" dated 28 August 1992 of complainants Rizalia Capuno and Thelma Villanueva, mother and daughter, respectively, thus -

(1) Na si Pedro Calara Jr. ay nagdemanda ng 'writ of possession' laban kay Rizalia Capuno sa sala ni Judge Ausberto Jaramillo ng RTC-San Pablo City.

(2) Na pagkatapos ng makapagbigay ng 'writ of possession' si Judge Jaramillo laban kay Rizalia Capuno sa nasabing kaso, ay nagpunta si Sheriff Leonardo Ho sa bahay ni Rizalia Capuno at sinabi kay Rizalia na gusto siyang makausap ni Judge Jaramillo.

(3) Na nagpunta si Rizalia, na kasama ng kanyang anak na si Thelma, at ni Gregorio Capistrano, sa sala ni Judge Jaramillo, mga alas 10:00 ng umaga at pinapasok sila sa kuwarto ni Judge Jaramillo.

(4) Sinabi sa kanila ni Judge Jaramillo na kung gustong hindi mapaalis sa bahay si Rizalia, ay magbigay ng halagang P200,000 cash na kung maa-ari ay puro dadaanin, at saka isang tsekeng P150,000 na postdated 30 days.

(5) Na sinabi ni Thelma na wala silang maibibigay na ganoong halaga, at ang sabi ni Judge Jaramillo kay Thelma na subukan na maghanap ng nasabing halaga at bumalik sa loob ng dalawang araw.

(6) Nang mga alas 11:00 ng umaga, bumalik si Thelma at si Gregorio Capistrano sa kuwarto ni Judge Jaramillo pagkatapos ng dalawang araw, at sinabi ni Thelma kay Judge Jaramillo na wala silang maibibigay na halagang takda ni Judge. Sabi ni Judge na kung hindi kaya ni Thelma ang P200,000 cash ay kahit na P150,000 na cash na lang, puera doon sa tsekeng P150,000 na postdated 60 days, pero dapat ang mga ito ay maibigay ni Thelma sa kanya ng alas 2:00 ng hapon noong araw na iyon din.

(7) Na sinabi ni Thelma kay Judge Jaramillo na wala silang maibibigay na ganoong halaga. Ang sabi ni Judge Jaramillo na kung ganoon ay wala na siyang magagawa.

(8) Na ang demanda ni Rizalia Capuno laban kay Pedro Calara, Jr. na pa walang bisa ang pagkabenta at pagka-ilit ng kanyang lupa ay bumagsak din sa sala ni Judge Jaramillo, kaya siya ay nakikiusap kay Judge Jaramillo na ilipat ang nasabing kaso sa ibang hukuman.[6]

Required to comment, respondent judge denies the charges against him. He maintains that this complaint was filed out of pure harassment.[7]

On 19 November 1993, after due investigation of the case, Justice Ibay-Somera submitted her report the pertinent portions of which follow -

During the testimony of complainant Thelma Villanueva, she only identified the Sinumpaang Salaysay she executed with her mother Rizalia Capuno, and affirmed the truth of the contents thereof.

x x x x

On cross-examination, complainant Thelma Villanueva admitted that her mother, complainant Rizalia Capuno borrowed the amount of P15,000.00 sometime in 1987 from one Pedro Calara, Jr., for which the questioned property consisting of 85 sq. m. and originally covered by Tax Declaration No. 34-1260, was mortgaged as a security thereof (pp. 9 & 12, tsn, July 28, 1993). It was also shown that despite partial payments on said loan (Exhs. B, B-1 to B-6), the mortgaged property was extrajudicially foreclosed on August 21, 1990 and a certificate of sale was issued by the respondent judge on the same date of August 21, 1990, and registered with the office of the Register of Deeds on October 12, 1990 (Tsn p. 16, July 28, 1993; Exh. 6), and that the buyer of said property was Pedro Calara, Jr., in the amount of P47,021.00 (Exh. 2-A, p. 17, tsn, July 28, 1993). Subsequently, an affidavit of consolidation of ownership and deed of sale were made and executed by Pedro Calara, Jr., and were registered with the Register of Deeds on December 9, 1991, which caused the cancellation of Tax Declaration No. 541260 and a new one was issued, Tax Declaration No. 34-2753, in the name of Pedro Calara, Jr. (Exh. 6). A petition for the issuance of a writ of possession filed by said Pedro Calara, Jr., on February 24, 1992 was assigned to the Branch of respondent Judge (p. 25, tsn, July 28, 1993), who issued the corresponding Decision on May 15, 1992 granting the said petition (Exh. 11), and ordering the issuance of the corresponding writ of possession and was implemented by Sheriff Aranguren (Exh. "15"). Said complainant met the respondent Judge for the first time sometime in March 1992, 'to know how much more' the complainants were to pay Pedro Calara, Jr. (TSN, July 29, 1993, pp. 2 & 15), upon advice of the Sheriff Ho (tsn, p. 9, July 29, 1993). Complainants, together with one Gregorio Capistrano, went to see the respondent Judge sometime in May or June 1992 for the second time, who, in one of those meetings, asked whether said complainants 'could pay P350,000.00', P200,000.00 of which should be in cash, all in P100-bills, to be displayed on his table 'so that Pedro Calara's eyes will bulge and I will take care of everything', and P150,000.00 in postdated check (pp. 16-17, tsn, July 29, 1993). Complainant Thelma Villanueva informed the Judge that she could not afford the amount, thus the Judge reduced the proposal to P150,000.00 in postdated check, which amount should be brought to him at 2:00 p.m., and that they (complainants) 'should not talk to anybody' (p. 20, tsn, July 29, 1993). Because the complainant failed to comply with the demand, complainant Rizalia Capuno was evicted from the questioned premises and her house was demolished. The testimony of the other witness for the complainants, Gregorio Capistrano, was just corroborative of the testimony of Thelma Villanueva, that he met the respondent Judge on those two (2) occasions when Thelma Villanueva went to see the respondent.

