

JULIO B. VERZOSA, COMPLAINANT, VS. JUDGE MANUEL E. CONTRERAS, MUNICIPAL TRIAL COURT, OCAMPO, CAMARINES SUR, RESPONDENT.*A.M. NO. MTJ-06-1636 (FORMERLY OCA IPI NO. 05-1662-MTJ). March 12, 2007*

Ponente: AUSTRIA-MARTINEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/22022607a2bf/>**AUSTRIA-MARTINEZ, J.:**

Before us is a Verified Complaint[1] dated December 30, 2004 of Julio B. Verzosa (complainant) charging Judge Manuel E. Contreras (respondent), Municipal Trial Court (MTC), Ocampo, Camarines Sur with Grave Abuse of Authority, Grave Misconduct (Harassment and Oppression), and Violation of the Code of Judicial Conduct, relative to Criminal Case No. 2071, entitled "People of the Philippines v. Rodrigo E. Candelaria."

Complainant alleges: he is a forest ranger of the Department of Environment and Natural Resources (DENR) Protected Area Office. On April 14, 2004, while conducting surveillance on treasure hunting activities in Mt. Isarog Natural Park, Ocampo, Camarines Sur, he and his co-forest rangers discovered an open pit left in damaged condition, allegedly in violation of Republic Act No. 7586. They likewise found and confiscated in favor of the Government two metal chains used to overturn huge stones in the treasure hunting site. He found out later that the alleged treasure hunters were led by a certain Jose Credo (Credo) a.k.a. "Labaw" and Basilio Sumalde (Sumalde) a.k.a. "Moren". The Executive Director of the DENR Region V Office thereafter ordered the complainant to continue monitoring the said treasure hunting site. Because of his involvement in the treasure hunting activities and on the basis of the testimony of Credo, he was implicated as an accessory in Criminal Case No. 2071 against Rodrigo Candelaria (Candelaria), et al. for robbery. The said case arose from the alleged information relayed by respondent to the Philippine National Police (PNP) Officers of Ocampo, Camarines Sur in the morning of April 18, 2004, which led to the arrest of the principal accused. Respondent did not inhibit himself from conducting the preliminary investigation despite his proven bias against all of the accused, in apparent violation of the guiding principles of Judicial Ethics and Responsibilities. Complainant was not among the persons on board the truck when the same was apprehended by members of the PNP on April 18, 2004. On the basis of the affidavit executed by Credo, respondent hastily issued an order for complainant's arrest. After the information reducing the charge from robbery to simple theft was filed before the Regional Trial Court (RTC), Branch 32, Pili, Camarines Sur, Judge Nilo Malanyaon, in an Order dated September 13, 2004 dismissed the case due to lack of probable cause. Respondent is the mastermind behind the treasure hunting activities in Ocampo, Camarines Sur and the robbery case for which complainant was implicated as an accessory was a way of harassing anybody who opposes the activities.

In his Comment,[2] respondent contends: on the latter part of March 2004, he went on mountain hiking at Mt. Isarog with the Tinablanan River as his destination. While at Mt. Isarog, he received an information that Candelaria, known confidant of the personnel of the DENR and by the CARE Philippines, was looting by dismantling the tower antennae of the Philippine Long Distance and Telephone Company (PLDT) used as a relay station but already inoperational. The PLDT Tower is already a government property and declared by the

