

**RE: LETTER-COMPLAINT OF ATTY. ARIEL SAMSON C. CAYETUNA,
ET AL., ALL EMPLOYEES OF ASSOCIATE JUSTICE MICHAEL P.
ELBINIAS AGAINST ASSOCIATE JUSTICE MICHAEL P. ELBINIAS, CA
– MINDANAO...**

A.M. OCA IPI No. 08-127-CA-J. January 11, 2011

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

The Case

Complainants Attys. Ariel Samson C. Cayetuna, Cathy D. Cardino, Cynthia Y. Jamero, Grace L. Yulo, Ken Rinehart V. Sur, Roderick Roxas (driver), and Alfonso Abugho (utility worker) were confidential employees assigned in the Office of Associate Justice Michael P. Elbinias, Court of Appeals (CA) - Mindanao Station in Cagayan de Oro City, Misamis Oriental. They filed with this Court an unverified letter-complaint[1] dated April 30, 2008 charging Justice Elbinias with Gross Inefficiency; Bribe Solicitation; Drinking Liquor in Office Premises; Personal Use of Government Property and Resources; Falsification of a Favored Employee's Daily Time Record; Disrespect Towards fellow Justices; Oppression through Intemperate, Oppressive and Threatening Language; and Grave Abuse of Authority.

Complainants prayed for (1) the dismissal from service of Justice Elbinias; (2) his preventive suspension pending investigation of the instant administrative complaint; (3) the provision of "security" to them from his retaliation and reprisal on account of this complaint; and (4) the acceptance by the Court of their enclosed resignation letters[2] without the prior approval of Justice Elbinias for fear that they would be peremptorily terminated by him instead.

Moreover, Atty. Cayetuna wrote then Chief Justice Reynato S. Puno a confidential letter[3] dated April 30, 2008, narrating how he was instantly terminated by Justice Elbinias on April 24, 2008 due to his refusal to sign a letter-reply to a litigant, and asking for help in order to receive his salary for the second half of April 2008 and Representation and Transportation Allowance (RATA) for April 2008 which were not given to him when these emoluments were released to the CA employees in the CA - Mindanao Station on April 25, 2008 ostensibly because of his having been terminated the day before. Likewise, on April 28, 2008, he was informed by the CA Cashier that he would no longer receive the Emergency Economic Assistance (EEA) and the midyear bonus on account of his termination.

The Facts

The instant case precipitated from a letter-complaint, dated February 6, 2008, filed by a litigant (petitioner in CA-G.R. SP No. 01580, entitled *Algabre v. RTC*, Branch 15, Davao City, which was raffled to Justice Elbinias as ponente) before the Presidential Action Center (PAC) of the Office of the President requesting assistance for the resolution of the case which has been pending before the CA - Mindanao Station for almost a year since its filing

on March 6, 2007. The letter-complaint was referred by the PAC to Deputy Court Administrator (DCA) Reuben P. Dela Cruz, in-charge for Regions IX-XII, for appropriate action.

Consequently, on April 8, 2008, then DCA Jose P. Perez[4] indorsed the letter-complaint to the CA - Mindanao Station for appropriate action. On April 21, 2008, Justice Elbinias received a copy of said letter-complaint thru an Indorsement dated April 18, 2008 from CA Executive Justice Romulo V. Borja.

Justice Elbinias assigned Atty. Cayetuna to draft the letter-reply explaining what transpired with the case which had already been decided on February 28, 2008. Justice Elbinias, however, asked Atty. Cayetuna to sign the letter-reply and he would simply note it. This was not palatable to Atty. Cayetuna who balked at signing the letter-reply. On April 24, 2008, he wrote[5] Justice Elbinias explaining why he could not, in conscience, sign it. This earned the ire of Justice Elbinias who peremptorily terminated Atty. Cayetuna's employment with the CA through a letter[6] dated April 24, 2008 to Ruby Jane B. Rivera, Personnel Officer of the CA - Mindanao Station.

The very next day, or on April 25, 2008, when the RATA for the lawyers and the salaries of the CA employees in the CA - Mindanao Station were released, Atty. Cayetuna did not receive his salary for the second half of April 2008 and RATA for that month on account of his termination. Likewise, he was informed on April 28, 2008 that he would no longer receive his EEA and midyear bonus. These are the subjects of Atty. Cayetuna's April 30, 2008 letter to then Chief Justice Puno.