x x x x

Respondent Judge Ausberto B. Jaramillo, Jr., testified that he has been the Presiding Judge of Branch 30, Regional Trial Court of San Pablo City, since January 30, 1987; that he came to know Thelma Villanueva when she testified in Sp. Proc. Case No. 852 in a prayer for issuance of a writ of possession over a parcel of

land filed by one Pedro Calara, Jr.; that he issued the writ prayed for. Respondent Judge further testified that he, in his effort to settle the parties' differences, as per request of Deputy Sheriff Leonardo Ho, tried to mediate in order to help them settle for the purchase price (tsn, p. 5, Aug. 30, 1993). He likewise testified that it was complainant Thelma Villanueva who voluntarily offered to pay Pedro Calara the amount of P200,000.00 cash and to pay the balance in P150,000.00 in postdated checks (tsn, p. 6, Aug. 30, 1993). Another case was filed by the complainant against Pedro Calara, Jr., before the Branch of respondent Judge, where the complainant moved for respondent's inhibition, which motion he granted. Respondent Judge vehemently denied that he demanded money from the complainants.

x x x x

From the testimonies and documentary evidence adduced by both parties, and considering their (sic) demeanor of the parties during the hearings, this Court concludes that there was indeed a color of truth in the complaint. The complainants are simple and ordinary people, who prefer to live a simple life than engage themselves in complicated and perplexed lives. And should they become part of complexed court battles, it is not of their own choosing but because of circumstances. It may not be amiss to stress that 'the courts exist to promote justice; and thus to aid in securing the contentment and happiness of the people. Their administration should be speedy and careful. Every judge should at all times be alert in his rulings and in the conduct of the business of his court so far as he can, to make it useful to litigants and to the community. He should avoid unconsciously falling into the attitude of mind that the litigants are made for the courts instead of the courts for the litigants.' (Adm. Order No. 162, Canons of Judicial Ethics). The complainants failed to get the justice they are requesting from the respondent Judge for their failure to deliver the amount asked of them.

Hence, the complainants' allegation that the respondent Judge demanded from them money when they were trying to seek his assistance in amicably settling their case and which demand, when not met by them resulted to their eviction from the premises, is meritorious and credible. It is well-settled rule that 'acts of the respondent judge of demanding x x x money from a party-litigant before his court constitute serious misconduct in office' (Office of the Court Administrator vs. Gaticales, 208 SCRA 508). Likewise, under the Canons of Judicial Ethics, 'a judge's official conduct should be free from the appearance of impropriety, and his personal behavior, not only upon the bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach.'

Finding respondent judge guilty of the charge, the Investigating Justice recommended his suspension for one (1) month without pay with admonition and reprimand.[8]

The Investigating Justice is correct in finding respondent judge guilty of the charge. As judge, respondent knows fully well that he should avoid such actions as would subject him to suspicion of interest in a case in his court. Yet, he threw all caution to the winds, so to speak, and left nothing but telltale evidence of his guilt.

