

JEWEL F. CANSON, COMPLAINANT, VS. HON. FRANCIS E. GARCHITORENA, HON. JOSE S. BALAJADIA, HON. HARRIET O. DEMETRIOU, AND HON. SABINO R. DE LEON, IN THEIR CAPACITIES AS MEMBERS/SPE...

SB-99-9-J. July 28, 1999

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

In this administrative complaint respondents stand charged for violation of Section 7, P. D. No. 1606; Rule 8 of the Revised Rules of the Sandiganbayan; Rules 1.02, 2.01, 3.01 and 3.05 of the Canons of Judicial Conduct; and Gross Misconduct in allegedly knowingly and deliberately delaying the transfer of Criminal Case Nos. 23047-23057 to the Regional Trial Court of Quezon City.

The factual and procedural antecedents, as summed[1] by the Office of the Court Administrator (OCA) and borne out by the records disclose that the following were filed by complainant Jewel F. Canson, Chief Superintendent, National Capital Regional Command (NCRC):

"1. VERIFIED COMPLAINT[2] dated February 24, 1997 with enclosures charging respondents Presiding Justice Francis E. Garchitorena, and Associate Justice Jose S. Balajadia in their capacity as designated Special Members of the Second Division, Sandiganbayan, and, Associate Justices Roberto M. Lagman, Harriet O. Demetriou and Sabino R. de Leon, Members, Second Division, Sandiganbayan with Violation of Section 7, P.D. 1606; Rule 8 of the Revised Rules of the Sandiganbayan; Rules 1.02; 2.01; 3.01 and 3.05 of the Canons of Judicial Conduct, and, Gross Misconduct relative to Criminal Cases Nos. 23047-23057, all entitled "People of the Philippines vs. Chief Insp. Michael Ray Aquino, et al." in connection with the slaying of the eleven suspected members of the Kuratong Baleleng Gang by PNP personnel on May 18, 1995.

2. MOTION TO ADMIT AMENDED COMPLAINT[3] dated April 16, 1997 dropping Associate Justices Jose S. Balajadia, Roberto M. Lagman and Harriet O. Demetriou, as respondents in the case, it appearing that the questioned delay in resolving the subject matter of the instant administrative complaint is directly attributable to only two of the respondent Justices, namely : Presiding Justice Francis E. Garchitorena and Associate Justice Sabino R. de Leon; and

3. VERIFIED AMENDED COMPLAINT[4] dated April 16, 1997 charging respondents Presiding Justice Francis E. Garchitorena and Associate Justice Sabino R. de Leon as designated Special Members of the Second Division of the Sandiganbayan with the following:

a] Willful violation of Sec. 7, P.D. No. 1606 and Rule 8 of the Revised Rules of the Sandiganbayan;

Complainant asserts that under Section 7 of P.D. No. 1606 (1978) the Sandiganbayan is required to resolve a

motion for reconsideration of any final order or decision within thirty (30) days from its submission. This same 30-day period for resolving motions for reconsideration is prescribed by Rule VIII of the Revised Rules of the Sandiganbayan. Notwithstanding, respondent Justices flagrantly violated and blatantly disregarded the law and the Sandiganbayan's own rules of procedures in failing and refusing to resolve, despite repeated motions, the motions of the public and private prosecutors for reconsideration of the Resolution dated May 8, 1996 admitting the amended information and ordering the transfer of the eleven (11) criminal cases to the RTC, Quezon City.

b] Violation of the Canons of Judicial Conduct

RULE 1.02 - administer justice impartially and without delay;

RULE 2.01 - behave at all times to promote public confidence in the integrity and impartiality of the judiciary;

RULE 3.01 - be faithful to the law and maintain professional competence; and

RULE 3.05 - dispose of the court's business promptly.

Complainant asserts that respondent Justices were responsible for the failure of the Sandiganbayan to promptly resolve the motions for reconsideration (ANNEXES "B"[5] and "C"[6]) of the Resolution of May 8, 1996 (ANNEX "A"[7]) filed by the prosecution in Criminal Cases Nos. 23047-23057; thus the subject motions remained pending for almost ten (10) months despite filing of several motions for early resolution; and

c.] Gross misconduct for knowingly and deliberately delaying the transfer to the RTC of Criminal Cases Nos. 23047-23057.