provincial government as a tourist attraction and destination being strategically located at the towering heights of Mt. Isarog. The activity of looting the steel trusses and bars of the PLDT Tower had been going on since January 2004. He directed the police of Ocampo, Camarines Sur to investigate the looting of the steel trusses and bars of the PLDT Tower. The second time that he went on mountain hiking at Tinablanan River on April 18, 2004, he was again informed that the steel trusses and bars of the PLDT Tower were already being loaded in a truck bound for the junkshop in Naga City. With the use of a binocular, he was able to personally confirm the report. He immediately called the PNP Regional Intelligence Group and in a checkpoint set up by the police, the truck was apprehended with Candelaria and several men aboard. On April 19, 2004, the OIC-Chief of Police of Ocampo, Camarines Sur filed a criminal complaint for robbery before the MTC of Ocampo, Camarines Sur docketed as Criminal Case No. 2071 for preliminary investigation. Upon conclusion of the preliminary investigation and finding probable cause against the accused for robbery, respondent forwarded the records to the Provincial Prosecutor of Camarines Sur for appropriate action. However, the provincial prosecutor modified the charge of robbery to theft, and the corresponding information was filed with the RTC, Branch 32, Pili, Camarines Sur, docketed as Criminal Case No. P-3647, presided by Judge Malanyaon. The latter, finding no probable cause, dismissed the case against complainant and likewise ordered the arresting officer to adduce additional evidence against the remaining accused for determination of judicial probable cause. Having failed to do so, Judge Malanyaon dismissed Criminal Case No. P-3647. Persons motivated with ill-will against him were just making a failed and porous connection to the alleged treasure hunting activity. If respondent was subsequently seen at Zone 2, Del Rosario, Ocampo, Camarines Sur after the apprehension of those involved in the looting at the PLDT Tower, it was because he was then conducting the preliminary investigation in Criminal Case No. 2071 having inquisitorial authority to extend his investigation on the area. The complainant's surmise that he is the mastermind of the alleged treasure hunting of the group of Sumalde was based on the alleged information relayed to complainant by Myrna Dacer, Daisy Moran, Salvacion Candelaria, Analiza Candelaria, and Mary Ann Candelaria. Complainant imputed bias against him when he did not inhibit from conducting the preliminary investigation in Criminal Case No. 2071 despite prior knowledge of the looting at the PLDT Tower. Prior knowledge of the commission of a crime is not a mandatory ground for a first level court judge to recuse himself from conducting preliminary investigation. It was just incidental that he caused the apprehension of the truck loaded with stolen trusses and bars of the PLDT Tower. Preliminary investigation is a quasi-judicial function of an MTC judge. The matter of issuance of a warrant of arrest is discretionary and judicial in nature which is authorized under the rules. If ever complainant perceived that irregularities attended the issuance of a warrant of arrest against him, he has all available judicial remedies, such as filing a motion to quash warrant of arrest, habeas corpus proceedings, or certiorari, but none was availed of by complainant despite being represented and assisted by a retained counsel. Under the Rules, the result/recommendation of the investigating judge during the preliminary investigation is subject to review or appropriate action by the provincial prosecutor. The finding of probable cause against the accused in Criminal Case No. 2071 was sustained by the provincial prosecutor of Camarines Sur upon review, although the recommended charge of robbery was modified to theft. The dismissal by Judge Malanyaon of the information for theft finding that no probable cause exists should not militate or be taken against him. He discharged his duties as investigating judge regularly with faithful adherence to the law and the rules, and he acted in good faith and without malice in his conduct of the preliminary investigation. The Sangguniang Bayan of Ocampo, Camarines Sur, rendered a committee report stating that an ocular inspection had been conducted on the alleged site of treasure hunting and they were able to confirm that it was indeed a fishpond loaded with so many growing fish and not a site of treasure hunting.

In the Agenda Report,[3] the Office of the Court Administrator (OCA) submitted its evaluation and recommendation, to wit:

EVALUATION:

x x x x

The complainant, in branding the respondent Judge as the mastermind of the alleged treasure hunting activities in Ocampo, Camarines Sur, relied heavily on the narrations of and affidavits executed by Myrna Dacer, Daisy Moran, Salvacion Candelaria, Analiza and Mary Ann Candelaria. Clearly, these narrations/affidavits are not based on the complainant's own personal knowledge but rather on the personal knowledge of the said persons. The same are, thus, considered hearsay because their probative force depends, in whole or in part, on the competency and credibility of some persons other than the complainant. (*Estrada vs. Desierto*, G.R. Nos. 146710-15, April 3, 2001). For being hearsay, the same are insufficient and inconclusive to determine the participation of the respondent Judge in the alleged treasure hunting activities in Ocampo, Camarines Sur. In this light, the complainant failed to submit substantial evidence to support his imputation that the respondent Judge is the mastermind behind the treasure hunting activities in Ocampo, Camarines Sur.