The active mediation of respondent judge in Sp. Proc. No. 852 allegedly to settle the differences between complainants and Pedro Calara, Jr., was highly questionable. Firstly, the mediation was initiated not by the parties themselves nor their lawyers but by respondent's sheriffs, Leonardo Ho and Regalado Aranguren, whose words were heavily relied upon by respondent.[9] Secondly, the meetings were unrecorded and unattended by counsel of the parties.[10] Respondent's excuse that "in the (p)rovince, we mediate the differences of the parties, especially at that particular time the parties have (sic) no counsel," is faulty and unacceptable practice. Unless a judge is conducting a pre-trial under Rules 20 and 118, his role in the administration of justice is to decide contentious cases with finality. In the absence of their lawyers, a judge ought not to meddle in issues confronting the parties even on the pretext of settling their cases. For to do so would compromise the integrity of his office which he is mandated to uphold.[11] Once more, judges are strongly reminded that the office of a judge is a public office and, as such, it is a public trust.[12] A judicial office demands that the incumbent should conduct himself in such a manner as to merit the respect, reverence and confidence of the people.[13]

Respondent's defense that the parties have no lawyers fails to convince us. We gather from his testimonies that he intended to see the parties, alone, thus -

Justice Somera:

Q During the first meeting you said the parties were not represented by counsel then there was a request for a first meeting with you by the parties.

A They have no more lawyers at that time, Your Honor.

Q But they were represented by a lawyer during the hearing?

A During the hearing.

Q Why did you not require Calara to bring with him his counsel?

A Because I do not have time to talk to Calara, Your Honor.

Q When Villanueva and Capuno appeared before you during the hearing of the petition for issuance of the writ of possession, were they also represented by counsel?

A Yes, Your Honor.

Q During this first meeting, why did you not require the lawyers to appear before you for the arrangement?

A The lawyer of the Capunos withdrew as counsel, Your Honor.

Q Why did you not advise them to get another counsel?

A According to my Sheriff, I told my sheriff 'I want their counsels to be present' my lawyer (sheriff) told me 'ayaw na ho wala na raw silang abogado dahil wala na daw silang pambayad.'"

Q Who was always in contact with Capuno and Villanueva?

A My Sheriff, Your Honor.[14]

Yet, respondent in his earlier testimony revealed that complainant had a lawyer -

Justice Somera:

Q After they (complainants) left, did you have any occasion to meet them either Calara or Rizalia Capuno and her daughter, Thelma Villanueva, altogether?

A There was a hearing of a motion to dismiss that is the time I realized a new case was filed by the complainants mother and daughter. In that hearing, the Calaras were absent, Rizalia Capuno was absent but Thelma Villanueva was present.

Q Before whom?

A Before me, Your Honor. I talk(ed) to Thelma asking her was it not that you are the same person who failed to meet the other party? She answered in the affirmative, I ask(ed) her what is your pleasure now? Shall we wait for the Calaras because she has a motion to dismiss and to talk it over with the spouses and she reply (sic) that she will just consult her lawyer and ask for time to file opposition.[15]

Significantly, the rendezvous between respondent and complainants took place in his chambers without the attendance of his staff. Considering that there was still the question as to whether complainants could come up with the repurchase price of the lot, the meetings conducted inside the chambers of respondent were uncalled for. We have cautioned judges to avoid in-chambers sessions without the other party and his counsel present, and to

observe prudence at all times in their conduct to the end that they not only act impartially and with propriety but are also perceived to be impartial and proper.[16]

Further, respondent judge insists on his good intention to help the parties agree on the repurchase price of the lot. But, we find that his meetings were always with complainants and not once did Pedro Calara, Jr., participate therein. Such situation gives us the impression that Pedro Calara, Jr., did not have any notion at all of these conferences. This suspicion is bolstered by (a) respondent's testimony[17] that "x x x I likewise told them (complainants) that according to my sheriff they have been promising cash to Calara and further told them that if they have cash they have to bring it during an arranged meeting to Calara and show the money to Calara so that they will know they are negotiating in good faith." His statement clearly signified that he had not as yet set up an appointment with Calara, Jr., and, (b) the contradictory stand among respondent judge and his witnesses regarding the presence of Pedro Calara, Jr., in the alleged conferences of the parties.

In his "Sinumpaang Salaysay" dated 16 February 1993, Sheriff Regalado M. Aranguren confirmed the presence of Calara, Jr., in all the conferences.[18] He stated that "(n)a sa lahat ng beses ng conferencia ay palaging dumarating si Pedro Calara, Jr., at laging naghihintay kay Thelma Capuno." For his part, Sheriff Leonardo L. Ho, in his "Sinumpaang Salaysay" dated 15 February 1993,[19] declared that "(a)t nang malaman ng mga naghahabla ang kahilingan ng mga Capunos tungkol sa pagbaba ng presyo ng bilihan, ako ay pinakiusapan ng mga naghahabla na sabihin sa mga Capunos na sila ay magkita sa hukuman para sa isang conferencia upang mapagusapan ang tungkol sa presyo ng bilihang mabibiling muli; (n)a, hindi nakatupad ang mga Capunos sa una nilang tipanan kung kaya ang conferencia ay nakansela," thus implying that Calara, Jr., was present during the first meeting. However, respondent judge rebutted these statements when he testified that nobody appeared in both meetings except complainants who came two days after the appointed date of the second meeting.[20]