Complainant contends that the inaction of the respondent Justices is due to more than simple innocent (sic) and simple oversight on their part. While respondent Justices were tarrying over the unresolved incident, the Senate had already conducted its inquiry into the Kuratong Baleleng case, set legislative proceedings into action to amend the law on the jurisdiction of the Sandiganbayan to include the very criminal cases which the respondent Justices and the other members of the Second Division, on a 3-2 vote, had already resolved to transfer to the RTC, Quezon City.

In anticipation of the amendatory law which could eliminate the jurisdictional objections to the Sandiganbayan

trying and deciding the said cases instead of having them transferred to the RTC the respondent Justices knowingly and intentionally delayed resolving the pending incidents. Had the respondent Justices promptly acted on the motions for reconsideration by giving their concurrence/dissent to the Associate Justice's signed ponencia to pave the way for the transfer of the subject criminal cases to the RTC for trial, the Sandiganbayan would have lost the opportunity to retain the cases under the transitory provisions of the amendatory law.

Other relevant information submitted by the OCA[8] with regard to the case and the complainant, who is among the accused charged as accessories-after-the-fact narrates that -

"On November 21, 1995, the Ombudsman filed with the Sandiganbayan eleven (11) informations for murder against the therein named members of the Philippine National Police (PNP) which the Ombudsman amended on March 1, 1996 downgrading the charges against accused Panfilo M. Lacson from principal to accessory after the fact.

"On March 5 and 6, 1996, eleven (11) of the accused moved to transfer the cases to the RTC or to otherwise dismiss the same on the ground of lack of jurisdiction of the Sandiganbayan to offenses where the principal accused are PNP officials with rank of Chief Superintendent or higher, or, any government official with a salary grade of 27 or upwards.

"Complainant contends that with the charges against accused Panfilo M. Lacson downgraded to mere accessory-after-the-fact the case is now without a principal accused with the requisite rank and salary grade that would confer on the Sandiganbayan the jurisdictional requirement to try the said case.

"In the Order dated March 14, 1996, the Sandiganbayan resolved to consider the jurisdictional issue submitted for decision. On March 26, 1996, pursuant to Administrative Order No. 121-96, respondent Justices Garchitorena and De Leon were designated Special Members of the three-man Second Division composed of Justices Balajadia, Demetriou and Lagman, for purposes of Criminal Cases Nos. 23047-23057. On a 3-2 vote the Sandiganbayan ordered the transfer of the subject cases to the RTC in the resolution dated May 8, 1996 (ANNEX "A")[9] On May 17 and 22, 1996, the public and private prosecutors filed separate motions for reconsideration (ANNEXES "B" and "C")[10] of the aforesaid Resolution with the corresponding oppositions (ANNEXES "E" and "F")[11] filed by herein complaint (sic). The incident was deemed submitted for resolution by the end of June 1996 but the Sandiganbayan failed to resolve the same despite several motions for early resolution (ANNEXES "G", "H", "I" and "J").[12]

"Meantime, on May 27, 1996 or nineteen (19) days after the Sandiganbayan ordered the transfer of the cases to the Regional Trial Court, House Bill No. 5323 was filed for the purpose of amending the jurisdiction of the Sandiganbayan. The amendatory bill sought among others to delete the word "principal" from the phrase "principal accused" in Section 4 of the old law so that offenses involving any high-ranking official, regardless of the extent of his participation in the crime charged, whether as principal, accomplice or accessory would fall within the jurisdiction of the Sandiganbayan.

"On September 26, 1996, a counterpart bill was filed before the Senate by Senator Raul Roco as Chairman of the Senate's Committee on Justice and Human Rights. Respondent Presiding Justice Francis Garchitorena, who advocated the retention of the cases by the Sandiganbayan in his dissent to the resolution directing the transfer of the cases to the RTC attended and participated in the Senate hearings held on the bill and was thus aware of the amendatory law.

"On February 5, 1997, the bill was signed into law and designated as R.A. 8249 (ANNEX "K").[13] The transitory provisions of R.A. 8249 provided for the transfer to the Sandiganbayan of all cases falling under its modified jurisdiction which may be pending before the Regional Trial Court but have not yet commenced trial.

