

BALDOMERO S. LUQUE, PETITIONER, VS. JUDGE UNION C. KAYANAN, IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH IV OF THE COURT OF FIRST INSTANCE OF QUEZON PROVINCE AND LUCENA CITY, RE...

G.R. No. L-26826. August 29, 1969

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

Upon the averment that respondent judge is without authority and is disqualified to act, petitioner comes to this Court on prohibition and mandamus to stop the judge, presiding over Branch IV, Court of First Instance of Quezon, from taking cognizance of, and to require him to return to Branch IV of the same court, Civil Case 4871,[1] in which petitioner, a member of the Bar, is one of the defendants and cross-defendants. And this, because petitioner's original petition for the same purpose was thwarted by the Court of Appeals.

To better understand this case, it is necessary to narrate in some detail the events that transpired between petitioner Baldo-mero S. Luque and respondent Judge Union C. Kayanan that spawned the legal controversy now before us.

Judge Union C. Kayanan's oath of office described his position as "Judge, CFI of Quezon Prov. and Lucena City - Branch IV, with Station at Calauag." On August 13, 1965, by Administrative Order 268, he was authorized "in addition to his regular duties, to hold court in Lucena City, effective September 1, 1965, or as soon thereafter as practicable, for the purpose of trying all kinds of cases and to enter judgments therein." By virtue of this order, Judge Kayanan proceeded to hold court sessions in Lucena City on September 21, 1965 in addition to his duty to attend to cases filed at Calauag, Quezon. On December 1, 1965, Administrative Order 425 came out with the same authority, i.e., "to hold court in Lucena City, effective December 1, 1965, or as soon thereafter as practicable, for the purpose of trying all kinds of cases and to enter judgments therein." All these administrative orders had for their source of authority Section 56 of the Judiciary Act of 1948.[2]

Turning back to the case before us, on April 15, 1948, Civil Case 4871 was commenced in the Court of First Instance of Quezon by Bibiano Ilao, Natalio A. Enriquez and Susana Enriquez against Florencio Ona, Baldomero Luque (petitioner herein), Andrea Afri-cano, Enriqueta Castillo, and Romeo, Adelaida, Clarito, all sur-named Baldeo. Plaintiffs therein sought to set aside the April 17, 1944 decision in Civil Cases 6 and 26 of the Court of First Instance of Quezon approving the parties' April 15, 1944 compromise agree-ment which allegedly was procured thru duress and intimidation, and questioned Luque's attorneys' fees as counsel for Sinforoso Ona in said cases. Enriqueta Castillo, in the same Civil Case 4871, filed a cross-claim against petitioner Baldomero Luque and others.

By notice of hearing dated October 7, 1965, Civil Case 4871 was set for trial on November 5, 1965 before Branch I of the Court of First Instance of Quezon at Lucena City, presided over by Judge Gabriel Valero. It was on November 5, 1965 that Judge Kayanan first took cognizance of said Civil Case 4871. According to plain-tiffs'

attorney in the case below,[3] on November 5, 1965, at 8:30 in the morning, he found that Civil Case 4871 "was not included in the calendar of cases scheduled for Branch I"; that "he looked up the calendar of the other sala", and finding his case there, he thus appeared therein. The "other sala" is that of Judge Kayanan. Defendant and cross-defendant Baldomero S. Luque (petitioner herein) was absent therein. Going by petitioner's version, he was at Branch I "where he should be"; after he was informed by Judge Gabriel Valero hearing cases at Branch I that Civil Case 4871 was in Branch IV, he proceeded to said branch but was informed by a clerk that respondent Judge Kayanan had already left for Manila.

Respondent judge's order of November 5 was prefaced by the following words: "When this case was called today for hear-ing, neither the counsel for the defendants and cross-claimant as well as counsel for the cross-defendant appeared." That order reset the hearing for December 1, 1965 at 8:30 in the morning. Petitioner submits to be inaccurate that part of the order that says that he did not appear. Because, so he says, he was there in court, although at Branch I.

The next pertinent order by respondent judge was made on January 31, 1966, which set the case for hearing on February 28, 1966. This last mentioned date was admittedly erroneous because the parties agreed on January 31, 1966 to reset the hearing for March 8.