Admittedly, the amount of P350,000.00 was the subject of conversation between respondent judge and the complainant Thelma Villanueva. Respondent judge denies that he demanded such sum but that complainant volunteered the information that she had a checking account and that she was ready to pay P200,000.00 in cash and the balance of P150,000.00 in postdated checks.[21] He asserts that he could not have demanded money from complainants as they did not strike him as moneyed.[22]

We note with interest that respondent then had a contrary opinion about the economic condition of complainants. He unwittingly disclosed in his comment that "[f]or whatever it is worth, according to reliable sources, Thelma Villanueva was given by her sister abroad to pay the repurchase price of the Calaras; that Thelma Villanueva used the money instead in constructing her own house x x x x"[23] The reliable sources referred to were none other than his sheriff and the latter's wife. According to Sheriff Aranguren, "[h]abang ang kaso ay nabibinbin pa sa hukuman hanggang sa ito ay natapos na, si Thelma Capuno (Villanueva) ay palagi pa ring pumupunta sa aking upisina upang siya ay bigyan pa ng kaunting panahon dahilan sa iniintay pa lanq niya ang peranq padala ng kanyang kapatid na nasa America. Sinabi pa rin niya na may hinihintay pa ring pera siya galing sa kanyang asawa na sabi niya ay hindi nagtatrabaho sa San Pablo." [24] Concepcion L. Aranguren, utility worker assigned to respondent's court, supported her husband's statement by saying that "x x x Siya (Thelma Villanueva) ay umiiyak habang nakikipagusap na kung maari daw ay bigyan siya ng palugit dahil may dadating daw siyang pera galing sa kanyang kapatid sa Amerika." [25] With such information, it is not farfetched for respondent judge to demand money from complainant. Evidently, he was led by his sources to believe that complainant had the money to buy back the property from the Calaras.

Verily, the act of respondent in meeting with complainants without the presence of counsel and warning them not to tell anyone, and demanding money under the guise of forging peace between her and Pedro Calara, Jr., constitutes grave misconduct. Additionally, his failure to uphold the integrity of the judiciary has undoubtedly

diminished the faith of our people in the administration of justice. Given these serious indiscretions, a more severe penalty than one (1) month suspension without pay should be imposed. A judge who established a common fund purportedly for his low income employees and who himself together with his employees solicited contributions from litigants and visitors for such fund was dismissed from the service.[26] We can do no less in this case.

II. Adm. Matter No. RTJ-93-959

This administrative complaint seeks to subject respondent judge to disciplinary action or to dismissal from office for violation of: (1) Sec. 3, pars. (b), (c) and (j) of R.A. No. 3019, (2) Sec. 7, pars. (a) and (d) of R.A. No. 6713, and, (3) Arts. 206 and 210 of The Revised Penal Code.