"On March 6, 1997, herein complainant received from the Sandiganbayan a copy of the Resolution dated September 4, 1996 (ANNEX "L")[14] resolving the motions for reconsideration. Although dated six (6)

months earlier, the said resolution was promulgated on March 5, 1997. It was signed by its ponente, Associate Justice Lagman on September 4, 1996, concurred in by Associate Justice Demetriou on October 30, 1997 and by respondent Justice de Leon on February 28, 1997. A separate dissent thereto was filed by Associate Justice Balajadia on October 28, 1996 while respondent Presiding Justice entered his dissent on February 26, 1997.

"Complainant argued that despite the readiness of Associate Justices Lagman, Demetriou and Balajadia to dispose of the incident as of October 1996, respondent Justices clearly delayed action on the motions for reconsideration. Their action was knowingly and intentionally delayed in anticipation of the amendatory law that would eliminate the jurisdictional objections for the Sandiganbayan to try and decide the subject criminal cases."

In a Resolution dated July 7, 1997 the Court: 1.] noted the administrative complaint against Presiding Justice Francis E. Garchitorena, Associate Justices Jose S. Balajadia, Roberto M. Lagman, Harriet O. Demetriou and Sabino R. de Leon, Jr.; 2.] granted complainant's motion to admit amended complaint dropping Associate Justices Balajadia, Lagman and Demetriou as respondents; and 3.] requiring respondents Sandiganbayan Presiding Justice Francis E. Garchitorena and Associate Justice Sabino R. de Leon, Jr. to comment on the administrative complaint within ten (10) days from notice.[15]

On August 15, 1997 respondent Sandiganbayan Presiding Justice filed a Motion To Dismiss Petition As Against Justice Sabino R. De Leon, Jr.[16] averring that respondent Justice De Leon, Jr. be discharged from the instant accusation since he received the draft of the resolution on the motion for reconsideration from his co-respondent on February 26, 1997 and he released that draft with his own concurrence with, and dissent to, the ponencia on the very next day, February 27, 1997. Respondent Sandiganbayan Presiding Justice likewise prayed that Associate Justice de Leon, Jr. be excused from filing a comment on the instant administrative matter or from being required to participate in any further proceeding herein.

In a Resolution dated September 3, 1997[17], the Court required complainant to comment on the motion to dismiss the administrative complaint as against respondent Justice Sabino R. de Leon, Jr.

It appears from the record that complainant received a copy of the above mentioned motion to dismiss on August 29, 1997, thus he forthwith filed motu proprio a comment on the said motion on September 3, 1997[18] averring, among others, that: 1.] In view of the statement in the Motion to Dismiss that respondent Justice Sabino R. de Leon, Jr. had only received the draft of the resolution on the Motion for Reconsideration on February 26, 1997 and that he released that draft with his own concurrence with, and dissent to, the ponencia on the very next day, February 27, 1997, complainant interposed no objection and in fact joins in moving to dismiss the administrative complaint as against respondent Justice Sabino R. de Leon, Jr.; 2.] had complainant been furnished the information requested which is now disclosed in the motion to dismiss, complainant would have, as he had done in the case of Associate Justices Harriet O. Demetriou, Roberto M. Lagman and Jose S. Balajadia, also moved motu proprio to dismiss the case as against Justice Sabino R. de Leon, Jr.

On September 5, 1997, respondent Sandiganbayan Presiding Justice Francis E. Garchitorena filed his comment[19] to the administrative complaint denying the material allegations therein.

Upon receipt on October 7, 1997 of the Court's Resolution of September 3, 1997, requiring him to comment on the motion to dismiss, complainant again filed a comment[20] reiterating that he is not objecting but is in fact joining the said motion to dismiss the administrative complaint as against respondent Justice de Leon, Jr.

In a Resolution dated November 12, 1997[21] the Court, among others, a.] noted the comment of complainant on the motion to dismiss the administrative complaint as against respondent Justice Sabino R. de Leon Jr.; and b.] required complainant to reply to the comment of respondent Presiding Justice Francis E. Garchitorena.

It appears that on December 4, 1997, complainant already filed a Reply which he appended to a motion to admit[22] even before receipt of the above mentioned Resolution of November 12, 1997, thus, he filed a Manifestation[23] apprising the Court of this fact.