At the start of the hearing on February 28, 1966, petitioner was present, the other parties absent. Counsel for plaintiffs came 20 minutes late; he got wind of the hearing on that date after he left the other sala attending to another case. He thought all along that the case was to be heard on March 8. Another order of the same date (February 28) reset the case for March 8, as originally scheduled.

Before the March 8 hearing, petitioner sent by registered mail on March 3 (received by the court on March 7) a motion for postponement. He did not appear on March 8. This prompted the court to order the resetting of the hearing to March 23; but the court also directed petitioner Baldomero S. Luque and another attorney for defendants in "twenty-four (24) hours upon receipt hereof, to explain why they should not be cited for contempt."

Petitioner again decries that this order is wrong because his explanation in writing was already made in his motion for post-ponement; and that furthermore since his motion for postponement was dated May 3, not May 7 as stated in the order, said motion was not in violation of the three-day rule. Be that as it may, the ex-planation in writing thereafter made by petitioner was considered satisfactory by respondent judge.

On March 18, 1966, petitioner lodged a motion to dismiss the case upon the ground of estoppel. Respondent judge on April 12, 1966 denied this motion for the reason that estoppel is not one of the grounds for a motion to dismiss under the Rules of Court.

On April 11, 1966, petitioner moved to disqualify respondent judge from the case, alleging that:

"Judge Union C. Kayanan doctored the records of this case in that he suppressed the TRUE and GENUINE proceedings had in open Court on Feb-ruary 28, 1966 (1) that the undersigned defendant moved to dismiss this case; (2) that this case was set for hearing on March 21, 1966; and (3) that the undersigned defendant was ordered to make his motion to dismiss in writing and to set it for hear-ing also on March 21, 1966.

He also doctored the records by issuing an Order defending the plaintiffs, and in which it is stated that it was given in open Court although it can no longer be legally done, because after the case was called and the parties have left, as this case was already called and I had already left, the Court can no longer legally issue any order in open Court.

The said doctorings of the records of this case are serious. If they were done in the past days, then they may be done again in the coining days, unless Judge Kayanan is disqualified to con-tinue to hear and to act on this

case.

The Order about those TRUE and GENUINE proceedings was not issued by Judge Kayanan. In other words, they were doctored by suppressing them. When I was in Court on March 23, 1966, for a hearing of this case, I looked at the records, and I found that there was none.

But the records were again doctored, by the issuance of an UNTRUE and an UNGENUINE Order dated February 28, 1966, copy of which I received on March 15, 1966, in which the plaintiffs were defended and which stated it was given in open Court, although after a case was already called and the parties had left, the Court can no longer legally issue an order in open Court. In this case, on that date, this case had already been called and I had already left after a TRUE and GENUINE order was issued in open Court.

Why? Instead, Judge Kayanan issued the aforementioned UNTRUE and UNGENUINE Order of February 28, 1966 in defense of the plaintiffs and their attorney.

So, it is conclusive that there are gross ERRORS in the Order of March 8, 1966. Probably they were due either to gross incompetence or that they were deliberately made so that there could be a basis for requiring me to explain within 24 hours why I should not be cited for contempt.

But considering that more anomalies followed, there is now reason to believe that the anomalies committed are intentional.

The foregoing series of anomalies show the evident bias and partiality of Judge Union C. Kayanan in favor of the plaintiffs and against me, which will prevent him from resolving the questions in this case with impartiality and solely on the merits."

On April 12, 1966, petitioner was again ordered by respondent judge to explain why he should not be cited for contempt of court for "using clearly insolent, disrespectful, and contemptuous language therein, which insinuations or imputations are highly derogatory and served nothing but to discredit the judge presiding this Court in an attempt to secure his disqualification, considering that they have no basis in truth and in fact and palpably unwarranted, in violation of the Canons of Professional Ethics and Rule 71 of the Rules of Court." Petitioner's explanation was filed on April 21, 1966.

On April 26, 1966, respondent judge declared the explanation to be unsatisfactory, adjudged petitioner in direct contempt, and sentenced the latter to pay a fine of P100 "to be remitted to the Clerk of Court not later than May 3, 1966", the next scheduled hearing of the case, or upon failure or refusal to pay, to five (5) days imprisonment in the provincial jail. A copy of this order does not appear to have been received by petitioner before May 3, 1966.

On April 30, 1966, petitioner registered with this Court a petition for impeachment of respondent judge.[4] On June 27, 1966, this Court dismissed the same for lack of merit.