Complainant Celia E. Pampolina, President of PSM Development Corporation and the duly designated and appointed Executrix of the Last Will and Testament of Pastor S. Marino, alleges that on 6 April 1992, a decision was rendered by respondent judge dismissing Sp. Proc. No. 849(92), "IN THE MATTER OF THE GUARDIANSHIP OF PASTOR S. MARINO," for lack of merit; that during the pendency of the case, respondent ordered Jesus Azores, nephew of Pastor S. Marino, to surrender, among other properties, a Mitsubishi Galant Super Saloon car to the court; that after the car had been surrendered to the court, respondent requested complainant and the Board of the PSM Corporation to issue a resolution to have the luxury car at his disposal during weekends and to use it as he pleased; that the corporation appropriated the sum of P10,000.00 to pay for the reconditioning, adjustment and tune-up of the engine of the car; that respondent had the custody of the car from April 1992 to 5 May 1993; that he also demanded and received food, money, valuable properties (jewelries) from complainant and her grandfather, the late Pastor S. Marino; that further, respondent judge requested favors from complainant in securing an exemption from the Gun Ban during the election period; that, in this regard, respondent called up complainant using the name "E. Pilapil" and further extorted money; that, upon the death of Pastor S. Marino, complainant filed a "Petition for the Probate of the Will of the Late Pastor S. Marino," docketed as Sp. Proc. No. 859 (92); that the petition was raffled to the respondent's sala; that one of the basic issues raised in the petition was the mental capacity and the sound disposition of the testator; that this issue was already passed upon by respondent judge in Sp. Proc. No. 849 (92); that during the pendency of the probate proceeding, respondent judge called the parties to a conference at Roño's Place, a public restaurant in San Pablo City; that the meeting started at eight o'clock in the evening and lasted until midnight; that the purpose of the meeting was to discuss possible settlement of the probate case; that shares and other properties were discussed except the car; that respondent intentionally omitted to include the car in the list of properties which he himself prepared so he could still make use of the car; that despite the fact that complainant was named executrix in the will, respondent appointed Rosevelinda Calingasan and Antonio Azcarate as joint special administrators; that such order was issued without notice and hearing; that her motion for reconsideration on this ground was denied; that, shortly after, respondent judge ordered complainant to produce stock certificates in the name of the late Pastor S. Marino, the books of the corporation, and other papers; that she moved for reconsideration of this order but the same was denied; that the joint special administrators filed a motion to cite complainant in contempt for her refusal to obey the order of respondent; that in view of the insistence of the respondent to continue hearing the probate proceedings, complainant moved for the inhibition of respondent judge; that respondent threatened to cite complainant in contempt because of her statement that respondent had custody, possession and enjoyment of the luxury car of the corporation; that he set the hearing for the contempt proceeding on 29 January 1993 at eight-thirty in the morning; and, that as a result, complainant filed with the Court of Appeals a petition for certiorari.

In his answer, respondent submits that complainant has no valid cause of action against him. He explains that the car was in the possession of the court, although on few occasions, he drove it merely to inflate the tires or to

recharge the battery. The car also needed minor repairs and the expenses were paid for by the corporation which appropriated P10,000.00 for the purpose. However, he insists, there was no instance that he demanded money, food or valuables from complainant.

With regard to the telephone call using the name "E. Pilapil," respondent claims that he wanted to be discreet with his calls.[27] He only wanted to get the names of the two (2) persons whom complainant mentioned earlier who could help him secure exemption from the Gun Ban. He never called up complainant to extort money. He got the exemption on his own efforts. Besides, complainant also used "E. Pilapil" when she called him up at his residence.

Lastly, respondent contends that his orders in the probate proceedings were just and properly issued without bias. He admits that he set the pre-trial conference of the probate proceedings at Roño's Place because it was the site selected by the parties.

On 8 July 1993, after due investigation, Deputy Court Administrator Reynaldo L. Suarez submitted his report -

The complaint is an aftermath of the adverse Orders dated November 27, 1992, December 22, 1992 and January 25, 1993 issued by respondent Judge against Celia Pampolina relative to SP 859(92) In the Matter of the Petition to Approve the Will of Pastor S. Marino, appointing Antonio Azcarate and Rosevelinda Calingasan as Joint Special Administrators instead of the named executrix in the will which (sic) is the complainant herein.

Most of the issues raised by complainant in this administrative complaint are the very errors assigned by complainant in her petition filed before the Court of Appeals docketed as CA-G.R. No. 30073 entitled 'PSM Corporation and Celia Pampolina vs. Hon. Judge Ausberto Jaramillo (in his capacity as Presiding Judge of RTC, San Pablo City). (Rollo, pp. 35-57) Thus, the undersigned cannot properly rule on complainant's assertions that respondent herein knowingly rendered an unjust interlocutory order because of the case being sub judice on appeal.

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However, in A.M. No. RTJ-92-859 (Natividad Calauan Uy, et al. vs. Judge Florentino M. Alumbre, Assisting Judge, RTC, Las Piñas, Metro Manila), respondent Judge Alumbre was imposed a FINE of one thousand pesos (P1,000.00) for appointing a special administrator without a hearing.

Admittedly, however, there were mistakes or omissions in the acts of respondent Judge in his handling of some incidents in the case. One mistake he made was conducting a pre-trial conference of SP 859 (92) at the Roño's place, a public place (Restaurant), rather than inside his chambers and/or the Courtroom. While the Rules of Court does not specifically provide for the venue of pre-trial conferences, propriety demands that it should be confined within the four (4) walls of his sala to avoid impropriety and appearance of impropriety in all his activities (Iglesia ni Kristo vs. Judge Geronilla, July 25, 1981 and Canon 2, Rule 2.01, Code of Judicial Conduct).

Strangely, likewise, is (sic) the actuations of respondent in the matter of the custody of the Super Saloon Car. He has demeaned himself and compromised his position as a Judge when he obligated upon himself the recharging of its batteries and the inflating of its tires.

