

BENJAMIN SIA LAO, COMPLAINANT, VS. HON. FILEMON C. ABELITA III, AS PRESIDING JUDGE IN THE REGIONAL TRIAL COURT OF MASBATE- BRANCH 44, MASBATE, MASBATE, RESPONDENT.

A.M. No. RTJ-96-1359. September 10, 1998

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PER CURIAM:

This case originated from two administrative complaints successively filed by Benjamin Sia Lao against Judge Filemon Abelita III. The first complaint accused respondent Judge of abuse of authority, grave misconduct, oppression and harassment; the second complaint charged him with serious misconduct and unbecoming a judge. In his first complaint, complainant alleged, inter alia, that:

"x x x Respondent, on April 9, 1995, forcibly entered and gained entrance, without his knowledge and consent, to his residence, office and bodega located along Surbito Street Extension, Barangay Bagumbayan, Masbate, Masbate, removed the padlock to the said residence-bodega and replaced the said lock with a new padlock, thereby depriving the Complainant of the free access, unfettered ingress to an egress from, possession and use of said residence, office and bodega."[1]

The second complaint averred, among other things, that -

"x x x (a) on March 11, 1996 during the pendency of the civil complaint filed by him against the Respondent, et. al., with the Regional Trial Court of Masbate, later transferred to the Regional Trial Court of Quezon City, on Order of the Supreme Court, dated February 6, 1996, the Respondent ordered some people to enter the nursery compound, one of the properties subject matter of the said case and constructed a shanty therein, to enable the Respondent to gain possession of said property; (b) in the evening of March 19, 1996, the Respondent; through his henchmen, cut off the electric power of the water pump inside the nursery thereby depriving the Complainant of water supply which he usually sold to his customers, in an effort to drive away the Complainant from the nursery and gain possession thereof during the pendency of said civil case; (c) the Respondent ordered his man, Policrono Agao, to shoot, with a shotgun, the workers of the complainant who were about to install water pipes in the nursery resulting in the injury of his nephew, William Lao, on the left buttock, and in the confiscation, by police authorities from the Respondent, of said shotgun and other firearms when it was discovered that the Respondent had no permit to carry that shotgun outside of his residence and that the Respondent had not license of the other firearms, for which the Respondent was charged of 'Frustrated Homicide' and violation of PD 1866 before the Regional Trial Court of Masbate."[2]

In its resolution of 29 July 1996, the Court decided to docket the matter as an administrative case and to refer it to Associate Justice Romeo J. Callejo of the Court of Appeals for investigation, report and recommendation.

From the report, submitted by Justice Callejo following his investigation, the early antecedents of the case did not appear to portend ill.

Laureano Sia, the family patriarch, died on 31 October 1963. Among those who survived him were the children by his wife Hao Dit, namely Pedro Sia, Purisima Sia and Magdalena Sia. The administration of the decedent's estate was left to Pedro. On 30 June 1972, the heirs executed an "Extrajudicial Settlement of Estate," with Pedro signing

in his own behalf, as well as in behalf of his sister, Magdalena Sia, who was still then residing in China. Among the property adjudicated to Pedro were a parcel of commercial land with an area of 286 square meters located along Zurbito Street (also known as Espinosa Street and El Dorado Street), Barangay Bapor, Masbate, covered by Original Certificate of Title ("OCT") No. P-111 (the "Bapor Property"), another parcel of commercial land, with an area of 1,966 square meters located along Zurbito Street Extension, Barangay Bagumbayan, Masbate, covered by OCT No. MSP-118 (the "Bagumbayan property") as well as the buildings thereon, and a parcel of land with an area of 30,462 square meters located in Barangay Ibingay, Masbate, covered by Transfer Certificate of Title ("TCT") No. T-217. The deed of settlement was not immediately filed and registered with the Registry of Deeds of Masbate.

On 25 September 1978, herein complainant Benjamin Sia, a son of Magdalena Sia, arrived in the Philippines from China. He again left the country, but only for a while, and returned for good some time in 1979. On 27 December 1980, Pedro executed two contracts of lease, both unregistered, in favor of Benjamin. The first, covering the Bagumbayan property, was for a period of 80 years (from 01 January 1981 until 01 January 2060), on a stipulated monthly rental amounting to P1,200.00, while the second, covering a portion of the Nursery Property, was for a period of 95 years (from 01 January 1981 to 01 January 2070), on a monthly rental of P500.00.

On 22 January 1982, the extrajudicial settlement executed by the heirs of Laureano Sia was registered and TCT No. T-4782 was issued in the name of Pedro Sia who forthwith declared the property and the improvements (including a bodega and a commercial building) constructed thereon for tax declaration. Meanwhile, in 1982, Elma Sia, one of the daughters of Pedro Sia, married herein respondent Felimon Abelita III. The couple took residence in a portion of the commercial building (known as the "White House") in the Bagumbayan property while Pedro Sia and his family resided in a building across the White House.

On 24 October 1984, Pedro Sia executed in favor of respondent a "Deed of Absolute Sale" over the Bagumbayan property. The Register of Deeds of Masbate issued TCT No. T-5908 in favor of respondent. Meanwhile, TCT No. 4872 covering the Bapor property was likewise canceled and TCT No. 5904 was also issued in the name of respondent. In 1986, respondent executed a mortgage contract over the property in favor of Rizal Commercial Banking Corporation.

In 1985, Benjamin Sia applied for, and was granted, Filipino citizenship. He got married and utilized an area of the commercial building (to the right of the house or herein respondent) in the Bagumbayan property as a bodega for his merchandise and a portion as his office and residence. He also used a second bodega to the left of the house of Pedro Sia and a third bodega in the Bapor property.

On 04 January 1994, herein complainant took possession of portion of the Nursery property and caused the construction of a building, a deep well with an electric pump duly fenced, a hand paper mill building and a concrete water tank. Upon learning of it, including the cutting of 62 coconut trees from her coconut land, Elma Sia Abelita, respondent's wife, asked respondent to file an action against complainant. Respondent refused. Instead, complainant's mother, Magdalena Sia, filed an action against Pedro Sia, Pedro's second wife, Elma Sia Abelita and respondent for the declaration of nullity of the Extrajudicial Settlement of Estate of the Heirs of Laureano Sia. Magdalena averred that the parcels of land in Bagumbayan, Bapor and Nursery were supposed to be adjudicated to her, instead of to Pedro who subsequently executed a simulated deed of sale in favor of the Abelita spouses. Pedro Sia and his wife, in their answer, claimed to have acted in good faith but Pedro admitted that the sale was simulated. The Abelitas, on the other hand, stated that complainant was merely allowed temporary use of the bodega in Zurbito Extension. In August 1994, Elma Abelita made a formal demand asking complainant to vacate the Nursery property and to desist from conducting a house thereon.

