

ATTY. DAVID G. OMPOC, COMPLAINANT, VS. JUDGE NORITO E. TORRES, RESPONDENT.*A.M. No. MTJ-86-11. September 27, 1989*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/3cbd915879d7/>**PER CURIAM:**

In his First Indorsement dated 9 September 1986,[1] Mr. Ramon J. Liwag, Service Chief, Technical Staff, Ministry of Justice (now Department of Justice) referred to the Court Administrator a sworn letter complaint dated 18 June 1986 of Atty. David G. Ompoc against Judge Norito E. Torres.

The letter-complaint charged respondent Judge with gross misconduct in office, stating, among other things, that "Judge Norito Torres is wanting of [sic] that degree of moral fiber required of a member of a judiciary. He is unfit to hold such an exalted position and his removal from such will pave the way to cleanse the judiciary of the corrupt and graft-prone judges." [2] Details of the complaint read as follows:

"A civil case no. R-26374 for ejectment entitled, Marcos A. Escobar, plaintiff versus Deco Sales, defendant, was filed sometime in 1984 with the City Court of Cebu. After the usual raffle it was assigned to Judge Norito Torres, Branch VII. While the case was being tried on the merits, at one time he invited me to see him at his residence at Banawa, Cebu City and he instructed me to bring my client, Mr. Charlie Taguiam, proprietor of Deco Sales along with me. That meeting at the residence of Judge Torres was actually held with me and Mr. Taguiam present, and in the course of our intimate conversation he gave us a guide what evidence and argument we have to present. Also in that meeting Judge Torres requested Mr. Charlie Taguiam, who is engage (sic) in the business of Car Decor to install a brand new airconditioner on his Toyota Hi-Ace and said airconditioner was installed without Judge Norito Torres paying for it.

As the ejectment case progressed Judge Norito Torres had been pestering my client Mr. Charlie Taguiam with request for loans which he never acknowledged by means of a receipt and he was given by my client sums of money totalling Twenty Five Thousand Pesos (P25,000.00) in various amounts and on different dates. These loans have never been paid up to now and this certainly will not be paid to the end of time because Judge Norito Torres is smart enough not to sign anything. Before he pinned (sic) his decision on May 2, 1986, xerox copy is hereto attached Annex A, Judge Torres called my client and pressured him to enter into an amicable settlement with the plaintiff by paying the back rentals amounting to Two Hundred Thousand Pesos (P200,000.00) because he may have entered into an agreement with the plaintiff in the division of the spoils just in case my client would accede to it. My client refused to enter into any kind of settlement because he believed in the justness of his cause." [3]

In a Resolution dated 2 October 1986, the Court required the respondent Judge to file his comments on the complaint. Upon consideration of the comment dated 4 November 1986 of respondent, the Court, by a Resolution dated 3 March 1987, resolved to refer the complaint to then Executive Judge Juanito Bernad (now Deputy Court Administrator of the Supreme Court), Regional Trial Court, Cebu, for investigation, report and recommendation.

Immediately after he received the order, the Investiga-ting Judge conducted hearings on the complaint on March 25, 27 and 31, 1987; April 8, 13, 15, 20, 22 and 30, 1987; and May 4 and 14, and 31, 1987.

In a Report and Recommendation dated 23 June 1987, Investigating Judge found that respondent Judge Norito Torres then Presiding Judge of MTCC, Branch 7, Cebu City, had before him an ejectment case entitled Marcos A. Escobar v. Deco Sales (or Charlie Taguam) docketed as Civil Case No. R-26374; that while the case was ongoing, Judge Torres invited counsel for defendant Deco Sales and the owner of Deco Sales, Mr. Charlie Taguam, to see him at his (the Judge's) residence for a conference; that the conference turned out to be an out-of-chambers discussion of Civil Case No. R-26374 where Judge Torres advised them on the steps to be undertaken in order to win the case and at the same time, requested Mr. Taguam to have a new air-conditioner on his Toyota Hi-Ace installed; that subsequently, Judge Torres borrowed from Mr. Taguam a total amount of P8,000.00 on different dates; that in the end, Mr. Taguam lost in Civil Case No. R-26374 because he refused to listen to Judge Torres' advice to settle the case amicably by paying plaintiff Marcos Escobar the amount of P200,000.00 allegedly representing back rentals.