On January 12, 1998, the Court issued a Resolution[24] noting complainant's above mentioned manifestation and requiring respondents to file a rejoinder to the reply.

For failure to file said rejoinder pursuant to the above Resolution, the Court subsequently issued a Resolution dated June 23, 1998[25] requiring respondents to show cause why they should not be disciplinarily dealt with or held in contempt for failure to file said pleading and to comply with the Court's Resolution of January 26, 1998 both within ten (10) days from notice.

On June 25, 1998, respondent Sandiganbayan Presiding Justice Francis E. Garchitorena filed his Rejoinder.[26]

On July 29, 1998, the Court issued a Resolution[27] noting the rejoinder filed by respondent Justice Francis E. Garchitorena pending the filing of respondent Justice Sabino R. de Leon Jr.'s rejoinder and the compliance of respondents with the Court's show cause Resolution dated June 23, 1998.

In compliance with the Court's Resolution of July 29, 1998, respondent Justice Francis E. Garchitorena filed an "Explanation and Comment" on August 11, 1998 while respondent Justice Sabino R. de Leon Jr. filed a "Motion To Resolve (In Re: Motion to Dismiss Petition [sic]) and Explanation" on August 13, 1998.[28]

Resolving respondent Justice Sabino R. de Leon Jr.'s motion and explanation, the Court thereafter issued a Resolution dated October 12, 1998:[29] 1.] granting the motion to dismiss the administrative complaint as against him; and 2.] excusing him from: a.] filing a rejoinder to complainant's reply to the comment of respondent Justice Francis E. Garchitorena and b.] participating in any further proceeding with this administrative matter pointing out therein that -

"As borne out by the records of the case, practically all the parties involved in this administrative case are unanimous in the determination that Justice de Leon cannot and should not have been respondent in the instant case.

"It was in fact co-respondent Justice Francis E. Garchitorena who filed a Motion to Dismiss Petition as Against Justice Sabino R. de Leon which in essence sought his exclusion as respondent and exemption from participation in any further proceedings in this case. This was concurred in by no less than the complainant himself, who, in his Comment, *motu proprio*, dated September 1, 1997 asserted that he has no objection thereto and in fact joins in moving to dismiss the petition as against respondent Justice Sabino R. de Leon Jr. Complainant further reaffirmed his position on the matter in his required Comment dated October 7, 1997 substantially reiterating and confirming his non-objection to the aforesaid motion.

"The failure of respondent Justice de Leon to file a Rejoinder to complainant's Reply does not warrant any administrative/disciplinary sanction as it is clear under the circumstances that he was not furnished a copy of said Reply upon which such Rejoinder should be based. Moreover, the need for such Rejoinder on the part of respondent Justice de Leon may not find any practical or useful purpose anymore, considering that the complainant had already acquiesced to the motion dismissing the case against Justice de Leon."[30]

Having disposed of the foregoing incidents, we now pass upon the questions raised by complainant which may be reduced to the primordial issue of whether or not the respondent Sandiganbayan Presiding Justice is administratively liable for having long deferred action on the motion for reconsideration of the Resolution dated May 8, 1996 admitting the amended information and delaying the transfer of Criminal Cases Nos. 23047-23057 to the RTC of Quezon City.

In sum, complainant invokes this Court's disciplinary authority over the respondent Sandiganbayan Presiding Justice praying that he be held accountable for having 'tarried overlong' in resolving the motions for reconsideration and for 'stonewalling' Criminal Cases Nos. 23047-23057 in violation of: 1.] Section 7, P.D. No. 1606; 2.] Rule VIII of the Revised Rules of the Sandiganbayan; 3.] Rules 1.02, 2.01, 3.01 and 3.05 of the Canons of Judicial Conduct. Complainant also faults the respondents with gross misconduct for 'knowingly and deliberately delaying' the transfer of the said criminal cases to the RTC of Quezon City.

The imputation of administrative culpability insofar as the first three (3) charges are concerned is well-taken.

Section 7, P. D. No. 1606 provides, among others, that:

"SEC. 7. Form, finality and enforcement of decisions. - Decisions and final orders of the Sandiganbayan shall contain complete findings of facts on all issues properly raised before it.