In the meantime, at the hearing of May 3, 1966, respondent judge asked petitioner to withdraw his pleading moving for respondent judge's disqualification. Petitioner refused. There-upon, the judge asked if petitioner was going to pay the fine or not. Petitioner informed the court that he had not received copy of any order sentencing him for contempt and that he had a right to move for reconsideration after receipt of a copy of such order. It was at this juncture that the judge verbally ordered a guard to commit petitioner to jail (according to respondent judge, he instructed the guard to detain petitioner merely at the Office of the Warden). Petitioner was restrained of his liberty for two hours from 10:00 o'clock a.m. to 12:00 o'clock p.m., at which time the judge reconsidered his verbal order of commitment and set petitioner free with the following order: "Acting on the oral manifestation of defendant Atty. Baldomero S. Luque to the effect that up to this date he has not received the Order of this Court dated April 26, 1966, the Order of his Commitment to the Provincial Jail at Lucena City is hereby held in abeyance until after said defendant shall have received a copy thereof and given a chance to explain why the said

Order shall not be carried out."

The petition to disqualify respondent judge was denied by the latter on the same day, May 3, 1966, as follows: "It appear-ing that there is neither a legal nor moral ground to disqualify the Presiding Judge of this Court in hearing this case, the Petition to disqualify the trial Judge by defendant Baldomero S. Luque is hereby denied. Reset the hearing of this case on June 7, 1966."

On July 26, 1966, following a series of pleadings, respondent judge signed an order which in part reads:

"x x x

The defendant, Atty. Baldomero Luque insists that the Presiding Judge of this Court should not try this case for which he requests that he be given one (1) month from today within which to file his Petition of either Cer-tiorari or Prohibition, so that he again requests for postponement, which is not objected to by the other counsel, if only to settle this issue once and for all and to afford said defendant all conceivable remedies he may choose to take advantage of. Unless said defendant secures a restraining order from the Supreme Court, the trial shall proceed definitely on September 6 and 9, 1966, at 9 A.M. and the Court will not countenance any further postponement. x x x."

Petitioner next went to the Court of Appeals with a petition for prohibition and mandamus with preliminary injunction,[5] pray-ing, inter alia, for the return of Civil. Case 4871 to Branch I of the Quezon Court of First Instance. On September 9, 1966, the Court of Appeals dismissed the petition. Petitioner's move to reconsider was thwarted by the Court of Appeals' resolution of October 10, 1966. The Court of Appeals, through a reasoned resolution of October 26, 1966, denied petitioner's second motion for reconsideration.

Petitioner then came to this Court on November 14, 1966 on appeal by certiorari with a prayer for preliminary injunction. We gave due course on November 17, 1966 and directed the issuance of a preliminary injunction upon a P1,000-bond.

Having received the foregoing resolution on November 22, 1966, petitioner on the same day telegraphed respondent judge asking that the case be held in abeyance because this Court gave due course to his petition and that he was filing the injunction bond the day following.

Notwithstanding the receipt of the foregoing telegram, on November 23, 1966 respondent judge denied postponement and directed that trial on the merits proceed.

As it turned out, respondent judge cancelled the succeeding hearings he set for the case after receiving the preliminary in-junction of this Court.

We treat the case before us as an original petition for cer-tiorari, prohibition and mandamus. Enough averments there are in the petition and the return to do so.[6]

1. This case presents an unedifying picture of animosity, hostility and bad blood between petitioner, a lawyer and party defendant and cross-defendant, and respondent, a judge. From the events that occurred in the court below, we gather the im-pression that the courtroom had been converted into an arena of recriminations between the two. Opprobious language has been employed by both.

It is the duty of both counsel and judge to maintain, not to destroy, the high esteem and regard for courts. Any act on the part of one or the other that tends to undermine the people's res-pect for, and confidence in, the administration of justice is to be avoided. And this, even if both may have to restrain pride from taking the better part of their system. To be expected then of petitioner and respondent is a sense of shared responsibility, a crucial factor in the administration of justice. And yet lack thereof is painfully apparent in the record of this case. It

would appear that both petitioner and respondent were seized by a kind of ennui which immobilizes the sense of proportion of men trapped in situations where emotion runs loose.

2. A lawyer is an officer of the court. Canon I of the Canons of Professional Ethics enjoins him "to maintain towards the Courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance." When a lawyer goes past respectful disagreement with the judge and enters into the forbidden area of uncontrolled criticism, he trenches upon this canon.