The other complainants, in solidarity with Atty. Cayetuna, filed the instant unverified letter-complaint.

In the meantime, acting on the requested acceptance of their resignation letters, then CA Presiding Justice Conrado A. Vasquez, Jr. issued a recommendation[7] on May 6, 2008 for the approval of the resignations of complainants to then Chief Justice Puno. The resignations were duly approved on May 7, 2008. The approved resignations, however, inadvertently excluded that of Atty. Cynthia Y. Jamero. Thus, on May 8, 2008, CA Presiding Justice Vasquez, Jr. likewise recommended[8] for approval Atty. Jamero's resignation, which was approved on May 9, 2008.

On July 3, 2008, complainants sent another unverified letter-complaint[9] dated June 18, 2008 thanking the Court for the speedy acceptance of their resignation letters. Therein, they additionally alleged Justice Elbinias' belligerent attitude when³upon receipt on May 8, 2008 of the Court's approval and acceptance of complainants' resignation letters, which inadvertently excluded Atty. Jamero's⁴Justice Elbinias wrote a letter to the Personnel Officer of the CA - Mindanao Station terminating Atty. Jamero's employment but antedating it May 7, 2008. Moreover, complainants raised another grievance against Justice Elbinias who, allegedly under flimsy reasons, refused to sign their clearances. Finally, they imputed malevolent intent on Justice Elbinias who allegedly--although not confirmed--gave a list of their names to then newly appointed CA Associate Justice Ayson in connection with the applications of some of them. In fine, they reiterated their plea for the preventive suspension of Justice Elbinias pending resolution of the instant case to prevent him from using his position to further harass them.

In his Comment[10] dated July 13, 2008, Justice Elbinias vehemently denied the charges. While admitting telling complainants that he would fire them, he said this was on account of the poor, inefficient and sloppy draft work of the complainants-lawyers, and the unsatisfactory performance of complainants driver and utility worker. He attributed the concerted efforts of complainants to preempt their dismissal by filing the instant complaint as also an attempt to put him in a bad light. On the issue of the firing of Atty. Cayetuna allegedly on his refusal to sign the letter-reply to Mr. Algabre, Justice Elbinias asserted that the mention of CA Associate Justice Lim therein was factual as shown in Atty. Cayetuna's drafts and did not put Justice Lim in a bad light. Moreover, he maintained that he never forced Atty. Cayetuna to sign the letter-reply, but the latter "set him up" by raising such an issue and

writing an "insincere" written objection about it. And having lost confidence in Atty. Cayetuna, he had no option but to fire him.

Additionally, on September 15, 2008, after getting a copy of complainants' June 18, 2008 letter-complaint, Justice Elbinias filed his Supplemental Comment.[11] Therein, he asserted the need to do an inventory of records and cases before he would sign their clearances, since complainants' sudden abandonment of his office left it in disarray with records difficult to locate. He maintained that he was reorganizing his office and the inventory was still not finished on June 18, 2008 when complainants wrote their additional letter-complaint. He also accused complainants of collective theft for the loss of some documents from his chamber.

Meanwhile, on July 24, 2009, all the current employees assigned in the Office of Justice Elbinias in the CA - Mindanao Station sent the Court a letter[12] of support for Justice Elbinias dated July 13, 2009.

Also, on account of Justice Elbinias' transfer to the CA in Manila, the Young Men's Christian Association (YMCA) of Misamis Oriental, Inc. issued Board Resolution No. 133-S-2009[13] on August 7, 2009, expressing appreciation for Justice Elbinias' integrity and dedication as a CA Associate Justice. Similarly, the City Council of Cagayan de Oro City issued Resolution No. 9776-2009[14] on August 18, 2009, commending Justice Elbinias for his integrity and dedication in serving the citizenry as Associate Justice of the CA.

On March 2, 2010, through a Resolution[15] of even date, we required the parties to manifest whether they would submit the case for resolution based on the pleadings.