In the morning of 03 April 1996, complainant left his bodega in Bagumbayan where he was staying and locked the door before leaving. In the afternoon of the same day, respondent, who has just been appointed Presiding Judge of the Regional Trial Court, Branch 44, of Masbate, celebrated the event at the bodega. Respondent was seen by one Merle Dagatay destroying the lock with a hammer. After gaining entrance to the premises, respondent directed his helpers, Ariel Abeloy and Danilo Bacas, to bring tables, chairs and a karaoke inside the bodega. Complainant, upon learning of the intrusion, notified the police. When some police officers went to investigate, they were told by respondent that he was the owner of the place. After the celebration, respondent locked the door of the bodega.

Complainant filed with the barangay captain of Bagumbayan a case for “Trespass to Dwelling, Oppression and Abuse of Authority” against respondent and two others, namely, Ariel Abeloy and Danilo Bacas. He also filed an action for Injunction with Damages against respondent before the Regional Trial Court of Masbate. The court dismissed the case on the ground of forum shopping. In turn, Elma Abelita filed with the Municipal Trial Court of Masbate an action against complainant for allegedly taking 10 boxes of Sunny Orange juice, ten boxes of Silver Swan Soy Sauce and two pieces of furniture from the bodega. The case was also dismissed for lack of probable cause. The exchange of complaints did not end there. In June 1995, complaint forced open the new door lock and retook possession of the bodega. He posted security guards to secure the place. Elma Abelita then additionally filed two criminal complaints against complainant allegedly for carrying assorted merchandise from the bodega. Respondent, for his part, drove away complainant’s security guards and reclaimed the bodega. On 17 October 1995, complaint filed an action for replevin against respondent and Elma Abelita. The complaint was dismissed for non-compliance with Presidential Decree No. 1508.

Meanwhile, complaint, now residing in a building standing on the Nursery property, decided to install a second water pump thereat to increase the water pressure. When she learned of the plan, Elma Abelita caused the construction of a shanty between the existing water pump and the compound where complaint was staying. She made Danilo Bacas occupy the shanty. She likewise submitted a formal inquiry with the Provincial Police Director on what she perceived to be an assignment of a security detail, one SPO3 Cesar Ramirez, to complainant.

On 18 March 1996, Bacas and July Sia, complainant’s nephew, engaged in a fistfight inside the Nursery. It was a foreboding of the things yet to come. Six days later, on 24 March 1996, Rosa Sia, younger sister of Elma who had left the family home due to an altercation with the latter and who was then residing in a house within the Nursery property, asked complaint to install water pipes for her. Complainant directed his carpenter, Vicente Noynay, to repair to the place. Noynay was accompanied by William Lao, complainant’s nephew, and Augusto Sampaga, a security guard. Sampaga was armed with a long firearm. Bacas, also armed with a gun, confronted the trio and warned them against putting up the installation. Apprised of the incident by Lao, complainant promptly called up the office of the Provincial Director to report the matter. The latter responded by sending a PNP alert team to the place. When respondent and his wife were informed of the incident, they too went to the Nursery area aboard respondent’s Toyota Lite Ace van. The couple were accompanied by Policronio Agao and Roderic Gernorga. Respondent brought with him a licensed 12-gauge Amscor Shotgun, with Serial No. 1635293, placing the same inside a box in the vehicle. Upon arriving at the Nursery, the occupants of the van alighted. Agao by now had with him the shotgun of respondent. In the local dialect, respondent told Agao: "Tirahon na, barilin na." Lao, Noynay and Sampaga scampered but Agao’s shot hit Lao on the left side of his buttocks. Meanwhile, Rosa Sia and Elma Abelita also fought it out. Agao and respondent managed to separate to two women. Respondent and his wife then left the nursery and proceeded to the Provincial Health Office where Elma Abelita underwent a medical check up. The two next went to the local police station to report that Lao had drawn and fired a gun at the Nursery.

The PNP alert team meanwhile arrived the Nursery. The police officers saw the wounded Lao and arrested Agao,

Bacas and Jerry Aganan. The police confiscated from the trio a .45 caliber pistol with Serial No. 1062341, loaded with magazine and two live bullets, a super caliber .38 pistol with Serial No. 5416, with live bullets, an empty shell of a .45 caliber gun, and live ammunition from a shotgun.

Rosa Sia herself directly reported to incident to Superintendent German Doria who forthwith contacted the police operatives sent to the Nursery. Police officers started a search for respondent and his wife. The spouses were later seen in front of a grocery store along Quezon street. Doria asked respondent to go with them to the police headquarters to shed light of the incident. Respondent acceded; however, instead of following the police vehicle, respondent sped away towards the direction of his house. Doria and Ramirez followed. Elma fled to the house; respondent was caught while he was about to take hold of the butt of his shotgun placed inside a box in the van. Ramirez also found inside the van a .45 caliber handgun with live bullets. Respondent was able to produce the license for the shotgun but not for the handgun. Later, plastic casts taken from the hands of respondent and Agao showed both of them positive for gunpowder residue. The shotgun and the .45 caliber pistol likewise proved positive for gunpowder residue. Respondent and his wife were charged with violation of Presidential Decree No. 1866 and frustrated murder.

In the administrative case referred to the Investigating Justice by the Court, the parties raised these issues, to wit:

"I. WHETHER THE BODEGA USED BY THE COMPLAINANT FOR HIS STORAGE OF HIS MERCHANDISE, FOR HIS OFFICE AND RESIDENCE IS THAT LOCATED AT THE CORNER OF PORT ROAD AND ZURBITO STREET, BARANGAY BAPOR, MASBATE (EXHIBITS '10-B' and '17,' '17-A), AS CLAIMED BY THE RESPONDENT, OR THAT LOCATED ALONG ZURBITO EXTENSION, BARANGAY BAGUMBAYAN, MASBATE, MASBATE (EXHIBITS 'J-2' and '10-A) AS CLAIMED BY THE COMPLAINANT;

"II. WHETHER THE RESPONDENT DESTROYED BY LOCK TO THE DOOR OF THE BODEGA USED BY THE COMPLAINANT FOR THE STORAGE OF HIS MERCHANDISE, FOR HIS OFFICE AND RESIDENCE AND GAINED ENTRY THERETO IN THE AFTERNOON OF APRIL 9, 1995;