Let us look into the language employed by petitioner. Petitioner, in his motion to disqualify respondent judge, charged that the latter had "suppressed the true and genuine proceedings" and had "doctored the records" in reference to what took place in court on February 28, 1966; that the other order of March 8, 1966 was either due to gross incompetence or deliberately made as a basis for requiring him to explain within 24 hours why he should not be cited for contempt.

Suppression of the true and genuine proceedings is a charge serious enough. Doctoring is no less grave. The word "doctored" connotes a deliberate act to conceal the truth. But then, the mere omission in the order of February 28 of the facts that petitioner moved to dismiss the case, that petitioner was ordered to make his motion to dismiss in writing, and that the motion was set for hearing on March 21, 1966, in our opinion, are not serious enough to warrant the use of the word "doctored". As thus explained by respondent judge, there was a mere mistake; there was no purpose to mislead. Petitioner could have suffered exasperation at respondent's order to show cause why he should not be held in contempt of court for failure to appear at the trial of March 8. We do say that a lawyer may be under a trying ordeal; he may have a grievance. But he should not give vent to his feelings by employing in a pleading language which is crude. Refinement in language is a trait ideal in the relations between man and man, between lawyer and judge. Undignified language rarely escapes reproof from courts of justice. It would accordingly be but a demonstration of lack of discipline and self-restraint for a lawyer to characterize a judge's actions with some such words as "doctored", "fabrications" or "distortion of truth".[7]

A lawyer must at all times comport himself with respect to judicial officers. This is so necessary to the orderly administration of justice. The person of the judge is immaterial. While a "lawyer possesses the privilege of standing up for his rights even in the face of a hostile court",[8] he should not be given to intemperate outbursts which only tend to promote distrust in the administration of justice. Failure of respect is failure of duty. Petitioner's conduct deserves reprobation.

3. Neither has respondent placed himself on a higher plane.

The judge has been displaying impatience and anger at petitioner. Petitioner claims that when he refused to pay the fine for contempt of court, the judge angrily barked at a guard to commit him to jail; that at one instance, respondent judge irately told him, "I will have you disbarred";[9] that at the July 26 hearing, respondent judge would not give him leeway to speak in court, interrupting him and continuing to say things against him in a derisive tone and in a humiliating and abusive manner; that respondent judge even said: "Why don't you want me to hear and decide this case? Just because you are older you want to impose your will on this Court";[10] that after the judge became tired of talking, the judge told petitioner, who was not given a chance to speak fully: "That is enough, sit down", and strongly banged the gavel.[11] These are not seriously disputed.

Really, from the manner respondent judge answered the petition before us, it would seem that he has lost his composure, has been emotionally unstrung. He had not been sparing in his language either. The members of this Court feel that as befits his exalted position, a District Judge is expected to measure his words. The following from page 5 of respondent's answer before this Court is quite revealing:

"x x x For the poor taste of Petitioner to deduce that we have 'doctored' the records just for a simple mistake in

the date of hearing, which is sometimes inevitable and not our own making, is sheer deviltry and plain cussedness,[12] nay, a display of little, if not lack of respect to the authority on the bench. x x x."

Timely to be recalled here is the following from *Ysasi vs. Hon. Jose F. Fernandez*, viz: "We prefer to think that restraint still is a trait desirable in those who dispense justice." [13]

Petitioner and respondent judge are really at loggerheads with each other; hostility runs deep. This situation is, indeed, unfortunate. But it is in this context that we now view the position of respondent judge in this case.

While it is true that upon the facts thus far recited, and under Section 1, Rule 137 of the Rules of Court,[14] respondent judge may not be legally disqualified from hearing Civil Case 4871, still it may not be amiss to repeat what we have said not so long ago in *Pimentel vs. Salanga* (1967), 21 SCRA 160, 167-168, as follows:

"All the foregoing notwithstanding, this should be a good occasion as any to draw attention of all judges to appropriate guidelines in a situation where their capacity to try and decide a case fairly and judiciously comes to the fore by way of challenge from any one of the parties. A judge may not be legally prohibited from sitting in a litigation. But when suggestion is made of record that he might be induced to act in favor of one party or with bias or prejudice against a litigant arising out of circumstances reasonably capable of inciting such a state of mind, he should conduct a careful self-examination. He should exercise his discretion in a way that the people's faith in the courts of justice is not impaired. A salutary norm is that he reflect on the probability that a losing party might nurture at the back of his mind the thought that the judge had unmeritoriously tilted the scales of justice against him. That passion on the part of a judge may be generated because of serious charges of misconduct against him by a suitor or his counsel, is not altogether remote. He is a man, subject to the frailties of other men. He should, therefore, exercise great care and caution before making up his mind to act or withdraw from a suit where that party or counsel is involved. He could in good grace inhibit himself where that case could be heard by another judge and where no appreciable prejudice would be occasioned to others involved therein. On the result of his decision to sit or not to sit may depend to a great extent the all-important confidence in the impartiality of the judiciary. If after reflection he should resolve to voluntarily desist from sitting in a case where his motives or fairness might be seriously impugned, his action is to be interpreted as giving meaning and substance to the second paragraph of Section 1, Rule 137. He serves the cause of the law who forestalls miscarriage of justice."

Very recently, on May 6, 1969, in *Buenaventura vs. Bene-dicto*, Administrative Case 137, we resolved the following:

"Upon consideration of the motion for reconsideration praying that the resolution of this Court of January 29, 1969 be reconsidered and that respondent judge be ordered to inhibit himself from hearing Civil Case No. 300 of the Court of First Instance of Nueva Ecija, and considering that the issues in said Civil Case No. 300 apparently are the same as those in Criminal Case No. 420, respondent's actuations in which is the subject of the present administrative case, and while technically, respondent judge may not be compelled to inhibit himself from sitting in the trial of Civil Case No. 300 upon the provisions of Section 1 of Rule 137 of the Rules of Court; but that nonetheless having in mind that a litigant is entitled to nothing less than the cold neutrality of an impartial judge and that whatever action may be taken by the respondent judge in said Civil Case No. 300 may be subject to interpretation not conducive to faith in courts of justice: the Court RESOLVED to express its view that the ends of justice will be better subserved if respondent judge should inhibit himself from hearing Civil Case No. 300 afore-said." [15]

All suitors, we must say, are entitled to nothing short of the cold neutrality of an independent, wholly-free, disinterested and impartial tribunal.[16] It has been said that "next in importance to the duty of rendering a righteous judgment is that of doing it in such a manner as will beget no suspicion of the fairness and integrity of the judge." [17] Let it not be said that the administration of justice in this country suffers from too many human

imperfections. To our mind, respondent judge should inhibit himself since it has become apparent that his further continuance in Case 4871 would not be in the best interests of justice, which he is bound to serve.

4. But consideration of the petition herein does not end here. There is the order of respondent judge of November 23, 1966 - issued after the herein petition was lodged with this Court. Said order came about thus: On November 17, 1966, this Court gave due course to the present petition, directed that a cease--and-desist order issue upon a P1,000-bond. Notice of this resolution reached petitioner only on November 22. That same day, November 22, petitioner wired respondent judge informing the latter that the herein petition was given due course and that he would file the necessary injunction bond the following day. That telegram reads: "Respectfully reiterate motion hold abeyance hearing Case No. 4871, Ilaw et al. vs. Ona, et al. Stop Supreme Court gave due course petition certiorari G.R. No. L-26826 Stop injunction bond filed tomorrow. Baldomero S. Luque, Defendant." It will be recalled that respondent judge received the telegram on November 23.

He held sessions on that day. When he received that telegram from petitioner, caution should have suggested to respondent to first ascertain from this Court as to whether or not the petition herein was really given due course and injunction granted if he doubted the veracity of the telegram. But he did not. Right away, he disbelieved petitioner.

Here is what respondent judge in part said in his order of November 23, 1966:

"After hearing the views of counsel for the plaintiffs and for other defendants as well as cross-claimant in connection with the Petition for Certiorari filed by defendant Atty. Baldomero S. Luque before the Supreme Court on November 14, 1966, as well as his pleading entitled 'Special Appearance to Move for Holding Hearing in Abeyance', received on November 22, 1966, coupled with the telegram he sent which we received only today reiterating his motion to hold in abeyance again the hearing of this case on the alleged ground that the Supreme Court gave due course to the petition without furnishing us a copy of the order, the Court is of the considered opinion that in order to protect the interests of all concerned who are desirous to terminate this case as soon as practicable since it has been pending way back in April, 1948, and to assert the dignity of the Court, we are constrained to proceed to the trial on the merits after several postponements at the behest of defendant Atty. Luque, evidently intended as dilatory tactics. We share the view of all counsel that the petition for certiorari before the Supreme Court without including the Court of Appeals as co-respondent is patently irregular, and we have grave doubts whether the Supreme Court, with due respect, will give this petition due course. At any rate, since there is no restraining order from a higher court, as previously understood, and if only to appear consistent to our repeated orders that we shall not countenance any further postponement, there is no course of action left for us to take but to proceed to trial in the exercise of our discretion. x x x."