The Report of the Investigating Judge reads in part as follows:

"(1) that the respondent Judge Norito E. Torres MTCC Cebu, City Branch VII was, like all other judges and fiscals in Central Visayas the object of background investigation conducted by the NBI, Regional Office, Cebu City in connection with the judiciary reorganization of 1986, after the assumption to office of President Aquino (Exh. 'E', p. 90 record);

(2) that the agent assigned to conduct said investigation on respondent was Senior Agent Ramon Barot, Jr. (Exhs. 'D' and 'D-1', p. 89 *ibid*);

(3) that in connection with said investigation Agent Barot elicited documentary and testimonial evidence incriminatory to the respondent from the respondent's janitor Mr. Paterno H. Rafols who executed on 24 June 1986 a sworn statement (Exh. 'A', pp. 84-85, record) who stated that in addition to his duties as janitor to Branch VII, he also did errands for the respondent and one of those errands was being sent by the respondent to Mr. Charlie Taguam on 24 December 1985 to receive P5,000.00 which was in the form (to the mind of this investigator was not anticipated by the respondent) of City Trust Bank Check No. 181384 dated 24 December 1985 (Exh. 'B', p. 86, *ibid*);

(4) that janitor Rafols, without realizing the implications of receiving a check from a party to a case for the judge, cashed it with drawee bank by indorsing the check at the back thereof, received the cash P5,000.00 and delivered it to the judge without telling the latter that he received a check, no evidence that janitor Rafols told the judge having been offered;

(5) that at the time Exhibit 'B' was received by the respondent's janitor, Mr. Charlie Taguam and/or Deco Sales was a party defendant in Civil Case No. R-26374 for Ejectment with a Prayer for A Writ of Preliminary Attachment then pending at the sala of the respondent, decision thereof dated May 2, 1986 (p. 5, *ibid*);

(6) that on 27 December 1985 respondent's janitor again received from Charlie Taguam for the judge Consolidated Bank and Trust Corporation (Tabo-an Branch, Cebu City) Check No. A 32-186586 dated December 27, 1985 for the amount of P3,000.00 (Exh. 'B-1', p. 87, *ibid*) which he encashed and the proceeds thereof delivered to the respondent;

xxx xxx xxx

The facts noted in the aforesaid observations have been admitted by the respondent except our own conclusions on the facts that the respondent was unaware of the existence of those checks received and indorsed by his janitor and the unanticipated background checks because being a former agent of the NBI, he would have known better than to leave tell-tale evidence.

The receipt of the checks for the respondent and the amounts corresponding thereto were confirmed not only by court janitor Rafols but also by Mr. Charlie Taguam himself who took the witness stand not as an avenging

witness desiring vengeance but appeared merely in obedience to the subpoena issued by this investigator in his capacity as Executive Judge (p. 71, record).

The existence and authenticity of said photocopies (Exh. 'B', 'B-1') were established by the testimony of Senior Agent Ramon Barot Jr. who likewise testified and identified the photocopies comparing them with the originals and microfilm presented during the hearing and found by the undersigned to be faithful reproductions.

Charlie Taguam testified that those amounts (Exh. 'B' for P5,000.00 and Exh. 'B-1' for P3,000.00 were loans requested by the respondent judge from him during the pendency of his case but were not receipted by the respondent and were never paid; that he did not demand any receipt because the respondent was and still is a judge that he could not bring himself to demand receipts from the respondent but impliedly would have welcomed, if not wished to be paid, notwithstanding the pendency of his case then at the respondent's sala at the time the loans were asked;