"III. WHETHER THE RESPONDENT ORDERED POLICRONIO AGAO TO SHOOT WILLIAM LAO NEAR THE HOUSE OF ROSA SIA, IN THE NURSERY PROPERTY IN THE MORNING OF MARCH 24, 1996;

"IV. WHETHER THE RESPONDENT WAS A VICTIM OF A 'FRAME-UP' BY THE COMPLAINANT, IN CONNIVANCE WITH SPO3 CESAR RAMIREZ FOR MONETARY AND OTHER DEVIOUS CONSIDERATIONS AND WITH MASBATE POLICE SUPERINTENDENT GERMAN DORIA AND OTHER POLICE OPERATIVES OF THE MASBATE PROVINCIAL POLICE COMMAND WHEN THE RESPONDENT WAS TAKEN CUSTODY, ON MARCH 24, 1996, FOR POSSESSION OF THE .45 CALIBER FIREARM WITH A DEFACED SERIAL NUMBER, WITHOUT ANY LICENSE AND FOR THE SHOOTING OF WILLIAM LAO.

"V. WHETHER THE EVIDENCE OF RECORD WARRANTS THE IMPOSITION OF DISCIPLINARY PENALTY-SANCTION AGAINST THE RESPONDENT." [3]

The Investigating Justice did not believe the asseverations of respondent Judge the complainant was using not the bodega standing on the Bagumbayan property whose locked door was forcibly opened by respondent judge, but the bodega in the Bapor property. The Investigating Justice found:

"Respondent's pose is frontally belied by the evidence on record and, indeed, by his own admission in his Answer to the complaint docketed as Civil Case No. 4332, redocketed as Civil Case No. Q-96-26883 (Exhibit 'H'). Even a cursory examination of the 'Extrajudicial Settlement of Estate' (Exhibits 'A' and '5') will readily show that the Bagumbayan property is bounded, on the Southwest, by Zurbito Extension, not Surbito

Street (Exhibit '5-B'). This is also borne by the technical descriptions of said property, at the dorsal portion of Transfer Certificate of Title No. 4762 (Exhibit '6') under the name of Pedro Sia, and under Transfer Certificate of Title No. T-5908 under the name of the Respondent (Exhibit '8'). What was leased by Pedro Sia to the Complainant, under the Contract of Lease (Exhibit 'B' and '2') was the Bagumbayan property, containing an area of 1,966 square meters not the Bapor property, with an area of 286 square meters. In contrast, the boundary of the Bapor property, with an area of 286 square meters contained in Transfer Certificate of Title No. T-5904 under the names of the Respondent and his wife, is 'ZURBITO STREET,' and not Zurbito Extension (Exhibit 'R'). The sketch adduced in evidence by the Respondent (Exhibit '10') to make it appear that the Bapor lot, with an area of 286 square meters, whereon a bodega is constructed (Exhibit '10-B') and bounded on the southwest by 'ZURBITO EXTENSION' is irrefragably belied by the technical descriptions of the torrens titles to the two (2) lots respectively.

"In their Answer to the complaint, in Civil Case No. 4332, the Respondent and his wife, Elma Abelita, unabashedly admitted, and so declared, that the Complainant was allowed temporary use of the bodega in 'Zurbito Extension, Masbate, Masbate.

"x x x x x x x x

"The Respondent is Complainant's first cousin-in-law, he being the husband of Elma Sia Abelita, Complainant's first cousin. The Respondent was as Assistant Provincial Prosecutor before he was elevated to the Bench. The Respondent was wealthy of his own right, being a rancher in Masbate, while the Complainant was as ordinary general merchant with no visible social or political clout or influence in government or even in the community. He (could) not even afford to have a well-furnished house of his own. He lived merely in a portion of the bodega which he used for the storage of his goods and his office. The Complainant realized the enormous expense of instituting and prosecuting the civil and criminal actions before the Courts, not to mention the attendant and concomitant tribulations of such suits. The evidence on record shows that, at about 3:00 o'clock in the afternoon of April 9, 1995, the Complainant reported the Respondent to the police station and complained against him for forcibly taking possession of the bodega, in response to which, the police officers proceeded to the bodega and found the Respondent inside the bodega with kids (Exhibits 'C'). Despite demands, the Respondent refused to vacate the bodega claiming that he was the owner of the property. The Complainant filed a complaint for Injunction with Damages against the Respondent with the Regional Trial Court of Masbate on April 21, 1995 (Exhibit '13'). He lodged a criminal complaint for trespass to dwelling but that no amicable settlement was forged by the parties (Exhibit 'D'). When his complaint for Injunction was dismissed by the Regional Trial Court, allegedly for forum-shopping, the Complainant filed a complaint for delivery of personal property against the Respondent and his wife, with the Regional Trial Court of Masbate (Exhibits 'N' and '12'). The Complainant secured the services of security guards, on June 22, 1995, through the Mayon Security Agency (Exhibit 'U'). All the foregoing facts and circumstances and actuations of the Complainant, in tandem, are mute and immutable evidence of the verisimilitude of his claim that, indeed, the Respondent forcibly gained entry into the bodega, and used the same for his birthday bash and celebration for his appointment to the judiciary and the utter baselessness of that of the Respondent." [4]

The Court sees the next two issues raised by the parties to be quite telling; it should be well to here quote in full the findings of the Investigating Justice. Thus -

"Anent the third issue, William Lao and Vicente Noynay were one in claiming that, immediately after the Respondent parked his van near the house of Rosa Sia, he, his wife, Elma Abelita and Policronio Agao alighted from the van, with Agao in possession of and holding a shotgun, and that, forthwith, the Respondent gave the order: 'Barilin na, tirahon na.;' He also likewise claimed that they fled for dear life when they saw Agao cock the shotgun and that Lao was hit on the left buttocks but Noynay managed to escape unscathed when he fled to the open field passing through the gate (Exhibit '2-D'). The collective testimonies of Agao and Noynay are corroborated by the physical evidence on record, namely, Chemistry Report No. C-29-96 (Exhibits 'CC') which shows that both the Respondent and Agao were tested positive for nitrates and the