This order of November 23 is plainly indicative of the judge's frame of mind. It is evidence that petitioner has not merely fallen in his disfavor; respondent judge had by then formed a hardened idea that petitioner is incapable of telling the truth. Respondent judge should have taken stock of the fact that petitioner, besides being an attorney, is also a party defendant and cross-defendant in Civil Case 4871. The fate of that case mainly hinges upon whether or not the compromise agreement entered into in Civil Cases Nos. 6 and 26 of the Court of First Instance of Quezon were obtained through duress and intimidation. It is quite reasonable to assume that the petitioner as defendant in the case before respondent judge would take the stand. For, counsel had a hand in that compromise agreement. Respondent, too, must meet the evidence against him on the cross-complaint. Is it far-fetched then to say that if Case 4871 is to be heard before respondent judge, there is a great probability that His Honor would not give petitioner's testimony the credit that normally should be given to it?

The factual setting of the present case goes beyond that in *Pimentel vs. Salanga*, supra. There, petitioner, counsel in a number of cases, sought the judge's disqualification in said cases, because counsel was complainant in an administrative case against respondent judge upon averments of "serious misconduct, inefficiency in office,

partiality, ignorance of the law and incompetence." [18] Here, complainant is not merely an attorney but also a defendant and cross-defendant. In Pimentel, "[n]o act or conduct of his (respondent judge) would show arbitrariness or prejudice." [19] There, whether or not petitioner's clients would get a fair trial was still in the speculative stage. Here, the case went farther. Respondent's prejudice against a suitor has concretely manifested itself. The animosity between respondent judge and petitioner, a party to the case below, had developed through a long period of time, become patent in the order of November 23, 1966, and is even evident in this case before this Court. By now, it is quite difficult to take out of petitioner's mind the impression that he cannot get a fair trial from respondent judge.

In the circumstances presented, we are constrained to state that respondent's taking cognizance of said case does not square with our sense of justice. It is to be stressed once again that parties have a right to have their cases tried fairly by an impartial tribunal.

It is because of all of these that we rule that it would be a grave abuse of discretion on the part of respondent judge to further take cognizance of Civil Case 4871.

5. But another reason as potent exists why respondent judge should not be insulated from the charge of abuse of discretion in taking cognizance of Case 4871. It is that respondent judge got hold of that case under circumstances which were far from regular.

Of course, it must be conceded that respondent judge of Branch IV had authority to hold court in Lucena City for the pur-pose of trying all kinds of cases and entering judgments therein. But the fact is that Case 4871 had been previously assigned and belonged to Branch I. Precisely, the formal notice to the parties for the hearing scheduled for November 5, 1965, in plain terms, states that "the above-entitled case will be heard in the 1st Branch of this Court." [20] But when the case came up for hearing on November 5, 1965, this Case 4871 no longer appeared in the calendar of cases corresponding to Branch I. We are confronted by information put forward by petitioner in his reply to respondent's answer, dated December 24, 1966 (which was made complete on January 4, 1967), that on November 5, 1965, "Judge Valero did not fail to report, but on the contrary, he reported early on November 5, 1965 in his Branch I in Lucena City and he called up a high pile of cases that day." [21] He appended as Annex A to his printed memorandum filed on February 8, 1967, a certification coming from Deputy Clerk Pedro B. Zara that "Hon. Gabriel V. Valero held Court sessions on November 5, 1965 at the City of Lucena, Capital of this province." In the face of these averments, we find respondent judge standing mute. He has made no effort to deny that Judge Gabriel Valero was in Lucena City on November 5, 1965 hearing cases for Branch I. He had two opportunities to deny the same before us, after petitioner twice - once in petitioner's said reply and then on pages 24-25 of his printed memorandum - represented this point of fact. The judge waived his right to oral argument and to the submission of his memorandum. That he did not refute the proffered fact just mentioned we consider very significant.