"A petition for reconsideration of any final order or decision may be filed within fifteen (15) days from promulgation or notice of the final order or judgment, and such petition for reconsideration shall be decided within thirty (30) days from submission thereof. xxx"

Similarly, Rule VIII of the Revised Rules of the Sandiganbayan states that -

"Within fifteen (15) days from the promulgation or notice of a judgment or final order of a division of the Sandiganbayan, unless said judgment or order had in the meantime otherwise attained finality, a motion for new trial or reconsideration thereof may be filed upon the grounds, in the form and subject to the requirements, for motions for new trial in criminal cases under Rule 121 of the Rules of Court, and such petition for reconsideration shall be decided within thirty (30) days from submission thereof." (*Italics provided*)

Rules 1.02 of Canon 1 and 3.05 of Canon 3 of the Code of Judicial Conduct state in no uncertain terms that -

"Rule 1.02. - A judge should administer justice impartially and without delay."

"Rule 3.05. - A judge shall dispose of the court's business promptly and decide cases within the required periods."

The Court has not, likewise, been remiss in laying down administrative guidelines to ensure that the mandates on the prompt disposition of judicial business are complied with. Thus, SC Administrative Circular No. 13-87 states, *inter alia*, that:

"xxx xxx xxx.

"The reorganized judiciary is tasked with the tremendous responsibility of assisting parties litigants in obtaining [a] just, speedy and inexpensive determination of their cases and proceedings as directed in Rule 1, Section 2 of the Rules of Court.[31] Delay is a recurring complaint of every litigant. The main objective of every judge, particularly trial judges, should be to avoid delays, or if it cannot be totally avoided, to hold them to the minimum and to repudiate manifestly dilatory tactics.

GENERAL GUIDELINES

For all members of the judiciary, the following guidelines are hereby issued :

xxx xxx xxx xxx

3. Judges shall observe scrupulously the periods prescribed by Article VIII, Section 15 of the Constitution for the adjudication and resolution of all cases or matters submitted in their courts. Thus, all cases or matters must be decided or resolved within twelve months from date of submission by all lower collegiate courts while all other lower courts are given a period of three months to do so. xxx

Along the same vein, SC Administrative Circular No. 1-88 states that -

"Pursuant to Sec. 12, Art. XVIII of the 1987 Constitution mandating the adoption of a systematic plan to expedite the decision or resolution of cases or matters pending in the Supreme Court and the lower courts prior to the effectivity of the Constitution on February 2, 1987, the following directives must be complied with strictly by all concerned.

xxx xxx xxx xxx

6. Motions and Other Interlocutory Matters.

xxx xxx xxx xxx

6.1 All Presiding Judges must endeavor to act promptly on all motions and interlocutory matters pending before their courts. xxx"

The Court in a litany of cases has reminded members of the bench that the unreasonable delay of a judge in resolving a pending incident is a violation of the norms of judicial conduct and constitutes a ground for administrative sanction against the defaulting magistrate.[32] Verily, this Court has consistently impressed upon judges the need to decide cases promptly and expeditiously on the principle that justice delayed is justice denied.[33] Delay in the disposition of cases erodes the faith and confidence of our people in the judiciary, lowers its standards and brings it into disrepute.[34]

In the case at bar, the fact that respondent tarried too long in acting on the motions for reconsideration hardly becomes open to question, considering that the subject motions remained pending for almost ten (10) months despite several pleas made for the early resolution thereof. The ten-month hiatus becomes even more glaring when viewed vis-à-vis the fact that the Sandiganbayan's Second Division came out with the assailed thirty-page May 8, 1996 Resolution in less than two (2) months from submission thereof, indeed after barely six (6) weeks from the time respondent Justices Garchitorea and de Leon were designated Special Members of the said Division to complete the five-man composition thereof.