Thus, it is difficult to conceive how a Judge would willingly go out of his way to recharge the batteries and inflate the tires of a vehicle in custodia legis by driving the car himself to the battery shop unless there is that intent on his part to use the car.

Against the testimonies of his witnesses, there is no doubt that indeed he used the car if not on all occasions that he went home to Parañaque where he resides coming from his Court in San Pablo but at least on some

occasions.

The appearance in the glove compartment of the car receipt of a beauty parlor located within the vicinity of their house admittedly patronized by the wife of the respondent is a glaring proof that the car must have been used and operated by the respondent.

Regardless of whether the same was used in his official capacity, his motive could still be misinterpreted; and, in the course of events, his actuations would come in conflict with the impartial performance of his official duties. In Adm. Matter No. 690-CFI entitled 'Benito B. Nate vs. Hon. Enrique A. Agana, Sr., et. al.' (91 SCRA 1) the Honorable Court there ruled that it is misconduct for a judge to use a car that it levied in execution by virtue of an order issued by him and was censured and admonished. In his separate opinion, however, then Justice Claudio Teehankee recommended that the commensurate penalty should be six (6) months suspension considering the great responsibility and trust vested in respondent. Justice Herrera, on her part, recommended three months suspension. However, in the case of Nate, the judge intended to acquire ownership of the car. This does not appear to be the case here.

Likewise, another aspect which is highly questionable is the use of respondent Judge of an alias 'E. Pilapil'. If indeed there were no shady deals/transactions between complainant and respondent, why was there a necessity to use an alias in their telephone conversations and/or why would there be a need for a Judge to talk over the phone to a party who had a pending case before him.

The charges of bribery, violation of the Anti-Graft and Corrupt Practices Act, despite the vehemence of complainant's language, have not been proven satisfactorily, there is no clear showing and/or proof that indeed respondent Judge demanded and/or received money, jewelries and food from the complainant.

The claim of complainant that respondent Judge demanded and received money and jewelries from her is not supported by independent testimonies and documents. In an apparent effort to mislead this Office into believing her theory, complainant resorted to annexing various documents, which if taken separately will definitely lead into a different conclusion. One concrete example is her diary in which she allegedly recorded all her transactions such as appointments, telephone calls, withdrawals from the bank, collections and every minute details that transpired in her life, yet the demand for Two Million Pesos (P2,000,000.00) was never recorded nor was the delivery of the advance two hundred fifty thousand pesos (P250,000.00) likewise recorded. When confronted on the matter, she merely gave the excuse that the demand was almost everyday, hence, there was no need to record the same. Likewise, the alleged delivery of the jewelries was made on April 26, 1992 but the unofficial receipt x x x was issued only on July 20, 1992 or only after three (3) months.

Administrative charge against a judge is highly penal in nature. Such charge must therefore be proved beyond reasonable doubt, otherwise, the charge will be dismissed (Adm. Case No. 270-J, Enriquez vs. Araulla, in re: Horellano, 43 Phil. 212).[28]

On the basis of his foregoing findings, Deputy Court Administrator Suarez recommends that: (1) the charge for knowingly rendering an unjust order/decision be DISMISSED for having been prematurely filed; (2) the charge for bribery, violation of the Anti-Graft and Corrupt Practices act be likewise DISMISSED for lack of factual evidence; and, (3) respondent judge be found guilty for the use of the car while in custodia legis and for the issuance of an order appointing Special Administrators without notice to the parties, submitting the appropriate penalty however to the discretion of the Court.

We do not fully subscribe to the foregoing recommendations. Respondent judge cannot be made administratively liable for issuing the order appointing the special administrators. On 13 July 1993, the Court of Appeals rendered a decision dismissing complainant's petition for certiorari but at the same time granting her plea for the inhibition of respondent judge from hearing the probate case. We agree that while there was no notice of the hearing for the appointment of the special administrators, petitioner (complainant) was nevertheless heard on her motion for

reconsideration of the appointment of the special administrators; and, that what the law prohibits is not the absence of notice but absolute absence thereof and lack of opportunity to be heard. However, the Court of Appeals ruled that considering that respondent judge admitted using the car, he should have immediately inhibited himself once his objectivity and impartiality were put in question by petitioner (complainant) in line with Canon 2 of the Code of Judicial Conduct.[29]

While respondent judge may not necessarily be held administratively liable for issuing the orders complained of, he certainly is accountable for violating Canons 1 and 2 of the Code of Judicial Conduct and of committing a corrupt practice under Sec. 7, par. (d), of R.A. No. 6713.