We have to give due credence to petitioner's assertion of fact not only because it is unrebutted on record and supported by an official certification, but also because it is corroborated by the narration of facts given by the attorney for the other side - the plaintiffs - in the case below. It will be recalled that, as earlier stated, plaintiffs' attorney came to court that day - November 5, 1965 - and found that Case 4871 was not included in the list of cases to be heard by Branch I but was included in the calendar of "the other sala". Implicit from the foregoing is that on November 5 there was a list of cases for Branch I which did not include Case 4871, as should be the case, for Case 4871 properly belonged to Branch I.

Upon the other hand, the explanation given by respondent judge does not appear to be reasonable. It is contrary to the facts. It surely is not in keeping with the sound administration of justice for a judge of a branch of a court to

take for himself a case belong-ing to another branch of the same court without justifiable reason therefor. Such a procedure breeds confusion. It could even be suspect. It opens up a charge such as here presented that respondent has demonstrated "unusual interest" in this case and refused to return it to Branch I inspite of petitioner's move for the purpose.[22]

One important judicial norm is that "[a] judge's official con-duct should be free from the appearance of impropriety." [23] A creed to which a judge is hidebound is, in the words of the preamble of the Canons of Professional Ethics, that: "The future of the Re-public, to a great extent, depends upon our maintenance of Justice pure and unsullied."

In the factual environment just presented, we hold that re-spondent judge also committed a grave abuse of discretion in taking cognizance of Civil Case No. 4871 of the Court of First Instance of Quezon. He should, therefore, be prohibited from hearing the same.

For the reasons given -

- (1) the writs of certiorari, prohibition and mandamus are hereby granted;
- (2) the proceedings taken by respondent judge in Civil Case 4871 of the Court of First Instance of Quezon are hereby declared null and void;
- (3) respondent judge is hereby directed to refrain from taking cognizance of said Civil Case 4871;
- (4) the preliminary injunction heretofore issued by this Court is hereby made permanent;
- (5) respondent judge is hereby directed to return Civil Case 4871 of the Court of First Instance of Quezon to Branch I; and
- (6) we admonish petitioner, Atty. aldomero S. Luque, for his use of improper language with a warning that repetition thereof will be dealt with accordingly; and we direct that copy of this decision be attached to his record in this Court, as a member of the Bar.

No costs allowed.

SO ORDERED.

Concepcion, C.J., Dizon, Makalintal, Castro, Fernando, Capistrano, Teehankee and Barredo, JJ., concur.
Reyes and Zaldivar, on official leave.

[1] Entitled "Bibiano Ilao, et al., Plaintiffs, versus Florencio Ona, et al., Defendants."

[2] "SEC. 56. Special terms of court,- Mien so directed by the Department Head, District Judges shall hold special terms of court at any time or in any municipality in their respective district for the transactions of any judicial business."

[3] See: Rollo, p. 78.

[4] Administrative Case 103.

[5] CA-G.R. No. 37984-R, entitled "Baldomero S. Luque, Petitioner, versus Judge Union C. Kayanan, Presiding Judge of CFI-Quezon Province Br. IV, Respondent."

[6] See: Concurring Opinion of Mr. Justice Barredo in Estrada vs. Sto. Domingo, L-30570, July 29, 1969

[7] Petitioner's printed memorandum, pp. 33, 43.

[8] Salcedo vs. Hernandez, 61 Phil. 724, 731.

[9] Rollo, p. 107; petitioner's printed memorandum, p. 29.

[10] Petitioner's printed memorandum, pp. 25-26.

[11] Id., p. 28.

[12] Emphasis supplied.

[13] 26 SCRA 393, 409.

[14] "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.

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

[15] Emphasis supplied.

[16] See: 30A Am. Jur., p. 56; In re Kelley, 35 Phil. 944, 951; Salcedo vs. Hernandez, supra, at p. 727.

[17] 30A Am. Jur., p. 56.

[18] At p. 162.

[19] At p. 167.

[20] Rollo, p. 32; emphasis supplied.

[21] See: Rollo, p. 116; emphasis supplied?

[22] Petitioner's printed memorandum, pp. 27, 40, 42, 48.

[23] Section 3, Canons of Judicial Ethic.

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