On March 22, 2010, Justice Elbinias filed his Manifestation[16] to submit the instant case for resolution based on the basis of the pleadings. Complainants, however, filed on April 15, 2010 a letter[17] requesting for copies of the pleadings filed by Justice Elbinias, which was duly granted.[18]

On June 4, 2010, complainants filed their Omnibus Reply and Manifestation,[19] dated June 3, 2010, to Justice Elbinias' comments and duly submitted the instant case for resolution based on the pleadings filed. They argued that their unverified complaints were properly treated by the Court as anonymous complaints, since respondent justice admitted the material allegations therein relative to the DTR of Leofer Andoy, failure to timely act on cases with Temporary Restraining Order (TRO), the "undertakings" they submitted as per respondent's instructions, non-signing of their clearances and deterring Justice Ayson from hiring some of them. Moreover, they asserted that Atty. Cayetuna's drafts could not have been stolen by the author thereof, and that they did not violate Republic Act No. (RA) 3019 in divulging confidential information to unauthorized persons as then Chief Justice Puno could not be considered an unauthorized person.

Besides, complainants stressed, no liability under Articles 363 (planting of evidence), 364 (blemish reputation of another), 353 (public and malicious imputation of a crime, etc.) and 183 (perjury) of the Revised Penal Code can be attributed to them, since their letter-complaints were filed with utmost circumspection and confidentiality. To debunk their alleged inefficiency and assert the contrary of respondent's allegation that they preempted their inevitable termination by filing the instant complaints, they submitted their respective but similar performance ratings of "Very Satisfactory," together with the comparative Judicial Data Statistics from the Information and Statistical Data Division of the CA, which tended to show that the output data on case disposition of Justice Elbinias did not substantially change before and after they resigned from his office. They contended that all these prove that their alleged inefficiency had no factual basis. Finally, they maintained that they had already contemplated resigning way before the incidents involving Atty. Cayetuna and Abugho happened because of, they reiterate, his demeaning and terrorizing actuations against them.

On July 16, 2010, Justice Elbinias filed his Rejoinder.[20] He assailed complainants' Omnibus Reply and

Manifestation for again being conveniently not under oath, concluding their allegations to be insincere and untruthful. He countered and debunked the assertions and allegations of complainants. He strongly posited that complainants misled or mischaracterized facts by falsely asserting his alleged admission of their allegations in his Comment and Supplemental Comment.

Our Ruling

After an assiduous study of the parties' allegations and counter-allegations, with due consideration of the documents they submitted to bolster their respective positions, the Court is constrained to dismiss the instant case for being unsubstantiated.

Both the letter-complaints of April 30, 2008 and June 18, 2008 are unverified, while the June 3, 2010 Omnibus Reply and Manifestation of complainants is not under oath. It must be noted that most of the complainants are lawyers, and are presumed and ought to know the formal requirement of verification for administrative complaints as stated under Section 1, Rule 140:

SECTION 1. How instituted.³⁴Proceedings for the discipline of Judges of regular and special courts and Justices of the Court of Appeals and the Sandiganbayan may be instituted *motu proprio* by the Supreme Court or upon a verified complaint, supported by affidavits of persons who have personal knowledge of the facts alleged therein or by documents which may substantiate their allegations, or upon an anonymous complaint, supported by public records of indubitable integrity. The complaint shall be in writing and shall state clearly and concisely the acts and omissions constituting violations of standards of conduct prescribed for Judges by law, the Rules of Court, or the Code of Judicial Conduct. (Emphasis supplied.)

The above rule provides three ways by which administrative proceedings against judges may be instituted: (1) *motu proprio* by the Supreme Court; (2) upon verified complaint with affidavits of persons having personal knowledge of the facts alleged therein or by documents which may substantiate said allegations; or (3) upon an anonymous complaint supported by public records of indubitable integrity.[21]

Indeed, complainants not only failed to execute a verified complaint but also never submitted their affidavits showing personal knowledge of the allegations embodied in their letter-complaints. To cover this procedural deficiency, they assert that the Court properly recognized their letter-complaints as an anonymous complaint, relying on *Sinsuat v. Hidalgo*. [22]

In *Sinsuat*, the Court took cognizance of the unverified motion and subsequent letters of complainants submitted to the Office of the Court Administrator as an anonymous complaint, since therein respondent Judge Hidalgo admitted complainants' material allegations and "the motion and letters sufficiently averred the specific acts upon which respondent's alleged administrative liability was anchored. And the averments are verifiable from the records of the trial court and the CA's Decision." [23] In short, the unverified complaint was properly considered as an anonymous complaint, since the material allegations were not only admitted by respondent judge but are also verifiable from public records of indubitable integrity, i.e., records of the trial court, as aptly found by the CA.