Once again we reiterate that tired old legal maxim, justice delayed is justice denied. It need not be overemphasized that this oft-repeated adage requires the expeditious resolution of disputes much more so in criminal cases where an accused is constitutionally guaranteed the right to a speedy trial[35], which, as defined is one "[c]onducted according to the law of criminal procedure and the rules and regulations, free from vexatious, capricious and oppressive delays."[36] The primordial purpose of this constitutional right is to prevent the oppression of the accused by delaying criminal prosecution for an indefinite period of time.[37] It, likewise, is intended to prevent delays in the administration of justice by requiring judicial tribunals to proceed with reasonable dispatch in the trial of criminal prosecutions.[38]

Delay in the disposition of cases undermines the people's faith in the judiciary. Hence, magistrates are enjoined to decide cases with dispatch. Their failure to do so constitutes gross inefficiency and warrants the imposition of administrative sanctions on them.[39]

Indeed -

"Canon 3, Rule 3.05 of the Code of Judicial Conduct requires judges to dispose of their court business promptly and within the periods prescribed by law or the rules. It needs hardly be said that delays in court undermine the people's faith and confidence in the judiciary and bring it into disrepute."[40]

All told, we find respondent's delay in resolving the motions inexcusable and the same can not be condoned.[41] Justices and judges alike, being paradigms of justice, have been exhorted time and again to dispose of the court's business promptly and to decide cases within the required periods.[42] Delay not only results in undermining the

people's faith in the judiciary from whom the prompt hearing of their supplications is anticipated and expected; it also reinforces in the mind of the litigants the impression that the wheels of justice grind ever so slowly.[43]

While indeed, respondent is administratively culpable for unreasonable delay in acting on the subject motions for reconsiderations, this however does not amount to gross or serious misconduct.

Misconduct is defined as any unlawful conduct on the part of a person concerned in the administration of justice prejudicial to the rights of parties or to the right determination of the cause.[44] It generally means wrongful, improper or unlawful conduct motivated by a premeditated, obstinate or intentional purpose.[45] The term, however, does not necessarily imply corruption or criminal intent.[46] On the other hand, the term "gross" connotes something "out of all measure; beyond allowance; not to be excused; flagrant; shameful".[47]

For administrative liability to attach it must be established that the respondent was moved by bad faith, dishonesty, hatred or some other like motive.[48] As defined -

"Bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of a sworn duty through some motive or intent or ill-will; it partakes of the nature of fraud (*Spiegel v. Beacon Participation*, 8 NE 2nd Series, 895, 1007). It contemplates a state of mind affirmatively operating with furtive design or some motive of self-interest or ill will for ulterior purposes (*Air France v. Carrasco*, 18 SCRA 155, 166-167). Evident bad faith connotes a manifest deliberate intent on the part of the accused to do wrong or cause damage."[49]

A circumspect scrutiny of the record fails to show that respondent was moved by ill will in delaying his action on the motions for reconsideration. Complainant has not presented convincing proof to show that bad faith attended the delay. Bad faith is not presumed and he who alleges the same has the onus of proving it.[50]

There is no showing that respondent deferred acting on the motions in bad faith or with a conscious and deliberate intent to perpetrate an injustice..

It must be pointed out that the participation of respondent Sandiganbayan Presiding Justice in the controversy involving the so-called Kuratong Baleleng cases was only because of the lack of unanimity in the proposed amendment by the prosecution of the Information therein. The issues then were whether or not the amendment of the Information which resulted in the downgrading of the liability of accused Chief Superintendent Panfilo Lacson (from being a principal to being merely an accessory) was correct and whether or not that was an issue which was reviewable by the Sandiganbayan or one which was within the exclusive domain of the prosecution at any time before the arraignment.

Respondent Sandiganbayan Presiding Justice Francis E. Garchitorena and Associate Justice Jose S. Balajadia had dissented from the majority opinion arguing that the downgrading of the liability of Lacson was not appropriate and that the Sandiganbayan had the authority to pass upon the question before admitting the amended Information. In the motion to reconsider the resolution, the issues were broadened to those flowing from the original postulates raised herein. The participation of respondent Presiding Justice Garchitorena, however, remained the same: i.e. he and Justice Sabino R. de Leon, Jr. were to participate in the cases only as additional members to resolve the impasse created by Justice Balajadia's dissent which respondent Presiding Justice joined in a separate opinion. Upon the resolution of the motion for reconsideration, respondent and Justice de Leon would have nothing further to do with these cases. The proceedings, even if the cases were to remain with the Sandiganbayan, would proceed with the regular members of the Second Division which does not include respondent Presiding Justice.