pictures, (Exhibits 'H' and 'I') showing the left buttock of Lao hit by the shotgun pellet. The presence of gunpowder residue in both Agao and the Respondent corroborates Lao's and Noynay's claims that when Agao fired the shotgun, the Respondent and Agao were near each other having alighted together from the van. Even Elma Abelita corroborated, in part, Lao's and Noynay's testimonies because she declared, when she testified during the investigation, that when she and the Respondent alighted from the van, Lao was so petrified that he fled with the security guard from where he was, near the house of Rosa Sia. The Respondent and Agao denigrated Noynay's testimony by claiming that Noynay was nowhere near the house of Rosa Sia when they and Elma arrived at the nursery on board the van. They insisted that Lao was with Francisco Dagatay, Complainant's driver, and the security guard, who was armed with a long firearm. The Investigator does not agree. Noynay is a lowly carpenter. His testimony was replete with details and minutiae of the events before and during the shooting incident. He remained firm and steadfast despite the grueling cross-examination questions of the indefatigable counsel of the Respondent. He executed, on March 24, 1995, after the shooting incident, an 'Affidavit' attesting to what occurred (Exhibit 'O') and gave a supplement affidavit, in the form of questions and answers, to the police investigator, on March 26, 1995, narrating in greater detail the events, including Respondent's verbal order to shoot, in connection with said incident (Exhibit 'P'). Noynay could not have unveiled and sculptured his testimony, Affidavit and Supplemental Affidavit and withstood unshaken Respondent's counsel's grueling and incisive cross-examination, unless he was indeed, present, before and during the shooting incident near the house of Rosa Sia.

"The Respondent, however, assailed the verisimilitude of the testimonies of Lao and Noynay and their credibility by claiming that, whereas, the duo claimed, when they testified during the investigation, that only the Respondent gave the order to shoot, whereas, in their Affidavits (Exhibits 'O' and 'P,' '4' and '5' and '6') both the Respondent and Elma Abelita gave the order to shoot. Even Rosa Sia, in her affidavit (Exhibit '30') did not state that the Respondent ordered Agao to shoot Lao. Such incongruence, the Respondent insisted, debilitated Lao's and Noynay's credibility and the those of their testimonies during the investigation. The Investigator is not swayed by Respondent's pose. Irrefragably, both Lao and Noynay did not specifically declare, when they testified during the investigation, that Elma Abelita likewise ordered the shooting. However, neither did they ever declare that only the Respondent ordered the shooting. In fine, neither Lao nor Noynay ruled out Elma Abelita ordering the shooting in tandem with that of the Respondent. As it was, both counsels of the Complainant and the Respondent did not specifically ask, on direct examination and cross examination, whether Elma Abelita likewise ordered the shooting. Counsel of Complainant was content with marking and offering in evidence the Affidavit and supplemental affidavit of Noynay (Exhibits 'O' and 'P').

"The Investigator found no inconsistency between the collective testimonies of Lao and Noynay, on the one hand, and their respective Affidavits (Exhibits 'N,' 'O' and '6') on the other. While they did not specifically and unwaiveringly declare and identify the Respondent as having ordered the shooting, they did not specifically declare that Elma Abelita did not at all order the shooting as the Respondent did. What is significant and primordial is that, in their Affidavits and Supplemental Affidavit, and in their testimonies during the investigations, Lao and Noynay categorically declared that the Respondent ordered the shooting. It must be borne in mind that:

"114 Rules of construction of testimony - (a) Testimony must be considered as a whole, and the true meaning of answers to isolated questions is to be ascertained by due consideration of all the questions propounded to the witness and his answers thereto. In other words, in ascertaining the facts established by any one witness, everything stated by him, as well as on his cross-examination in chief, must be considered. Facts imperfectly stated in answer to one question may be supplied by his answer to another; and when from one statement considered by itself an inference may be deduced, that inference may be strengthened or repelled by the facts disclosed in another.

'(b) Courts must subordinate the literal terms used by a witness to the substance and effect of his testimony.' (Francisco, Comments on the Rules of Court, 1991 ed., Vol. VII, Part II, page 542.)

"In fine, the Affidavit and Supplemental Affidavit of Noynay and the Affidavit of Lao, complement and corroborate, not contract, their respective testimonies during the investigation.

"Assuming, for the nonce, that, indeed, both Lao and Noynay committed a faux pas when they declared, in their 'Affidavit' and 'Supplement Affidavit' and 'Affidavit' (Exhibits 'N,' 'O' and '6') respectively that Elma Abelita likewise ordered the shooting when in fact she did not, however, such falsity does not render the entirety of said Affidavits and Supplemental Affidavits false or of their testimonies during the investigation for that matter. For the rule in evidence 'FALSUS IN UNO FALSUS IN OMNIBUS' is not an ironclad rule in this jurisdiction. It is perfectly reasonable to believe the testimony of a witness with respect to one fact thereof and yet disbelieve said testimony with respect to other facts:

"x x x [I]n this connection it must be borne in mind that the principle falsus in uno falsus in omnibus is not an absolute one, and it is a perfectly reasonable to believe the testimony of a witness with respect to some facts and disbelieve it with respect to other facts (People vs. Dasig, et al., 49 O.G. No. 8, p.3338). In People vs. Keller, 46 O.G. No. 7, pp. 3222-3223, the following was quoted with approval by the Court of Appeals from 1 Moore on Facts, p.23:

'18. Testimony may be partly credited and partly rejected - Triers of facts are not bound to believe all that any witness has said; they may accept some portions, according to what seems to them, upon other facts and circumstances, to be the truth x x x Even when witnesses are found to have deliberately falsified in some material particulars, the jury are not required to reject the whole of their uncorroborated testimony, but may credit such portions as they deem worthy of belief.' (People versus Li. Bun Juan, et al., 17 SCRA 934, page 945.)

"The Investigator cannot believe that Agao, a mere hired hand of the Respondent could have, on his own, used the shotgun and, with it, shoot Lao, without any order from the Respondent. The Respondent, an Assistant Provincial Prosecutor and a Regional Trial Court Judge, could accept the open and persistent defiance by the Complainant and Rosa Sia, with armed men, of the Respondent's and his wife's warnings for the Complainant and Rosa Sia to desist from installing any water pipes in the nursery, Respondent was determined to put the Complainant and Rosa Sia in their proper places. The Respondent found it imperative to proceed posthaste to the nursery, with 'muscle' in the persons of Policronio Agao, his second cousin who has previously killed three (3) persons with a carbine, and Roderic Genorga, and firepower consisting of his shotgun and a .45 caliber handgun with no serial number. When the Respondent, Elma and Agao alighted from the van, the Respondent saw Lao, the security guard, armed with a long firearm, Francisco Dagatay and some other men near the house of Rosa Sia. More, the latter accosted Elma and stoned her. With Respondent's mindset and the ominous presence of armed men in the vicinity exacerbated by the sudden assault by Rosa Sia on his wife, in conjunto, the Respondent gave the order to shoot. The Complainant was nowhere to be found as he was hiding in his residence, petrified, and Rosa Sia was then quarelling with her sister. The logical target was William Lao, the nephew of the Complainant, not Noynay or the security guard, who was armed with a long firearm.