The records sufficiently establish that during the guardianship proceedings, respondent judge had no qualms in taking advantage of the authority granted by complainant and the Board of Directors of PSM Development Corporation for him to use the Mitsubishi Galant Super Saloon on weekends or as he pleased.[30] This fact alone would have already raised valid speculations about his objectivity in acting on the guardianship proceedings. Yet, he did nothing to apprise complainant and the Board about the impropriety of accepting the favor.[31] Nor did he require them to forthwith withdraw the authority granted him.[32] Undeniably, his free use of the car during and after the pendency of the guardianship proceedings for over a year constituted a corrupt practice under Sec 7, par. (d), of R.A. 6713,[33] i.e., acceptance by a public officer of a favor from any person in the course of his official duty.

Respondent judge did not only exhibit a personal interest in the vehicle but also accepted the offer to use it. In fact, by his own admission, he drove it several times. In the conference held at Roño's Place, respondent judge purposely omitted the car in the list of properties belonging to the estate of Pastor S. Marino. We are not persuaded by his argument that the car was not part of the decedent's estate. His later testimony revealed that the parties then desired to include all properties even those which supposedly belonged to the deceased but deeded to the corporation.[34] The car was one such property, but respondent never volunteered its inclusion. He justified his omission by saying that the car was not mentioned in the discussion. Understandably, no one dared to do so as they were fully aware that respondent was in possession and enjoying the use of the car. Besides, he should have been the one to call the attention of the parties about the existence of the vehicle as belonging to the estate. Obviously, he did not want to part with the vehicle.

Respondent judge even personally supervised the maintenance of the car beyond what the duties of his office would call for. He had the scratches of the car repainted, the tires inflated and the battery recharged six (6) times. All the expenses for the reconditioning, adjustment and tune-up, repainting and battery recharging were charged against the P10,000.00 appropriated by the Board of Directors of PSM Development Corporation.[35] The records do not however disclose who kept the P10,000.00. Neither was there any accounting of the expenses nor any statement made on the amount left of the P10,000.00. Considering the extra pains taken by respondent in the upkeep of the car, the possibility that the P10,000.00 was in his possession is not remote. Respondent's conduct in this regard cannot be any different from that of a judge who was removed from office because of manifest interest in a vehicle in custodia legis by spending for its repairs and thereafter using it for her benefit and convenience.[36]

Another reprehensible conduct of respondent which distresses us was his availment of the battery recharging service of Cortes Battery Shop free of charge.[37] In so doing, respondent compromised his exalted position as a judge. It bears repeating that integrity in a judicial office is more than a virtue; it is a necessity. We dismissed a judge who not only had the seats of his "Lite Ace" van repaired but also received new seat covers both for free from a litigant.[38] Likewise, we terminated the services of a judge upon finding that he accepted the benefit of riding regularly in Sarkies Tour Buses free of charge.[39]

Hence, the role of the judiciary in bringing justice to conflicting interests in society cannot be overemphasized. As the visible representation of law and justice, judges are expected to conduct themselves in a manner that would enhance the respect and confidence of our people in the judicial system. They are particularly mandated not only to uphold the integrity and independence of the judiciary but also to avoid impropriety and the appearance of impropriety in their actions.[40] For judges sit as the embodiment of the people's sense of justice, their last recourse where all other institutions have failed.[41] Sadly, respondent judge carelessly disregarded these stringent judicial norms. Worse, his acceptance of the Galant Super Saloon for his personal use and convenience as well as his evident personal interest in it have defiled the "public trust" character of the judicial office. These serious transgressions cannot be countenanced. By his actions, respondent has clearly demonstrated his difficulty and inability to keep up with the conduct required of judges. Consequently, he should not be permitted to stay a minute longer in office. We have repeatedly held that there is no place in the judiciary for those who cannot meet the exacting standards of judicial conduct and integrity.[42]

WHEREFORE, for his gross misconduct and violation of Canon 1 of the Code of Judicial Conduct in A.M. No. RTJ-93-944, and his violation of Sec. 7, par. (d), of R.A. 6713, and Canons 1 and 2 of the Code of Judicial Conduct in A.M. No. RTJ-93-959, respondent JUDGE AUSBERTO JARAMILLO, JR., Regional Trial Court, Branch 30, San Pablo City, is DISMISSED from the service with prejudice to reinstatement or appointment to any public office, including government-owned or controlled corporations, with forfeiture of all retirement benefits and privileges, if any. This dismissal shall be immediately executory.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Regalado, Davide Jr., Romero, Bellosillo, Melo, Quiason, Puno, Vitug, and Kapunan JJ., concur.

Mendoza, J., no part.

[1] Resolution dated 16 June 1993, First Division, Rollo, A.M. No. RTJ-93-944, p. 42.

[2] Resolution dated 10 March 1993, First Division, Rollo, A.M. No. RTJ-93-959, Vol. I.