With respect to the issuance of warrant of arrest, such issue is judicial and may be best resolved through judicial adjudication. As correctly pointed out by the respondent Judge, if there are irregularities in the issuance of warrant against the complainant, the latter has all available judicial remedies, such as filing a motion to quash, an action for habeas corpus, or a special civil action for certiorari. However, the complainant chose not to avail of any judicial remedy.

To merit disciplinary sanction, the error or mistake committed by a judge should be patent, gross, malicious, deliberate, or done in bad faith and absent a clear showing that the judge has acted errantly; the issue becomes judicial in character and would not properly warrant the imposition of administrative punishment (*Godinez vs. Alano*, 303 SCRA 259).

At any rate, the respondent Judge followed the letter of the law, specifically Rule 112, Section 6, paragraph b, when, prior to the issuance of warrant of arrest against the complainant, he personally conducted preliminary examination in the form of searching questions and answers on witness Jose Credo and upon finding probable cause and the necessity to place the complainant under custody in order [not] to frustrate the ends of justice.

Anent the respondent Judge's failure to inhibit himself in conducting the preliminary investigation in Criminal Case No. 2071, he violated Rule 3.12 of the Code of Judicial Conduct (now Canon 3, Section 5 of the New Code of Judicial Conduct) for taking part in a proceeding where he has personal knowledge of the disputed evidentiary facts. Respondent Judge admitted having prior knowledge of the looting and dismantling of the PLDT Tower in Ocampo, Camarines Sur. As a matter of fact, he was able to visually confirm the said activities which he later relayed to the local PNP and led to the arrest of the principal accused in the said case. [The] Judge still conducted the preliminary investigation.

It should be noted, however, that while no motion for inhibition of respondent judge was filed by the complainant during the preliminary investigation stage of the case, this does not mean that respondent can freely act on the same despite the lingering doubt created in the minds of the parties that he would not be impartial in his judgment.

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. While the first paragraph of Article 137 provides for the specific grounds for disqualification and gives the judicial officer no discretion to sit in a case, the second paragraph leaves the matter of inhibition to the sound discretion of the judge (*People vs. Serrano*, 203 SCRA 17).

It does not explicitly enumerate the specific grounds for inhibition but provides a broad policy-oriented ground for disqualification of judges for just and valid reasons other than those enumerated in the first paragraph (*Geotina vs. Gonzales*, 41 SCRA 66).

The judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case for just and

valid reasons (Parayno vs. Meneses, 231 SCRA 807) other than those mentioned in Rule 137, Section 1. The ultimate test in determining the validity of the court's inhibition is whether or not the petitioner is deprived of fair and impartial trial (Asociacion de Agricultores de Talisay-Silay, Inc. vs. Talisay-Silay Milling Co., Inc., 88 SCRA 294) and the cold neutrality of an impartial judge.

RECOMMENDATION: Respectfully submitted for the consideration of the Honorable Court are our recommendations that:

- The instant matter be re-docketed as a regular administrative case;
- Judge Manuel E. Contreras, Municipal Trial Court of Ocampo, Camarines Sur be admonished for violation of Canon 3, Section 5 of the New Code of Judicial Conduct with a warning that repetition of the same or similar offense in the future shall be dealt with more severely.

On September 5, 2006 and September 26, 2006, complainant and respondent manifested their willingness to submit the case for decision/ resolution based on the pleadings filed, respectively.

We agree with the findings of the OCA except that respondent should be reprimanded instead of being merely admonished.

Preliminary investigation is an inquiry or proceeding to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof, and should be held for trial.[4]

The issue of whether a judge should voluntarily inhibit himself is addressed to his sound discretion pursuant to paragraph 2 of Section 1, Rule 137, Rules of Court, which provides that a judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for a just or valid reason other than those mentioned in the first paragraph.[5]

However, respondent failed to consider the proscription under Rule 3.12(a) of Canon 3, Code of Judicial Conduct, to wit:

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

- (a) the judge has personal knowledge of disputed evidentiary facts concerning the proceeding.