"The Investigator keenly observed and monitored the conduct and demeanor of Lao and Noynay as they testified during the investigation and he found then candid, straightforward and forthright, their testimonies barren of the tell-tale signs and affectations of those of rehearsed of perjured witnesses.

"In sharp contrast to Lao's and Noynay's testimonies, those of Respondent's, Agao's and Elma Abelita's are frontally divergent on the gravamen of the shooting incident, inherently flawed and undeserving of an iota of credence. Indeed, the Investigator found the Respondent's and Agao's version of the events immediately before, during and after the shooting incident egregious, preposterous and bizarre. Agao testified that he remained with Genorga in the van, after the Respondent and Elma Abelita had alighted from the van and proceeded to the shanty of Bacas, even though he saw Lao, armed with a handgun, on his waistline and noticed something like a grenade in the pocket of the jacket of Lao, the security guard, armed with a long firearm; and some other male persons near the house of Rosa Sia. The Respondent, on the other hand, testified that, as Elma

passed by where Rosa Sia was, the latter stoned her and quarelled with her and that when he, the Respondent, rushed to where his wife and her sister were quarelling, to whip whip Rosa Sia with a stick, he fell to the ground, as if a karate chop was applied to him, for reasons known only to God, and remained in that position for about two (2) minutes even as he repeatedly, but futilely, tried to stand up, until he heard a gunshot at the back of the house of Rosa Sia, Agao further declared that, from where he was, in the van, he saw Lao fleeing from where he was, near the house of Rosa Sia, to a coconut tree, about fifteen (15) to twenty (20) meters from where Rosa Sia and Elma were, hid behind the tree for five (5) minutes, during which the Respondent was helpless on the ground. Agao further claimed that he saw Lao emerge from behind the coconut tree, after about five (5) minutes with his gun pointed to the ground, and proceed towards where the Respondent was and, to save the latter, from being shot by Lao, looked for a weapon with which to disable Lao and accidentally found the shotgun in the van and forthwith shot Lao with the gun as Lao turned around to flee.

"The Investigator cannot believe that Agao and Genorga remained in the van, leaving the Respondent and Elma Abelita, unprotected, all alone, by their 'unarmed' selves, at the mercy Lao. The Investigator found it sorolific and preposterous that Agao and Genorga insouciantly remained in the van even as Respondent remained fixated on the ground for well over five (5) minutes, as claimed by Agao, without lifting a finger to help the Respondent. There is no evidence on record that the Respondent was suffering from any ailment of that the sustained any injuries at all. Indeed, he was about 41 years old at the time of the incident, in the prime of his life, with excellent physique (Exhibit '12'). Indeed, even as Elma Abelita, after the shooting incident, had herself examined by a doctor at the Provincial Hospital, the Respondent did not bother to have himself examined. The Respondent even drove the van from the nursery, after the shooting incident, proceeded posthaste to the hospital and on to the police station and on to the Maxim Grocery where Genorga alighted and, with excessive speed to their house as the police officers gave chase to the van. The Investigator thus found it bizarre that the Respondent would inexplicably fall down, as he rushed to the succor of his wife, and remained helpless on the ground even as he tried repeatedly to stand for two (2) minutes or so as his wife battled with her sister. When quired by the Investigator what could have caused him to fall to the ground, the Respondent unabashedly pontificated that the hand of God intervened:

"ATTY. SAN JUAN:

Two minutes? You could not get up?

'WITNESS:

Yes, Sir. I struggled. I do not know maybe I was really overcome by, also by my anger to my younger sister in law that despite my earnest efforts to immediately stand up so that I could separate them, my heels just keep on sliding whenever I tried my heels to help me get up.

'ATTY. CRUZ:

Witness, Your Honor indicating a forward brushing motion of his heel (sic) to indicate how he struggled to get up.

"J. CALLEJO:

Were you wearing a pair of shoes, Judge?

"WITNESS:

A jogging shoes, Your Honor.

"J. CALLEJO:

What could have caused you to fall down?

"WITNESS:

That is why I said yesterday, I felt the hands of God intervening. As if a karate chop was applied on me. I just fell down on my back before finally reaching the place where my wife and my sister were quarreling.' (TSN, Abelita, pages 133-135, February 27, 1997)

"The Investigator is convinced, beyond cavil, that the Respondent and Agao, symbiotically tailored their testimonies in a last-ditch but futile attempt to explain Respondent's pose that he did no order Agao to shoot and, at the same time, to justify Agao's shooting Lao on the left buttock.

"Agao brazenly foisted on the Investigator and this Honorable Court the claim that he shot Lao to prevent the latter, who was armed with a hand gun and a hand grenade, from shooting the Respondent as the latter was on the ground, helpless. The Investigator found Agao's claim, sheer infantism. Agao himself admitted that, after having shot Lao, he returned the shotgun to the box (Exhibit '19) in the van and, after the Respondent and Elma Abelita sped off in the van, he, Agao, proceeded to the shanty of Bacas to first eat as he was then hungry. As it was, Danilo Bacas and Jerry Aganan, another employee of the Respondent, were in the shanty. If, indeed the Agao shot Lao in defense of the Respondent, Agao should have proceeded posthaste to the police station and voluntarily surrendered himself and shotgun. Agao did not. He opted to first have his lunch:

"JUSTICE CALLEJO:

After William Lao ran away, what happened after the shooting, after arrival of the policemen?

'WITNESS:

I proceeded to the house purposely to eat because I was very hungry.

'JUSTICE CALLEJO:

What did you do with the shotgun?

'WITNESS:

I placed it in the Lite Ace after placing it in the carton.

'JUSTICE CALLEJO:

Where did you ride when you went home to eat?

'WITNESS:

I did not ride the vehicle because I went to the house of Danilo Bacas, which is inside the nursery property because I intended to eat there.

'JUSTICE CALLEJO:

So, after shooting a man, you went to eat?

'WITNESS:

After shooting William that ran away, and you left already, referring to the Judge, and there were no people anymore I went to the house to eat.

'JUSTICE CALLEJO:

Why did you not go to the police and tell the police that you have just shot a person?

WITNESS:

I was not able to go to the police because I was about to eat, but the policemen arrived already.

‘JUSTICE CALLEJO:

Did you not ask Judge Abelita to accompany you to the policemen (sic) so that you will report the shooting?

‘WITNESS:

No Sir because my plan was to eat first before I will surrender to the police.