[3] Id.

[4] Resolution dated 27 October 1993, First Division, Rollo, A.M. No. RTJ-93-959, Vol. IV.

[5] Resolution dated 20 June 1994, these administrative cases were referred by the First Division to the Court En Banc.

[6] Rollo, A.M. No. RTJ-93-944, p. 3.

[7] Id., pp. 21, 27-31.

[8] Id.

[9] TSN, 30 August 1993, p. 4.

[10] TSN, 2 August 1993, pp. 4-5.

[11] Canon 1, Code of Judicial Conduct.

[12] Concurring opinion of Mr. Justice Padilla in *De Julio v. Vega*, A.M. No. RTJ-89-406, 18 July 1991, 199 SCRA 315, 319.

- [13] Veronica v. Son, A.M. No. MTJ-90-436, 17 October 1991, En Banc, Min. Res.
- [14] TSN, 30 August 1993, pp. 9-10.
- [15] Ibid., p. 7.
- [16] See Bibon v. David, A.M. No. MTJ-87-67, 24 March 1988, En Banc, Min. Res.
- [17] TSN, 30 August 1993, p. 7.
- [18] A.M. No. RTJ-93-944, Rollo, p. 13.
- [19] Ibid., p. 16.
- [20] TSN, 30 August 1993, pp. 5-6.
- [21] Ibid., p. 6.
- [22] A.M. No. RTJ-93-944, Rollo, p. 29.
- [23] Ibid., p. 30.
- [24] Ibid., p. 33.
- [25] Ibid., p. 35.
- [26] Garciano v. Sebastian, A.M. No. MTJ-88-160; Lopez v. Sebastian, A.M. No. MTJ-88-244; Vivar v. Sebastian, A.M. No. MTJ--89-322; Lopez v. Sebastian, A.M. No. MTJ-89-344; Gavia v. Sebastian, A.M. No. MTJ-90-416; Office of the Court Administrator v. Sebastian, A.M. No. MTJ-92-661; Administrative Complaint of MeTC Personnel, Br. 78, Parañaque v. Sebastian, A.M. No. MTJ-89-4-371, all promulgated on 30 March 1994.
- [27] TSN, 24 May 1993, p. 46.
- [28] A.M. No. RTJ-93-959, Rollo, Vol. III, pp. 985-1004.
- [29] Ibid., Vol. IV.
- [30] A.M. No. RTJ-93-959, Rollo, Vol. III, pp. 860-A and 860-B.
- [31] TSN, 24 May 1993, p. 6.
- [32] Ibid.
- [33] An Act Establishing A Code of Conduct and Ethical Standards for Public Officials and Employees to Uphold the Time-Honored Principle of Public Office Being a Public Trust, Granting Incentives and Rewards for Exemplary Service, Enumerating Prohibited Acts and Transactions and Providing Penalties for Violation Thereof and for Other Purposes.
- [34] TSN, 24 May 1993, p. 56.
- [35] RTJ-93-959, Rollo, p. 32.
- [36] Arcenio v. Pagorogon, A.M. MTJ-89-270, and Office of the Court Administrator v. Pagorogon, A.M. No. MTJ-92-637, both promulgated 5 July 1993.
- [37] TSN, 24 May 1993, p. 41.
- [38] Ompoc v. Torres, A.M. No. MTJ-86-111, 27 September 1989, 178 SCRA 14.

[39] Felongco v. Dictado, A.M. No. RTJ-86-50; Lapak v. Dictado, A.M. No. RTJ-88-222; Ang v. Dictado, A.M. No. RTJ-88-224; Jerez v. Dictado, A.M. No. RTJ-89-320; and, Ropeta v. Dictado, A.M. No. RTJ-89-389, all promulgated 28 June 1993.

[40] Rule 1.01, Canon 1, and Rule 2.01, Canon 2, Code of Judicial Conduct.

[41] Office of the Court Administrator v. Bartolome, A.M. No. RTJ-90-446; Medina v. Bartolome, A.M. No. RTJ-90-494; Office of the Court Administrator v. Bartolome, A.M. No. RTC-90-504; Ramon Tulfo's Column "On Target," A.M. No. RTC-90-1-021; and Letter Request dated 24 July 1990 of Provincial Governor Leonardo B. Roman, Bataan, seeking the transfer of Judge Jose T. Bartolome to another station, A.M. No. RTC-90-8-1909, all promulgated 7 November 1991, 203 SCRA 328.

[42] Vistan v. Nicolas, A.M. No. MTJ-87-79 and A.C. No. 3040, both promulgated 13 September 1991, 201 SCRA 524.

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