In *Oktubre v. Velasco*, [6] citing *Perez v. Suller*, [7] we held that the rule on disqualification of judges under Rule 3.12 and Section 1, Rule 137 -

[S]tems from the principle that no judge should preside in a case in which he is not wholly free, disinterested, impartial and independent. A Judge should not handle a case in which he might be perceived to be susceptible to bias and partiality. The rule is intended to preserve the people's faith and confidence in the courts of justice.[8]

True, a judge should possess proficiency in law so that he can competently construe and enforce the law. However, it is more important that he should act and behave in such a manner that the parties before him have confidence in his impartiality. Indeed, even conduct that gives rise to the mere appearance of partiality is proscribed.[9]

Records reveal that respondent had prior knowledge of the looting and dismantling at the PLDT Tower in Ocampo, Camarines Sur and he was instrumental in the apprehension of the robbers. Respondent should have been aware of the impropriety of conducting the preliminary investigation considering that Rule 3.12(a), Canon 3 of the Code of Judicial Conduct enjoins a judge from taking part in proceedings where the judge's impartiality

might reasonably be questioned. Respondent ignored said rule, warranting disciplinary sanction from this Court.

Respondent's averment that prior knowledge of the commission of a crime is not a mandatory ground for the first level court judge to recuse himself from conducting preliminary investigation, holds no water. As a judge, respondent must keep himself abreast with the law. He should have known that it is well entrenched in the Code of Judicial Conduct, prevailing at that time, that personal knowledge of disputed evidentiary facts concerning the proceeding disqualifies him from taking part in such proceeding as the same would necessarily spawn a perception that he is bias and impartial. It is of no moment that the finding of probable cause was sustained by the provincial prosecutor. What is of paramount importance is the perceived bias and impartiality by the complainant against respondent in his conduct of the preliminary investigation due to respondent's prior knowledge of the looting at the PLDT Tower, respondent being instrumental in the apprehension of the robbers.

Although respondent should have inhibited himself from conducting the preliminary investigation, it did not render as void the act of respondent in issuing a warrant of arrest. He acted within the bounds of the then existing Section 6(b), Rule 112[10] of the Rules of Court which provides, inter alia, that without waiting for the conclusion of the investigation, the judge may issue a warrant of arrest if he finds after an examination in writing and under oath of the complainant and his witnesses in the form of searching questions and answers, that a probable cause exists and that there is a necessity of placing the respondent under immediate custody in order not to frustrate the ends of justice.

The OCA rightly observed that respondent followed the letter of the existing Rule, when, prior to the issuance of warrant of arrest against complainant, respondent personally conducted preliminary examination in the form of searching questions and answers on witness Credo. The purpose of issuing the warrant of arrest was to place the respondents under immediate custody in order not to frustrate the ends of justice.[11] Whether it is necessary to place the accused in custody is left to the judge's sound judgment.[12]

Moreover, the OCA correctly sustained respondent's claim that if ever complainant perceived that irregularities attended the issuance of warrant of arrest against him, he has all available judicial remedies,[13] such as filing a motion to quash warrant of arrest, habeas corpus proceedings, or certiorari, but none was availed of by complainant.

In *Lumbos v. Baligat*,[14] we held that as a matter of policy, the acts of a judge in his judicial capacity are not subject to disciplinary action. He cannot be subjected to liability - civil, criminal, or administrative - for any of his official acts, no matter how erroneous, as long as he acts in good faith.[15] To hold, otherwise, would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment.[16] An inquiry into the administrative liability of a judge may be resorted to only after the available remedies have been exhausted and decided with finality.[17] For until there is a final declaration by the appellate court that the challenged order or judgment is manifestly erroneous, there will be no basis to conclude whether respondent is administratively liable.[18] The Court has to be shown acts or conduct of the judge clearly indicative of arbitrariness or prejudice before the latter can be branded the stigma of being biased and partial.[19] Thus, not every error or mistake that a judge commits in the performance of his duties renders him liable, unless he is shown to have acted in bad faith or with deliberate intent to do an injustice.[20] Good faith and absence of malice, corrupt motives or improper considerations are sufficient defenses in which a judge x x x can find refuge.[21]

Anent the allegation that respondent is the mastermind behind the treasure hunting activities in Ocampo, Camarines Sur, we find the allegation to be devoid of merit.