This is not the case in this instant. Complainants' reliance on *Sinsuat* is misplaced. For one, even a passing perusal of the Comment and Supplemental Comment does not show respondent Justice Elbinias admitting the allegations in the letter-complaints. For another, the averments and material allegations of complainants are neither verifiable from public records of indubitable integrity nor supported or substantiated by other competent evidence submitted by complainants.

The formal faux pas of complainants could have been remedied by the submission under oath of their subsequent pleadings, particularly the Omnibus Reply, where they traversed the points and defenses raised by respondent

vis-à-vis their allegations. And they could have appended thereto their respective affidavits attesting to their personal knowledge of the facts of their material allegations. But, as it is, complainants chose not to place their Omnibus Reply under oath, much less submitted their affidavits. Verily, after receiving copies of respondent's Comment and Supplemental Comment, they had ample opportunity but chose not to correct the deficiencies of their complaints while submitting the instant case for resolution based on the pleadings filed sans their affidavits.

Complainants assert that Justice Elbinias admitted the material allegations in their letter-complaints, to wit: (1) that, aware of Andoy's absences in February 2008 which were not reflected in his (Andoy's) Daily Time Record (DTR), Justice Elbinias nonetheless signed said DTR; (2) that respondent did not deny failing to timely act on the application for TRO in the cited cases in their complaint; (3) that respondent's lawyers (complainants) submitted their "undertakings" as per his instructions; and (4) that he did not sign complainants' clearances on account of office inventory of records and for lack of follow-up by complainants.

These assertions are belied by respondent's comment and supplemental comment.

Justice Elbinias denies being fully aware of Andoy's absences when he signed the latter's DTRs. He points out that he was not aware whether Andoy filed leaves for his absences in December 2007, and whether Andoy declared or not his absences in February 2008, since he signs all the DTRs of his office staff which are submitted together. Thus, he maintains that if Andoy did not mark as absent the days he was absent or whether he filed leaves for his absences, respondent charges it to inadvertence on his part for having signed Andoy's DTRs which was done in good faith. Indeed, without copies of the subject DTRs of Andoy as duly signed by respondent and the logbook of their office reflecting the time of the employees' arrival and departure, we cannot ascribe any liability on respondent.

On his alleged failure to timely act on an application for a TRO, it bears stressing that Justice Elbinias, in his Comment, asserts what he calls an "undue interest and irregular involvement."^[24] While respondent does not deny the fact that no TRO was issued, such is not equivalent to an admission of wrongdoing. Verily, the issuance of any provisional remedy, such as a TRO in the alleged case, is addressed to the sound discretion of the court upon certain conditions as provided by law that are amply shown by the applicant. Consequently, undue delay or inaction on an application of a provisional remedy, like a TRO, cannot be imputed to the judge or court where there is no showing that the grant thereof is proper and well nigh dictated by an indubitable right of a party-applicant that needs protection. Anent the allegation of undue delay in the resolution of motions for reconsideration, we agree with respondent that said allegation is general and lacks specificity. Complainants merely made a general allegation of undue delay without particulars as to specific cases, the motions for reconsideration of which have been set for resolution after the adverse parties have filed their comments thereto and have not been resolved beyond the 90-day period. On the alleged inaction on cases with TRO, complainants failed to show that the issuance of a TRO in a particular case is paramount to the provisional protection of a party's right in esse.

The "undertakings" embodied in the application letters^[25] of complainant-Attys. Jamero, Sur, Cardino and Yulo submitted by Justice Elbinias in his Comment duly show the nature of confidential employees. Complainants contend that these were accomplished and submitted by them upon the instructions of respondent. We find it incredulous that the "undertakings" were made by complainant-lawyers at the behest of respondent. It stands to reason that an applicant, among others, submits an application letter. The application letters submitted by complainants to Justice Elbinias could not have been under the latter's instruction and control. Consequently, the application letters, without more, were certainly from complainants and could not have been under the direction of respondent.

The fact that Justice Elbinias did not sign the clearances of complainants is sufficiently explained in his Supplemental Comment that he was reorganizing his office and doing an inventory of the rollos of the cases assigned to him. Besides, as aptly pointed out by respondent, complainants were not unduly prejudiced by his delay in signing their clearances for they were able to receive their benefits and were even rehired in the CA Mindanao - Station despite the lack of clearances, for such were not needed for their reemployment as shown by the letter[26] of CA Presiding Justice Vasquez, Jr. to respondent dated September 5, 2008.