Thus, no benefit or gain would accrue to respondent whether the Sandiganbayan retained jurisdiction over the

cases or not. Conversely, if the cases were to be remanded to the Regional Trial Court of Quezon City, no prejudice would befall respondent. Likewise no lawful benefit would accrue to complainant nor to any of the other accused. Succinctly stated, retaining the case with the Sandiganbayan by allegedly waiting for the passage of R.A. No. 8249 into law would neither prejudice complainant Canson or his co-accused, nor would it benefit the Sandiganbayan. If at all, complainant's obvious eagerness and insistence to have the cases transferred from the Sandiganbayan to the Regional Trial Court of Quezon City only raises the suspicion that his preference to have said cases tried in the latter court stems from dubious rather than noble motives, which is not only unflattering but also unfair to the latter tribunal.

As a matter of public policy, in the absence of fraud, dishonesty or corruption, the acts of a judge in his judicial capacity are generally not subject to disciplinary action, even though such acts are erroneous.[51] As has been stated in the recent case of Santos v. Judge Jose Orlino:[52]

"The fundamental propositions governing responsibility for judicial error were more recently summarized in In Re: Joaquin T. Borromeo 241 SCRA 405-467 (1995). There the Court stressed inter alia that given the nature of the judicial function and the power vested in the Supreme Court and the lower courts established by law, administrative or criminal complaints are neither alternative nor cumulative to judicial remedies where such are available, and must wait on the result thereof. Existing doctrine is that judges are not liable for what they do in the exercise of their judicial functions when acting within their legal powers and jurisdiction (Alzua, et al. v. Johnson, 21 Phil. 308, 326; Sec. 9, Act No. 190). Certain it is that a judge may not be held administratively accountable for every erroneous order or decision he renders (Rodrigo v. Quijano, 79 SCRA 10 [1977]). To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment (SEE Lopez v. Corpus, 78 SCRA 374 [1977]; Pilipinas Bank v. Tirona-Liwag, 190 SCRA 834 [1990]). The error must be gross or patent, deliberate and malicious or incurred with evident bad faith (Quizon v. Balthazar, Jr., 65 SCRA 293 [1975])."

In sum, since the alleged error can not amount to gross misconduct and the record is bereft of any persuasive showing of deliberate or malicious intent on the part of respondent Sandiganbayan Presiding Justice to cause prejudice to any party, the instant administrative complaint against him, insofar as the charge for gross misconduct is concerned, must be dismissed for want of factual basis.[53]

The penalty for gross inefficiency, on the other hand, ranges from reprimand and admonition[54] to removal from office.[55]

WHEREFORE, in view of all the foregoing, respondent is hereby ADMONISHED and STERNLY WARNED that a repetition of the same or similar act in the future shall be dealt with more severely. Respondent is likewise DIRECTED TO promptly dispose of all matters submitted for determination to the end that no one is deprived of the right to a speedy, just and inexpensive disposition of their cases.

SO ORDERED.

Melo, Kapunan, and Pardo, JJ., concur.

Davide, Jr., C.J., on leave.

[1] Rollo, pp. 414-418.

[2] Ibid., p. 1.

[3] Id., p. 177.

- [4] Id., p. 181.
- [5] Rollo, p. 269.
- [6] Ibid., p. 277.
- [7] Id., p. 198.
- [8] Rollo, p. 416-418.
- [9] Rollo, p. 198.
- [10] Ibid., pp. 269, 277.
- [11] Id., pp. 298, 309.
- [12] Id., pp. 331, 335, 342, 345.
- [13] Rollo, p. 349.
- [14] Ibid., p. 356.
- [15] Id., p. 419.
- [16] Id., p. 421.
- [17] Id., p. 427.
- [18] Id., p. 431.
- [19] Id., p. 443.
- [20] Id., p. 455.
- [21] Id., p. 457.
- [22] Id., p. 461.
- [23] Id., p. 459.
- [24] Id., p. 473.
- [25] Id., p. 478.
- [26] Id., p. 479.
- [27] Id., p. 494.
- [28] Id., pp. 495, 502.
- [29] Id., p. 507.
- [30] Id., p. 509.
- [31] Which is now Rule 1, Section 6 of the 1997 Rules of Civil Procedure.
- [32] *Dysico v. Dacumos*, 262 SCRA 275 [1996]; Re : Report on the Audit and Inventory of Cases in RTC, Branch 55, Alaminos, Pangasinan, 262 SCRA 555 [1996]; Re : Report on the Judicial audit Conducted in the Regional Trial Court, Branches 61, 134 and 147, Makati, Metro Manila, 248 SCRA 5 [1995]; Re : Query of Judge Danilo M. Tenerife, 255 SCRA 184 [1996]; Re : Report on the Judicial Audit and Physical Inventory of the Records of