In *Español v. Mupas*,[22] we held that in administrative proceedings, complainants have the burden of proving by

substantial evidence the allegations in their complaints. Thus, when the complainant relies mainly on second-hand information to prove the charges against the respondent, the complaint is reduced into a bare indictment or mere speculation.[23] The Court cannot give credence to charges based on mere suspicion or speculation. In this case, complainant failed to discharge that burden. As aptly observed by the OCA, complainant has no personal knowledge of the treasure hunting by respondent as he relied only on the information relayed to him by the relatives of the accused Candelaria in the robbery case.

Furthermore, we find that the affidavits of Myrna Dacer, Daisy Moran, Salvacion Candelaria, Analiza Candelaria, and Mary Ann Candelaria relate to the incident surrounding the arrest of Dante Dacer, one of the accused in the robbery case. The police blotter which is not even a certified true copy is an alleged threat made by respondent against Mary Ann Candelaria. Nowhere in the said documents do we find that respondent was being tagged as the mastermind of the treasure hunting. Taken all together, these documents have no prima facie evidentiary value as to warrant further investigation on the matter.

In *Mataga v. Rosete*,^[24] we held that any administrative complaint leveled against a judge must always be examined with a discriminating eye, for its consequential effects are by their nature highly penal, such that the respondent judge stands to face the sanction of dismissal or disbarment. Mere imputation of judicial misconduct in the absence of sufficient proof to sustain the same will never be countenanced.^[25] If a judge should be disciplined for misconduct, the evidence against him should be competent.^[26]

In fine, we find that respondent is merely guilty of violating the Code of Judicial Conduct in not recusing himself from conducting preliminary investigation.

WHEREFORE, the Court finds Judge Manuel E. Contreras, MTC, Ocampo, Camarines Sur guilty of violation of Rule 3.12(a), Canon 3 of the Code of Judicial Conduct and is REPRIMANDED with warning that a repetition of the same or similar act in the future shall be dealt with more severely.

SO ORDERED.

Santiago, (Chairperson), and Chico-Nazario, JJ., concur.
Callejo, Sr., J., on leave.

[1] Rollo, pp. 1-8.

[2] *Id.* at 48-66.

[3] *Id.* at 429-433.

[4] Sec. 1, Rule 112, Revised Rules on Criminal Procedure.

[5] 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 the 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.

[6] A.M. No. MTJ-02-1444, July 22, 2004, 434 SCRA 636.

[7] 320 Phil. 1 (1995).

[8] Id. at 8; Oktubre v. Velasco, supra note 6, at 647.

[9] Id.

[10] Subsequently amended by SC Resolution dated October 10, 2005 in A.M. No. 05-8-26-SC whereby the conduct of preliminary investigation is removed from Judges of first level courts.

[11] Id.

[12] Sesbreño v. Aglugub, A.M. No. MTJ-05-1581, February 28, 2005, 452 SCRA 365, 373.

[13] Bello III v. Judge Diaz, 459 Phil. 214, 221 (2003).

[14] A.M. No. MTJ-06-1641, July 27, 2006.

[15] Id.

[16] Id.

[17] Id.

[18] Id.

[19] Balsamo v. Judge Suan, 458 Phil. 11, 23 (2003).

[20] Id. at 24.

[21] Id.

[22] A.M. No. MTJ-01-1348, November 11, 2004, 442 SCRA 13.

[23] Id. at 37.

[24] A.M. No. MTJ-03-1488, October 13, 2004, 440 SCRA 217.

[25] Id. at 221.

[26] Id.

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.