Even granting arguendo and considering the letter-complaints as anonymous complaints, still these cannot prosper as stated earlier because the averments and material allegations of complainants are neither verifiable from public records of indubitable integrity nor supported or substantiated by other competent evidence submitted by complainants.

In Anonymous Complaint against Pershing T. Yared, Sheriff III, Municipal Trial Court in Cities, Canlaon City, this Court reiterated the rule pertaining to anonymous complaints, thus:

At the outset, the Court stresses that an anonymous complaints is always received with great caution, originating as it does from an unknown author. However, a complaint of such sort does not always justify its outright dismissal for being baseless or unfounded for such complaint may be easily verified and may, without much difficulty, be substantiated and established by other competent evidence.[27] (Emphasis supplied.)

In the instant case, the charges of Gross Inefficiency; Bribe Solicitation; Drinking Liquor in Office Premises; Personal Use of Government Property and Resources; Falsification of a Favored Employee's Daily Time Record; Disrespect Towards fellow Justices; Oppression through Intemperate, Oppressive and Threatening Language; and Grave Abuse of Authority are neither supported by public records nor substantiated by competent evidence.

Public records do not support any of the allegations. The incident involving Engr. Rowell T. Magalang, Administrative Officer, Maintenance and Utility Unit of the CA Mindanao - Station merely shows a misunderstanding between respondent and the engineer concerned.[28] As regards those of complainants Roxas and Abugho relative to their unauthorized absence on March 19, 2008, it is embodied in the letter[29] of even date by Justice Elbinias to the Personnel Officer of the CA Mindanao - Station, Ruby Jane B. Rivera, which evidently shows what it is. Complainants allege the nastiness of respondent in marking absent Abugho and Roxas that day even if they were present, only on account of their going out of the office for a few minutes to buy food. Respondent counters that both were absent and not around when he looked for them on March 19, 2008, as he would not have informed the CA Personnel Officer if it were not so. Since the utility worker and the driver are expected to be at the office during office hours, then it is logical that if they were not around, then they could not be present.

It is well-settled that in administrative proceedings, the burden of proof that respondent committed the acts complained of rests on the complainant.[30] In the instant case, complainants have not shown, much less submitted, substantial evidence supporting their allegations.

Anent the untimely and peremptory termination of complainant Atty. Cayetuna, we find it to be a misunderstanding between respondent and his most senior lawyer which has been blown out of proportion.

A cursory perusal of the drafts[31] prepared by Atty. Cayetuna of the letter-reply to Alagbre would readily show that the explanation is factual in nature and in no way pejorative to CA Associate Justice Lim. Thus, there is really no basis for Atty. Cayetuna's misgiving about signing said letter-reply. And it is uncalled for Atty. Cayetuna to write a formal letter to respondent about his refusal to do so.

It must be borne in mind that complainants, as primarily confidential employees, need the trust of their immediate

superior, Justice Elbinias. In *Philippine Amusement and Gaming Corporation v. Angara*,^[32] this Court reiterated the principle behind and the element of trust in the employment to a primarily confidential position. We cited *De los Santos vs. Mallare*, thus:

Every appointment implies confidence, but much more than ordinary confidence is reposed in the occupant of a position that is primarily confidential. The latter phrase denotes not only confidence in the aptitude of the appointee for the duties of the office but primarily close intimacy which insures freedom of intercourse without embarrassment or freedom from misgivings of betrayals of personal trust or confidential matters of state.^[33]

Moreover, it has been said that confidential employees work at the pleasure of the appointing authority. Thus, there is no quibble that when the relation between respondent CA Associate Justice Elbinias and his lawyers has deteriorated to the extent that there is no longer intimacy between them that insures freedom of intercourse without embarrassment or freedom from misgivings of betrayals of personal trust or confidential matters of state, then the confidential employment is no longer tenable. The right of respondent to change the confidential employees in his office cannot be disputed.

Even if the allegations have not been substantially proved, still it is incumbent for Justice Elbinias to reflect on how the conflict between him and his staff came about. While we take notice of the letter of support from other employees in the CA Mindanao - Station, and the Resolutions from the YMCA and the City Council of Cagayan de Oro City commending him, we hope that Justice Elbinias learns from this experience to better and improve the management and supervision of his staff.