‘JUSTICE CALLEJO:

So, it was more important for you to eat first before you report the incident to the police?

‘WITNESS:

Yes, Sir, because I was not able to eat my breakfast and I am very hungry. (TSN, Agao, pages 113-117, February 7, 1997.)

"More, when the police operatives, headed by SPO3 Cesar Ramirez arrived in the nursery, after the shooting incident, and Agao and Bacas saw the police officers approaching the shanty, they sped to the upper floor of the shanty to elude arrest:

"J. CALLEJO:

So when you arrived at the Nursery property did you immediately see Agao, Bacas and Aganan?

‘WITNESS:

Yes, sir.

‘J. CALLEJO:

Did you see the two already holding guns when you arrived at the Nursery?

‘WITNESS:

Yes, Sir, on the ground.

‘J. CALLEJO:

So when you arrived Aganan and Agao did not run immediately to the upper floor of the hut it was only when you were approaching them that they run in the house, to the upper floor of the hut?

‘WITNESS:

Yes, Sir.’ (TSN, Ramirez, pages 51-52, March 3, 1997)

"There in no evidence on record that Agao, when he was taken into custody at the nursery and brought to the police station, claimed to have shot Lao in defense of the Respondent and that the shotgun he used in shooting Lao was in the van. The Investigator cannot thus believe Agao’s perambulations that Lao was armed with a gun and that he shot the latter to defend the Respondent (People versus Ronquillo, 247 SCRA 793). As our Supreme Court declared:

"The fact that the accused threw away the weapon used instead of surrendering it to the authorities and reporting the incident negates the claim of self-defense.’ (People versus Segundino Jotoy, 222 SCRA 801, page 806.)

"Even the Assistant Provincial Prosecutor found probable cause against the Respondent as principal by

inducement of the crime of 'Frustrated Murder' and filed the Information for said crime against the Respondent et al., with the Regional Trial Court of Masbate (Exhibit '1').

"What is worrisome is that even after Agao had informed the Respondent that someone had been shot and that the Respondent inquired from Agao about the shooting, the Respondent did not bother to bring Agao to the police station authorities and surrender the latter and the shotgun. Instead, the Respondent drove off with the van with the shotgun in the box (Exhibit '19'). More, when the Respondent reported the incident at the nursery to the police station, the Respondent merely declared that Lao was armed but failed to disclose that Agao had shot Lao with his shotgun (Exhibit '14'). The Respondent knew, being a former Assistant Provincial Prosecutor, and the incumbent Regional Trial Court Judge, no less, that said Information were vital to aid the police authorities in their comprehensive and overall investigation of the incident. And yet, the Respondent failed to disclose the shooting by Agao of Lao to the police authorities. The Respondent is not an ordinary member of the community and of the body politic. He is an officer of the law. A crime had been perpetrated in his presence. No less than his own shotgun was used in the commission of the crime. If an ordinary citizen is mandated to report the commission he witnessed so that the culprit be prosecuted and punished accordingly (People versus Fulgencio Baquiran, 20 SCRA 451, supra), with more reason, it behooved the Respondent, a Regional Trial Court Judge, no less, to posthaste bring Agao to the police authorities and surrender him, with the shotgun, for the appropriate police investigation. However, the Respondent let Agao to remain in the nursery and sped off in the van, with the shotgun concealed in the box. The actuations and behavior of the Respondent deserve severe condemnation.

"Anent the fourth issue, the Complainant adduced evidence that after the van stopped in front of the Respondent's house, after a brief chase, Elma Abelita sped from the van to their house, opened the left side of the door of the van to their house, opened the left side of the door to the van and was about to extricate the shotgun from the box, at the back of the driver's seat, when Ramirez likewise looked into the van and saw the butt of the shot gun in the box. Ramirez embraced the Respondent and told the latter: 'Judge, huwag na nating daanin sa mainit na ulo. Pagusapan natin iyan ni. Col. Doria.' and brought the Respondent to Doria. Ramirez forthwith took custody of the shotgun and gave the same to Doria. Ramirez likewise looked anew inside the van and saw the .45 caliber handgun with a defaced serial number and brought the same to Doria. The Respondent showed to Doria his license for the shotgun but failed to present any license for the handgun. Neither was the Respondent able to show any permit for him to carry the shotgun outside of his residence. The Respondent, on the other hand, averred, by way of defense, in his Comment to the Complaint, that he was the 'victim' of a 'frame-up' in connection with the entire episode on March 24, 1996 conceptualized and engineered by Ramirez in cahoots with the Complainant and Police Superintendent, German Doria, (a) to enable Ramirez and the Complainant to take control of the nursery; and (b) by way of retaliation, by Ramirez, for the successful prosecution by the Respondent, when he was still the Trial Prosecutor of Branch 48 of the Regional Trial Court of Masbate, or Ramirez' father for theft of large cattle. Ramirez' and Doria's connivance with the Complainant, the Respondent insisted, is fortified by: (a) Ramirez having been found loitering in the nursery, in short pants and shirtless, with a gun tucked in his waist, on March 10, 1996; (b) the bond posted by Ramirez and the other police officers, who took custody of the Respondent on March 24, 1996 for their provisional liberty for the criminal charges filed against them by the Respondent, was procured by the Complainant; (c) the lawyer of Ramirez and Doria and said police officers in connection with said criminal cases was Atty. Romulo San Juan, the lawyer of the Complainant. The Respondent likewise insisted that when the van stopped in front of his residence, Ramirez, despite the Respondent's vehement protests, opened the driver's seat of the van, dragged the Respondent outside the van and brought him to Doria, who was then with about ten (10) other police operatives, armed with high powered firearms. Ramirez then returned to the van and looked inside for about two (2) minutes and found a .45 caliber handgun which, according to Ramirez, was the gun used for the shooting earlier in the nursery. However, the Respondent claimed that the gun was not his. Ramirez then handed the gun to Doria.

"The Investigator is not swayed by the Respondent's pose. Police officers are presumed to have performed

their duties in accordance with law (Section 3, Rule 131, Rules of Evidence). He who alleges that a police officer acted in excess of or without authority or contrary to law is burdened to prove the same with clear and convincing evidence. The defense of 'frame-up' like denial and alibi, is one usually resorted to by those caught in flagrante delicto and looked upon by the trial courts with disdain and disfavor.