That Charlie Taguam while testifying did not show or betray any trace of revenge against the judge whom he gave so much attention and expense (the improvements on the respondent's vehicle will be discussed later) in spite of losing his case after so much expectation of a victory somewhat anticipated not only by his belief on the merits of his case but also by the respondent's seemingly encouraging attitude in the request and acceptance of favors other than the uncontrollable tears rolling down his cheeks remembering the past, losing the case and in having to compromise his case for P200,000.00 at the RTC of Cebu City at his aged and sick mother's behest, who had suffered a stroke as a result of said litigation, near bankruptcy, him without a father and having to revive and resuscitate the business as the eldest in the family at that stage of near bankruptcy.

xxx xxx xxx"[4]

Respondent tried to account for the checks that were submitted in evidence through a strange, involved story concerning an alleged entrepreneurial effort on the part of some of his townmates to raise money. The Investigating Judge found the respondent's and his witnesses' stories as unworthy of credence:

"Indeed, it is taxing one's imagination to lend credence to the fantastic theory of the defense that to summarize briefly, a Municipal judge will raise P50,000.00 in cold cash from a friend (Mr. Amodia) in a matter of a day's time, without signing any note or giving any collateral for it, nor the latter demanding any memorandum thereof and giving it to another friend (Mr. Amistad) without again any promissory note, memorandum or collateral but merely on a verbal promise of 50% share in the profit plus legal interest of a considerable amount such as P50,000.00 in 3 month's time;

That when the 3 months was up, the alleged lender (Amodia) called the judge (Torres) to remind him of the money and the latter reminding the borrower, who allegedly issued a P25,000.00 check (which was never produced in evidence giving the impression to the undersigned that there was never a check), delivered it to the judge who grudgingly acceded to his interpreter's (Mr. Malig-on) moral perorations that there was nothing wrong with asking a litigant to encash a post-dated check for P25,000.00 which was allegedly honored for only P5,000.00 and which amount was gladly accepted by the lender for the P25,000.00 check paid to him;

That to the undersigned, it is not credible that a man with P25,000.00 check in his favor paid by his debtor, would entrust the encashment of the same to the janitor of the judge rather than for him to do it himself after the judge and Mr. Taguam had talked on the telephone;

That the lender of P50,000.00 cold cash would accept P5,000.00 for a P25,000.00 check without a whimper and still tipped the janitor P100.00; that for another P25,000.00 check of the borrower dated January 7, 1985 (Exh. '2') when the first payment was made on December 31, 1985, was supposed to have been a mistaken date because the alleged true date was January 7, 1986 and a chinese businessman like Mr. Taguam will honor it (wrong date and all) for P3,000.00 and the lender (Amodia) will accept P3,000.00 for P25,000.00 check again

without a whimper?

Such was the story unraveled by the respondent and his witnesses in his defense on the checks. No documentation whatsoever was presented for such a transaction involving P50,000.00 supposedly in cold cash except for a worthless check with an alleged wrong date (Exh. '2') and supposedly bearing the date of January 7, 1986 but actually dated January 7, 1985 which Mr. Taguam peremptorily dismissed as having nothing to do with the transaction in question for it was indeed a worthless check which was presented to him for payment by the respondent judge which he refused and after depositing, it bounced and returned by Taguam and was forgotten."[5]

From the evidence submitted to him, the Investigating Judge reached the following conclusions:

"The undersigned is convinced that, on the basis of the testimonial and documentary evidence offered and admitted on both sides, the respondent judge failed to rebut successfully the evidence of the complainant on the check charges.

As to the charges re the "Light Ace" van, respondent admitted the ownership originally by him and later by his wife of said vehicle (Exhs. '3' and '4'); admitted that complainant and client Taguam went to his residence to talk about the case which he entertained; admitted sending his vehicle to defendant's shop for repair on seats, new seat covers furnished by the defendant, repairs on his sedan, all for free during the pendency of the case on the shop owner's (Taguam) assurance that the materials used were extra remnants from repairs of other customers and inconsequential.