WHEREFORE, premises considered, the instant administrative complaint is hereby DISMISSED.

SO ORDERED.

Corona, C.J., Carpio, Carpio Morales, Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, Mendoza, and Sereno, JJ., concur.

[1] Rollo, pp. 1-15.

[2] Id. at 35-40, all dated April 30, 2008.

[3] Id. at 41-44.

[4] Now a member of this Court.

[5] Rollo, p. 32. Atty. Cayetuna's letter reads in full, thus:

April 24, 2008

HON. JUSTICE MICHAEL P. ELBINIAS
Court of Appeals-Mindanao Station
Cagayan de Oro City

Dear Justice,

I am writing you this letter in connection with the letter dated February 6, 2008 of petitioner Rolando Algabre in CA G.R. No. SP 01580 asking for assistance from the Presidential Action Center (OP), which letter was in turn, endorsed to the Office of the Court Administrator (OCA), Supreme Court of the Philippines, to intervene and make the appropriate/urgent action on their Petition which is still pending with your office despite the lapse of eleven (11) months from its filing on March 6, 2007.

Your action, is to write a reply to petitioner and furnish the OCA with a copy thereof. Per instruction, you made me write an explanation to petitioner the circumstances which caused the delay in the deliberation of the Report/draft Decision and securing the signature of Justice Lim for concurrence. I explained with you my reluctance to affix my signature as the writer of the letter reply, which in a way put the good Justice Lim in bad light, but still you insisted to put my name on the said letter.

Now that the letter is made, edited and polished (by your Honor), with its entire tenor substantially different from my draft letter, it is of my conscience and moral call that I cannot make, write nor sign a letter that tends to discredit, malign and put anybody, a co-office worker, or a Justice at that, in bad light. It is against my conscience, my moral and legal principles I have learned as a lawyer and, as a Roman Catholic Christian.

I respect you and acknowledge your ascendancy over me. Despite my utmost loyalty as your subordinate, however, I cannot intelligently write such letter in my own free will and sign it for you which I honestly belief that will subject me to disciplinary, if not criminal liability.

I deal this as a serious matter and I hope you will understand my predicament.

Thank you very much,

Respectfully yours,

(SGD) Atty. Samson Ariel C. Cayetuna
Court Attorney V-CT

[6] Id. at 53.

[7] Id. at 308.

[8] Id. at 310.

[9] Id. at 74-75.

[10] Id. at 80-109.

[11] Id. at 142-147.

[12] Id. at 228-229.

[13] Id. at 179-181.

[14] Id. at 187-188.

[15] Id. at 232.

[16] Id. at 234-236.

[17] Id. at 243.

[18] Id. at 244-245, Resolution dated April 27, 2010.

[19] Id. at 252-276, Omnibus Reply [To Respondent Justice Michael P. Elbinias' Comment dated 13 July 2008, 10 September 2008, and to his Manifestation dated March 2010] and Manifestation [In Compliance with the Court's Resolution dated 27 April 2010, received on 25 May 2010], dated June 3, 2010.

[20] Id. at 484-506, dated July 13, 2010.

[21] *Sinsuat v. Hidalgo*, A.M. No. RTJ-08-2133, August 6, 2008, 561 SCRA 38, 46.

[22] Id.

[23] Id. at 47.

[24] Rollo, p. 96.

[25] Id. at 123-125, dated April 18/19, 2007.

[26] Id. at 294-295.

[27] A.M. No. P-05-2015, June 28, 2005, 461 SCRA 347. 354-355; citing *Anonymous v. Geverola*, A.M. No. P-97-1254, September 18, 1997, 279 SCRA 279.

[28] Rollo, pp. 17-24.

[29] Id. at 16.

[30] *Rivera v. Mendoza*, A.M. No. RTJ-06-2013 [OCA-IPI No. 06-2509-RTJ], August 4, 2006, 497 SCRA 608, 613, citing *Barcena v. Gingoyon*, A.M. No. RTJ-03-1794, October 25, 2005, 474 SCRA 65, 74.

[31] Rollo, pp. 25-31.

[32] G.R. No. 142937, November 15, 2005, 475 SCRA 41.

[33] 87 Phil. 289, 298 (1950).

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