"The claim of both appellants that they were arrested without any invalid ground cannot be given credence. Their defense of denial or frame-up, like alibi, has been invariably viewed by the courts with disfavor for it can easily be concocted and is a common and standard defense ploy in most prosecutions for violation of the Dangerous Drugs Act. Such denial cannot prevail over their positive identification as peddlers of marijuana, as well as over the detailed and unshaken testimonies of the apprehending officers who caught them red-handed. Besides, it has not been shown that the government agents had any ulterior motive to testify against appellant.' (People versus Saturnino Solon, 244 SCRA 554, page 560)

"The Respondent failed to discharge his burden. After a minutiose consideration and assessment of the evidence mustered by the Respondent, the Investigator found and so declare that, said evidence is flimsy and fragile and that the Complainant's evidence is in tierra firma. German Doria was no less than the Police Superintendent of the Province of Masbate. Ramirez, on the other hand, was an awardee, for Region 5, in 1995-1996 of the 'Medalya ng Kagitingan' from the Philippine National Police. There is no evidence on record that Doria and the Complainant knew each other before the March 24, 1996. Indeed, Ramirez, a mere SPO3 of the Philippine National Police, could not have inveigled German Doria, the Masbate Police Superintendent, into embarking in any cabal, and in the process, outfox the Respondent. The Complainant and the Respondent were one in saying that, at the time Ramirez saw the shotgun and .45 caliber handgun in the van, there were many civilian onlookers in the vicinity in addition to the ten (10) or so police officers. The Investigator cannot believe that Ramirez had the temerity to 'plant' the .45 caliber handgun in the van of the Respondent in full view of the onlookers and other police officers.. Ramirez, Doria and the police operatives should not be faulted when they acquiesced, because of the exigency of the situation, to the Complainant using the bond procured by him for their provisional release stemming from the criminal charges against the police officers. After all, said charges were the result of the performance, by them, of their duties in response to the complaint lodged by the Complainant against the Respondent and his men. Unless Doria, the Provincial Director, no less, and Ramirez and the police officers posted bail, their arrest and consequent incarceration was imminent. In any event, the police officers later managed to have remained free on their own bond.

"The Respondent was no less than the Assistant Provincial Prosecutor of Masbate before his elevation to the Bench and a Regional Trial Court Judge. The Investigator cannot believe that, with the stature of the Respondent in the community, SPO3 Cesar Ramirez and Superintendent German Doria had the temerity and audacity to fabricate and concoct such serious charges as 'Frustrated Murder' and violation of PD 1866 against the Respondent unless there was, in their view, factual bases for said charges.

"The Respondent, as Trial Prosecutor of Branch 48 of the Masbate Regional Trial Court, may have been instrumental in the conviction of the father of Ramirez for theft of large cattle. But such circumstance is not sufficient to prove that Ramirez fabricated the charge against the Respondent for violation of PD 1866 over the .45 caliber handgun with a defaced serial number and/or that he did so in connivance with the Complainant. The Respondent adduced no morsel of proof that Ramirez nurtured any ill feelings against the Respondent for the conviction of his father for theft for theft or large cattle, or any over acts for that matter, on the part of SPO3 Cesar Ramirez proving that he resented the Respondent's involvement in the conviction of his father for said crime. The Investigator is convinced that the Respondent was taken into custody shortly before noon on March 24, 1996 by SPO3 Cesar Ramirez and Superintendent German Doria not for monetary and other ulterior motives but for the Respondent's overt involvement for the shooting of William Lao by Agao with the use of the Respondent's shotgun and for possession of the .45 caliber handgun without any license therefor. As Ramirez explained on direct examination:

"ATTY. SAN JUAN:

Now there is a testimony in this case that you are the police officer who arrested the person of poligrono (sic) Agao, Danilo Bacas and Gerry Aganan at the Nursery, Masbate, Masbate on March 24, 1996 at about 11: 00 o'clock in the morning, is that correct?

WITNESS:

Yes, Sir.

ATTY. SAN JUAN:

And about an hour later, at about 12:00 noon you and Col. Doria and two other policemen were the ones also who arrested the respondent and searched his vehicle in front of his house at Bagumbayan, Masbate, is that correct?

WITNESS:

Yes, Sir.

ATTY. SAN JUAN:

Is it true that you acted or you were acting as security for the complainant as his bodyguard and that you are under his payroll?

WITNESS:

That is not true, Sir.

ATTY. SAN JUAN:

Is it also true that you had an axe to grind against Judge Abelita because he was the one who prosecuted your father in a criminal case for theft of large cattle?

WITNESS:

That is not true, Sir.

ATTY. SAN JUAN:

Is it true that in making the arrest of the respondent on March 24, 1996 and in conducting the search of his vehicle you were motivated by these personal reasons or will that you harbored against the Judge?

WITNESS:

That is not true, Sir, We have our basis.

ATTY. SAN JUAN:

Would you tell us what basis did you have in arresting the Judge on March 24, 1996?

WITNESS:

First, Benjamin Lao called by phone Col. Doria that there were armed persons who are the men of Judge Abelita together with some companions.

Second, we formed a team and we overcome him in front of the Maxim's Grocery and I parked my car in front of his car while the car of Col. Doria was at his back. and (sic) there the judge was invited by Col. Doria to the camp to be investigated.' (t.s.n., Ramirez, pages 46-50, February 28, 1997.)

"No less than a panel of three (3) Assistant Provincial Prosecutors designated by the Regional State Prosecutor,

on the basis of the Joint Affidavit of Ramirez and Doria, et al., the 'Supplemental Affidavit,' as well as the 'Joint Affidavit' of the Respondent and his wife, and the 'Joint Affidavit' of Dr. Lina Sia and Mila J. Alsola found probable cause for the confiscation of said firearm and the arrest of the Respondent by the police officers for possession of said firearms (Exhibit 'X'). The Investigator is in accord with the perceptive findings and grandiloquent disquisitions of the Panel of Investigators anchored as they are on the evidence on record and copious jurisprudence, thus:

"There was in fact a shooting incident in which the respondents were alleged to have been involved. The seizure of the firearms were not made on the basis of mere suspicion or as a means of fishing for evidence of a crime in order to charge and prosecute the respondents. The police officers who conducted the search and seizure of the firearms had acted on reasonable and probable cause to believe before the search and seizure of the firearms that respondents were law offenders or that they would find the firearms or evidence pertaining to the commission of a crime inside the vehicle to be searched. A warrantless search is not violative of the Constitution as long as the vehicle is neither searched nor its occupants subjected to body search, and the inspection of the vehicle is limited to a visual search or inspection. Probable cause for search are such facts and circumstances which would lead a reasonable discreet (sic) and prudent man to believe that an offense has been or is being committed and that the objects sought in connection with the offense are in place to be searched. Even then, search of a moving vehicle and seizure of contraband/illegal articles in plain view are exceptions to the requirements that searches and seizures must be supported by a valid warrant. It is also true on the basis of the evidence submitted that respondent Judge Felimon Abelita III was actually committing an offense in the presence of the police officers when caliber .45 pistol was found inside the Toyota Lite Ace van. There is no requirement that seizure of contraband/illegal articles, to be valid, be witnessed by a relative, barangay officials, or any other civilian.