Cases in MTCC, Br. 2, Batangas City, 248 SCRA 36 [1995]; Bentulan v. Dumatol, 233 SCRA 168 [1994]; Re : Letter of Mr. Octavio Kalalo, 231 SCRA 403 [1993]; Longboan v. Polig, 186 SCRA 556 [1990].

[33] Abarquez v. Rebosura, 285 SCRA 109 [1998], citing Bendesula v. Laya, 58 SCRA 16 [1974] and Castro v. Malazo, 99 SCRA 164 [1980].

[34] Abarquez v. Rebosura, supra, citing Re : Judge Luis B. Bello, Jr. 247 SCRA 519 [1995] and Report on the Audit and Inventory of Cases, RTC, Branch 11, Balayan, Batangas, 234 SCRA 502 [1994].

[35] Section 14[2], Article III, Constitution.

[36] Socrates v. Sandiganbayan, 253 SCRA 773 [1996]; Flores v. People, 61 SCRA 331 [1974].

[37] Dacanay v. People, 240 SCRA 490 [1995].

[38] Dacanay v. People, supra, citing Shepherd v. U.S., 163 F. 2d 974 [1947]).

[39] Sanchez v. Vestil, AM No. RTJ-98-1419, 13 October 1998, p. 18, citing Office of the Court Administrator v. Judge Butalid, AM No. RTJ-96-1337, 5 August 1998; See also Grefaldeo v. Judge Lacson, AM No. MTJ-93-881, 3 August 1998.

[40] Ng V. Ulibari, AM No. MTJ-98-1158, 30 July 1998, 293 SCRA 342, citing Dysico v. Dacumos, 262 SCRA 275 [1996]; Guintu v. Lucero, 261 SCRA 1 [1996]; Report on the Audit and Inventory of Cases in the RTC, Branch 11, Balayan, Batangas, 234 SCRA 502 [1994].

[41] Sy Bang v. Mendez, 287 SCRA 84 [1998].

[42] Sy Bang v. Mendez, supra, p. 89 citing Rule 3.05, Canon 3, Code of Judicial Conduct.

[43] Ibid., p. 90.

[44] Black's Law Dictionary, Fourth ed., p. 1150.

[45] Words and Phrases, Vol. 27, p. 466, citing Sewell v. Sharp, La App., 102 So 2d 259, 261.

[46] Ibid., citing State Ex Rel Asbaugh v. Bahr, 40 N.E. 2d 677, 680, 68 Ohio App. 308.

[47] Black' Law Dictionary, Fourth Ed., p. 832.

[48] Atty. Antonio T. Guerrero v. Hon. Adriano Villamor, AM No. RTJ-90-483; George Carlos v. Hon. Adriano Villamor, AM No. RTJ-90-617, 25 September 1998.

[49] Llorente, Jr. v. Sandiganbayan, 287 SCRA 382 [1998], citing Marcelo v. Sandiganbayan, 185 SCRA 346 [1990].

[50] Ford Philippines, Inc. v. Court of Appeals, 267 SCRA 320 [1997], citing Chua v. Court of Appeals, 242 SCRA 341 [1995].

[51] Morada v. Judge Tayao, 229 SCRA 723 [1994], citing Louis Vuitton S.A. v. Judge villanueva, 216 SCRA 121 [1992], citing Mendoza v. Villaluz, 106 SCRA 664 [1981] and Valdez v. Valera, 81 SCRA 246 [1978].

[52] A.M. No. RTJ-98-1418, 25 September 1998.

[53] Ibid.

[54] Cui v. Madayag, 245 SCRA 1 [1995].

[55] Report on Audit and Physical Inventory of the Records and Cases in RTC, Branch 120, Kalookan City, 238 SCRA 238 [1994]; *Ng v. Ulibari*, *supra*; See also Stern, Is Judicial Discipline in New York a Threat to Judicial Independence?, 7 Pace L. Rev. 291, 303-45 [1987].

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