Respondent denies the installation of an airconditioner but the way Mr. Taguam testified about it, where it was installed (ceiling of the van), his sincerity in testifying along with the admission of respondent in having sent for his van with his driver to the defendant's (Taguam) shop for the repairs which he himself (respondent) estimated to have cost P350.00 or more (a conservative estimate on the basis of the description of the improvements introduced) and even offered to pay now if owner Taguam will accept even in the absence of invoices of the cost of the aircon and other materials, a strong conviction that the complainant's allegations, including the installation of the aircon in respondent's van, are true.

Other than the aircon which Taguam offered to respondent at a 50% discount from the original cost of P10,000.00 (brand new), he really had no intention to be paid for the minor repairs and improvements. He had really given them away to the judge.

xxx xxx xxx."[6]

While he found the charges against respondent Judge to have been proven, the Investigating Judge refrained from making a recommendation on the appropriate administrative penalty for respondent.

After having carefully examined the records in this case, the Court is convinced that respondent Judge did commit the acts with which he was charged. In receiving P5,000.00 and P3,000.00 from a party to a litigation before him, as loans which he never paid back and which to all appearances he never intended to pay back, and in refusing or failing to pay for an airconditioner installed in his wife's automobile van by a shop owned by a party litigant before him, respondent Judge is guilty of serious misconduct in office and of acts unbecoming a member of the judiciary.

This Court cannot too strongly deplore and denounce the gross misconduct of respondent Judge. In *Haw Tay v. Singayao*,^[7] the Court, in holding a judge guilty of serious misconduct in office and his dismissal warranted (had his resignation not already been accepted by the President), upon finding that he had demanded and received money from a party litigant said:

"It is this kind of gross and flaunting misconduct on the part of those who are charged with the responsibility

of administering the law and rendering justice that so quickly and surely corrodes the respect for law and the courts without which government cannot continue and that tears apart the very bonds of our polity." [8]

Again, in the case of *Cabrera v. Pajares*, [9] the Court dismissed respondent Judge from the service, having found him guilty of accepting money from a party litigant in a case before his sala knowing that the amount was given to him by reason of his office, stressed:

"Members of the judiciary should display not only the highest integrity but must at all times conduct themselves in such manner as to be beyond reproach and suspicion. (*Quiz vs. Cantano*, 107 SCRA 196; *Montemayor vs. Collado*, 107 SCRA 258) The Court had likewise stressed in *De la Paz vs. Inutan* (64 SCRA 540) that '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 interests, x x x. Thus, for the judge to return that regard, he must be the first to abide by the law and weave an example for the others to follow. He should be studiously careful to avoid even the slightest infraction of the law.' (See also *Fonacier-Abaño v. Ancheta*, 107 SCRA 538)." [10]

ACCORDINGLY, the Court Resolved to DISMISS respondent Judge from the service, with forfeiture of all his accrued retirement benefits, leave and other privileges, if any, and with prejudice to re-employment in any branch, agency or instrumentality of the government, including government-owned or controlled corporations.

The Court also Resolved to REQUIRE respondent to show cause within ten (10) days from receipt of this Resolution why he should not be DISBARRED for gross professional misconduct and violation of the attorney's oath, consisting of the same acts of which he has here been found to be guilty.

Let a copy of this Resolution be furnished the Ombudsman, for appropriate action on the probable violations of the Anti-Graft and Corrupt Practices Act by the respondent Norito E. Torres, with the request that the Court be informed of the action taken.

A copy of this Resolution shall also be forwarded to the Integrated Bar of the Philippines for its information and records.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

[1] Rollo, p. 1.

[2] *Id.*, p. 3.

[3] *Id.*, pp. 2-3; underscoring supplied.

[4] Rollo, pp. 147-149; underscoring supplied.

[5] Decision/Report and Recommendation, Rollo, pp. 150-151; underscoring supplied.

[6] Rollo, pp. 151-152; underscoring supplied.

[7] 154 SCRA 107 (1987).

[8] 154 SCRA at p. 112.

[9] 142 SCRA 127 (1986).

[10] 142 SCRA at 135.

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