'From the facts of the case, together with the evidence submitted, and the applicable law, there is sufficient ground to believe that the probable guilt of respondent Judge Felimon Abelita III has been established by sufficient evidence, for illegal Possession of Firearm (caliber .45 pistol with defaced serial number, and ammunitions), without license, permit to possess or carry, as the offense defined and penalized under Section 1 of PD No. 1866. There is no sufficient evidence, however to establish the probable guilt of respondent Elma S. Abelita for the offense charged,' (Exhibit 'X,' page 8.)

"The Respondent's 'Petition for Review' from said Resolution was dismissed by the Secretary of Justice (Exhibit 'Y') followed by the filing, with the Regional Trial Court of Masbate, of an Information charging the Respondent for violation of PD 1866 for his unlicensed possession of said firearm (Exhibit 'J')."[5]

The Investigating Justice recommends, on the basis of his foregoing findings, the imposition of appropriate disciplinary sanction against respondent Judge. The Court agrees.

In so many words, the Court has repeatedly stressed that a judge is the visible representation of the law and the embodiment of the people's sense of justice and that, accordingly, he should constantly keep himself away from any act of impropriety,[6] not only in the performance of his official duties but also in his everyday actuations.[7] No other position exacts a greater demand on moral righteousness and uprightness of an individual than perhaps a seat in the judiciary.[8] A judge must be the first to abide by the law and to weave an example for others to follow.[9]

Respondent Judge indeed failed to measure up to what could well be expected of him as an officer of the judiciary. A careful examination of the records, as well as the exhaustive report of Justice Callejo, would show, in resume', that: (a) Respondent Judge took possession, by destroying the lock to the door, of the bodega then being used and occupied by complainant. After celebrating his party thereat, respondent Judge closed the place using a new padlock and effectively evicting complainant from the premises. Even assuming that Pedro Sia had sold the property to him,[10] respondent Judge could not have been unaware, nevertheless, of the outstanding lease

contract in favor of complainant. (b) Respondent Judge, during the incident of 24 March 1996, ordered Policronio Agao to fire his (respondent's) shotgun, hitting William Lao in the process. (c) Although the shotgun used in the shooting incident was a licensed firearm, respondent had no authority, however, to bring that gun outside residence. (d) Instead of acceding to the request of Superintendent Doria to forthwith go with him to the police headquarters to shed light on the shooting incident, respondent Judge sped away from them. (e) Finally, when police officers caught up with respondent Judge and his wife he was found to be in possession of an unlicensed .45 caliber handgun with live bullets.

In *Saburnido vs. Madrono*,^[11] this court held:

"It was highly improper for a judge to have wielded a high-powered firearm in public and besieged the house of a perceived defamer of character and honor in warlike fashion and berated the object of his ire, with his firearm aimed at the victim - an unarmed policeman, also a person in authority at that, thereby threatening the latter's life. In so doing, respondent judge committed an act of grave impropriety unbecoming of a judge and in violation of the Code of Judicial Conduct, specifically, Rule 2.01, Canon 2."^[12]

The Court likewise reproached a judge, in the earlier case of *De la Paz vs. Inutan*,^[13] who had poked his gun at another inside a restaurant while in a state of intoxication. There, the Court stated:

"The judge is the visible representation of the law and, more importantly, of justice. From him, the people draw their will and awareness to obey the law. They see in him an intermediary of justice between two conflicting interest, specially in the station of municipal judges, like respondent Judge, who have that close and direct contact with people before anybody else in the judiciary. Thus, for the judge to return that regard, he must be the first to abide by the law and weave an example for others to follow. He should be studiously careful to avoid even the slightest infraction of the law.

"But, here is a judge who stands across the path of the law. Unperturbed by judicial conscience, he breached the very law he was sworn to uphold. Perhaps in a misplaced display of the influence of his office, he restrainedly and openly intoxicated himself in a public place, caused disturbance and alarm, and poked his gun at an innocent man. He wilfully moved away from the behavioral injunctions of his office and let himself caught by the reaches of misconduct and misdeeds. Such conduct need be sanctioned and must, therefore, be drawn to a close. It throws an indelible stain on the judiciary."^[14]

Given the circumstances, the Investigating Justice has aptly declared the sentiment of the Court in saying that-

"The administration of justice is a mission. Judges, from the lowest to the highest levels are the gems in the vast government bureaucracy, beacon lights, looked upon as the embodiments of all what is right, just and proper, the ultimate weapons against injustice and oppression. The Judiciary hemorrhages every time a Judge himself transgresses the very law he is sworn to uphold and defend at all costs. This should not come to pass."^[15]

WHEREFORE, finding respondent Judge guilty of conduct unbecoming a member of the judiciary, the Court hereby **DISMISSES** him from the service with forfeiture of all benefits and with prejudice to reemployment in any other branch, instrumentality or agency of the government, including government-owned and controlled corporations.

Judge Felimon C. Abelita III is hereby enjoined upon his receipt hereof to cease and desist from performing any and all acts pertaining to his office.

This decision is immediately executory.

Let a copy of this decision be attached to the records of Judge Felimon C. Abelita III with this Court.

SO ORDERED.

Narvasa, C.J., Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Martinez, Quisumbing, and Purisima, JJ., concur.
Regalado, J., on official leave

[1] Report of Associate Justice Romeo J. Callejo, Sr., p.2.

[2] Ibid., pp. 2-3.

[3] Ibid., pp. 24-25.

[4] Ibid., pp. 27-31.

[5] Ibid., pp. 32-50.

[6] Marces, Sr. vs. Arcangel, 258 SCRA 502.

[7] Panganiban vs. Guerrero, Jr., 242 SCRA 11.

[8] Legaspi vs. Garrete, 242 SCRA 679.

[9] Moreno vs. Bernabe, 246 SCRA 120.

[10] Pedro admitted in the action for declaration of nullity of the Extrajudicial Settlement of Estate of the Heirs of Laureano Sia, filed by Magdalena Sia, that the sale was simulated.

[11] 209 SCRA 755.

[12] At p. 760.

[13] 64 SCRA 540.

[14] At pp. 548-549.

[15] Report of Associate Justice Romeo J. Callejo, Sr., p. 1.

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